PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 25 October 2010 commencing at 11.30 am and finishing at 4.40 pm

Present:

Voting Members: Councillor Steve Hayward – in the Chair

Councillor Mrs Catherine Fulljames (Deputy Chairman)

Councillor Alan Armitage Councillor Tony Crabbe

Councillor Mrs Anda Fitzgerald-O'Connor

Councillor Jenny Hannaby

Councillor Ray Jelf Councillor Peter Jones

Councillor Lorraine Lindsay-Gale Councillor David Nimmo-Smith

Councillor Neil Owen Councillor G.A. Reynolds Councillor John Sanders Councillor Don Seale Councillor John Tanner

Officers:

Whole of meeting G. Warrington and R. Hanson (Corporate Core)

M. Tugwell and D. Groves (Environment & Economy)

Part of meeting

Agenda Item	Officer Attending
5	J. Irvine and R. Dance (Environment & Economy)
6	J. Hamilton and R. Dance (Environment & Economy)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda and reports, copies of which are attached to the signed Minutes.

39/10 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE (Agenda No. 2)

<i>Item</i>	Councillor	Interest	
Councillor Mrs C Fulljames	6. Ashgrove Farm, ArdleyApplication No	Personal. Member of Cherwell District	

	10/0127/CM	Council's Planning Committee. Councillor Mrs Fulljames advised that she had not expressed an opinion on the application in that capacity and therefore intended to participate in any discussion and voting thereon.
	8. Energy from Waste facility, Ardley – Application MW0078/CM	Personal and prejudicial. Member of Cherwell District Council but had taken no part in the planning decision. However, she had accepted on the advice of legal officers that she had a personal and prejudicial interest by reason of proximity. After making representations as local member she left the meeting and took no part in the substantive discussion or voting therafter
Councillor Hannaby	6. Ashgrove Farm, Ardley – Application No 10/0127/CM And 8. Energy from Waste Facility, Ardley – Application MW0078/CM	Horse District Council Cabinet Member for Waste and member of the Oxfordshire Waste Partnership. Councillor Hannaby advised that she had not expressed an opinion on either application in either capacity and therefore
Councillor Poynolds	9 Energy from Waste	intended to participate in any discussion and voting thereon.
Councillor Reynolds	8. Energy from Waste Facility, Ardley – Application MW0078/CM	Personal. Member of Cherwell District Council's Planning Committee and the Oxfordshire Waste Partnership. Councillor

Reynolds advised that he had not expressed an opinion on the application in either capacity and therefore intended to participate in any discussion and
any discussion and voting thereon.

40/10 MINUTES

(Agenda No. 3)

The minutes of the meeting held on 13 September 2010 were approved and signed.

Minute 14/09 - Stonehenge Farm

Mr Dance advised that the Stonehenge Farm application had been allowed on appeal but importantly the package of measures relating to flooding, routeing and monitoring of lorry movements, public access and biodiversity remained intact. No costs had been awarded although some costs had inevitably been incurred in staff time and consultants and counsel appointed for the Inquiry.

The Chairman thanked those members of the Committee who had attended the Inquiry. He understood that the Inspector had felt that the reasons for the original refusal had been legitimate which had prompted the applicants to undertake further work on the application itself.

41/10 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

The following requests to address the meeting had been agreed:

Speaker	<i>Item</i>		
Steve Bowley	5. Whitecross Metals, Wootton – Application No 10/01449/CM		
John A C Beattie Brian Wilson. Mark Gammond Barbara Gow, Resident Jake Cherrington Brian Tomlin David Wood John Kightley Peter Maggs)))))) 8. Energy from waste facility,)Ardley – Application MW0078/10)10/00849/CM		
Sheila Ultsch)		

Brian Steventon)
Councillor Charles Shouler)
Councillor Mrs C Fulljames)
Robert Ryan)
)

42/10 THE SORTING AND TRANSFER OF BUILDERS SKIP WASTE WITHIN EXISTING SCRAP METAL YARD, WHITECROSS METALS, WOOTTON - APPLICATION NO 10/01449/CM

(Agenda No. 5)

The Committee considered (PN5) an application for a construction and demolition waste transfer station.

Mr Bowley on behalf of the applicant referred to the relatively small scale operation involved which would result in no increased traffic or activity at the site above current levels. There had been no statutory consultee objections and he urged the Committee to approve the application.

RESOLVED: (on a motion by Councillor Hannaby, seconded by Councillor Jelf and carried unanimously) that planning permission for the development proposed in Application No 10/01449/CM be granted subject to conditions to be determined by the Interim Head of Sustainable Development but to cover matters set out below:

- 1. Complete compliance
- 2. Development to commence within three years of permission.
- 3. Working hours as proposed including HGV access
- 4. Maximum height of stockpiles.
- Noise limits.
- 6. Dust suppression.
- 7. No waste other than inert construction and demolition waste to be imported.
- 8. No crushing.
- 9. Maximum throughput of 5,000 tonnes per annum.
- 10. Details of surface water drainage to be determined prior to commencement of development.

43/10 INSTALLATION AND USE OF A FIXED SCREEN AT ARDLEY IN-VESSEL COMPOSTING FACILITY, ASHGROVE FARM, ARDLEY - APPLICATION NO 10/0127/CM

(Agenda No. 6)

The Committee considered (PN6) a retrospective application for a permanent screener to replace a temporary mobile screening plant originally permitted in 2009.

The Committee discussed complaints received regarding odour. The applicants had advised that this had been due to the amount of food waste at the site. This situation was expected to improve once the anaerobic digestion facility at Cassington was on stream which would take food waste but in the meantime the Committee noted that

the odour mitigation scheme condition attached to the previous permission could be used to monitor the problem.

Another area of concern had been the lack of adequate screening. However, officers advised that it would be difficult to link additional screening to this permission but suggested that an informative could be added to any permission given to emphasise the need for compliance with the screening condition attached to the 2009 permission and to encourage inclusion of trees where possible.

It was confirmed that Sunday working usually involved on site maintenance and only in exceptional circumstances such as after bank holidays would lorry traffic access the site.

RESOLVED: (on a motion by Councillor Hayward, seconded by Councillor Mrs Fulljames and carried unanimously) that planning permission for the development set out in Application No 10?01274/CM be granted subject to conditions to be determined by the Head of Sustainable Development but to cover matters set out below:

- 1. Complete compliance with application details.
- 2. Development must commence within three years of permission.
- 3. Working hours to match existing:
 - (a) 07:00 18:00 Mondays to Fridays
 - **(b)** 08:00 16:00 Saturdays.
 - (c) 08:00 14:00 Sundays
- 4. Materials and finishes to match the existing on the screener.
- 5. Noise Limits

Informative: to refer to the likelihood of enforcement action if the existing screening condition is not complied with.

44/10 RELEVANT DEVELOPMENT PLAN AND OTHER POLICIES

(Agenda No. 7)

Noted. No action required.

45/10 APPLICATION FOR: THE CONSTRUCTION AND OPERATION OF AN **ENERGY FROM WASTE (EFW) FACILITY TOGETHER WITH ASSOCIATED** OFFICE, VISITOR CENTRE AND BOTTOM ASH RECYCLING FACILITIES. NEW ACCESS ROAD AND WEIGHBRIDGE FACILITIES AND THE CONTINUATION OF NON HAZARDOUS LANDFILL OPERATIONS AND LANDFILL GAS UTILISATION WITH CONSEQUENT AMENDMENTS TO THE PHASING AND FINAL RESTORATION LANDFORM OF THE SURFACE WATER ATTENUATION **FEATURES** AND IMPROVEMENTS TO THE EXISTING HOUSEHOLD RECYCLING FACILITY (Agenda No. 8)

The Committee considered a second application to build an Energy from Waste plant at the Ardley landfill site.

The Chairman advised that the ability of members of the Committee to act independently when considering this current application on its merits had not been compromised by the decision in October 2009 when the first application had been refused.

John Beattie referred to concerns of the Bishops Cleeve Parish Council in Gloucestershire regarding transport and disposal of residue ash to the Wingmoor Farm site near Cheltenham. Following incineration 30% ash remained of which 16% was toxic hazardous waste. The planning permission had expired. Grundons had applied to extend the life of the site but even if that was approved, there would still be a period of 5-10 years after cessation of operations at Wingmoor Farm and the closure of the facility at Ardley during which alternative disposal arrangements would be needed. He felt the proposal was unsustainable and urged that Oxfordshire dispose of its own hazardous waste.

Brian Wilson stated that the application now before the Committee was identical to the earlier application in all its planning aspects and should be refused for the same planning reasons: clearly not a temporary building; lack of need bearing in mind rapidly increasing recycling rates; transport impacts from import of waste and export of toxic waste ash; the outstanding appeal decision and overlapping application. The Planning & Regulation Committee had a duty to act in a reasonable manner and he urged the Committee to decline to determine the 'overlapping' application or to refuse it or at very least defer a decision until the Inspector had announced his decision.

Mark Gammond tabled a number of photographs (produced by Viridor) to demonstrate the effect of the proposal on the surrounding countryside. These photographs gave a misleading impression of its impact when compared to a local landmark Trow Pool Water Tower. In reality the height of the main building was 14 metres higher than the water tower and the stack 60 metres higher. The impact would be immense in the open countryside and he urged the Committee to refuse the application.

Responding to Councillor Tanner he assured the Committee the measurements were correct and that the sheer magnitude of the proposal had not been reflected accurately in the photographs produced by Viridor.

Barbara Gow agreed that there were no real differences between the two applications which were for the same size building in the same place. Incinerator technology was outdated and there were huge health and safety implications associated with the plant itself and from increased traffic on the B430. The eco-town was not pursuing the use of waste heat from this proposal. A 35 year permission was too long and it seemed wrong that the contract had already been awarded by the County Council's Cabinet. The Committee should refuse the application and wait for the Inspector's decision.

Jake Cherrington reminded the Committee that a decision to approve now would have a detrimental effect on village life for years to come. Recycling levels continued to increase which would in turn reduce the amount of residual waste in Oxfordshire requiring more waste to be imported with increased lorry traffic and resultant safety

issues. This seemed to be a purely commercial venture for the benefit of Viridor and represented a waste of public money on something nobody wanted. The previous application had already been refused so why consider it again.

Jon O'Neill tabled a submission of objection.

Brian Tomlin referred to traffic pollution at ground level. This was noticeable in Croughton and would only worsen if this application was approved. The A43 south was used as a shortcut by vehicles and the Committee should refuse this application pending improvements to Junction 10 on the M40.

David Wood urged the Committee to reject the application on health grounds. Air quality was already poor in this area affecting particularly asthma sufferers. This situation would only worsen with knock on effects for the NHS. He agreed an alternative was needed to landfill but there were better alternatives available than incineration which involved outdated technology.

Responding to Councillor Armitage he did not have figures regarding air quality but it had been subject to significant analysis at the Inquiry.

Mr Kightley refuted the temporary nature of this application which was materially identical to the first. As a rule 6 party at the Inquiry Bucknell Parish Council had studied both applications and found numerous instances of conflicting and misleading information with inadequate assessments. The Parish Council had been advised by the County Council of 12 differences between the current application and the one refused in October 2009. The Parish Council had questioned all 12 points stating that analysis of each proved there was no material difference between the two and the Committee should sustain its earlier decision and refuse this application.

Peter Maggs referred to traffic concerns on B430. Levels would increase dramatically with resultant problems for road safety. To describe this application as temporary was ridiculous and a more central site would reduce transport costs considerably. There had been insufficient analysis of alternative sites. Nothing had changed since the previous application had been considered in October. P3EcoLtd had no intention of linking the development at Bicester to energy provision at Ardley and any decision to approve this application would be open to legal challenge.

Responding to Councillor Tanner he suggested a more suitable site should be found around Oxford rather than transporting material around the County.

Sheila Ultsch considered this area of north Oxfordshire to be under siege from the M40 and its resultant problems with junction 10 and the effect on local roads only 500 metres north of Fritwell; the proposed wind farm and now the incinerator to the south. Pollution levels would rise as a result of outdated technology and it was difficult to think of another area in Oxfordshire suffering from this level of intrusion. She urged the Committee to refuse the application.

Brian Steventon advised that monthly readings taken locally over the last 18 months showed an average nitrous dioxide reading of 37.5 micrograms per cubic metre compared to recommended European levels of 40. That was unacceptable in open countryside and would only deteriorate if this application was approved. The decision

taken 12 months ago should hold good today with no real difference between the two applications. If the scheme was approved he advised that a potential SSSI site would be destroyed.

Councillor Charles Shouler spoke on behalf of residents of Middleton Stoney. This application was very similar to that considered in October 2009 with the only real difference being that the current one was now limited to 35 years. It could be argued that the applications were being twin tracked and he questioned how could this application be determined before the first had been concluded. He queried what was meant by adjoining authorities in Condition 52 and considered that the transport implications were not irrelevant as suggested. The relative peace and quiet enjoyed by this area since the opening of the M40 would be further eroded and routeing agreements were only as effective as the level of enforcement. Damage to the area could not be overcome by limiting the period of permission and the reasons given for refusal were still valid. He referred to government circular 11/95 which advised against the use of temporary planning conditions in these circumstances and urged the Committee to refuse the application on the same grounds as before.

Responding to Councillor Tanner it was not for him to say whether it would be preferable to wait for the outcome of the Inquiry. For whatever reason the second application had been made and the Committee therefore needed to consider it.

Councillor Mrs Fulljames referred to the extraordinary level of opposition to and public concern over this application with a clear message to refuse. Cherwell District Council's reasons for recommending as outlined in the Committee report were sound and any decision should not be unduly influenced by the award of the MSW contract. The first application had been through a 15 day Inquiry process and this application hardly differed from that one. Considerable harm would be done to the area through the import of waste with a 30% increase in HGV traffic. Waste would be taken from all 5 district councils so traffic levels were bound to increase. It was intended to add another junction onto the B430 adding yet more danger to an already dangerous stretch of road. The site should be situated in the middle of the County to make it more accessible. She referred to increased health risks and referred particularly to risks of miscarriages. She realised the Committee had been put in a difficult position but urged that it disassociate itself from the decision to award the waste contract. She questioned the detail of the hinterland condition and asked for clarification of boundaries from where waste would be imported and from the applicants an indication of what the black smoke was coming from the Colebrook incinerator stack. There had been a reduction in the need for residual waste capacity from 291,000 tonnes pa to 237,000 tonnes in just one year, meaning that waste to feed the plant would increasingly have to come from elsewhere. She concluded by confirming that she would leave the meeting on the advice of legal officers regarding her prejudicial interest of proximity but before doing so urged the Committee to refuse the application.

Responding to Councillor Hayward she advised that many medical facts had been quoted but the statement regarding miscarriages had been one that had stuck in her mind.

Councillor Mrs Fulljames then left the meeting.

Robert Ryan advised that Viridor were one of the UKs leading companies in this field of operations working with over 90 local authorities and dealing in effective resource management ranging from production of electricity to waste collection and composting. There was a need for a state of the art facility costing 200 million pounds and providing employment for 200 during the construction stage and 40 operational jobs thereafter with obvious benefits for the local economy. It would enable waste to be moved up the hierarchy and away from landfill. There had been no objections raised by any of the statutory consultees and the application had the support of County planning and transport officers and was compliant with European waste directives. Viridor had sought to mitigate the effects of the building with a well thought out design and referred to the visual intrusion from other sites such as the wind farm. The proposal had received an environmental permit regulated by the Environment Agency, which also indicated that the technology was the best available. It was well established with over 400 other schemes in Europe. Viridor had been proactively engaged with relevant organisations and had listened to comments from local residents which had resulted in changes to the scheme which would be built to the highest environmental standards. There were many significant benefits for the Council from a permission unencumbered by adverse planning conditions including addressing a lack of capacity from landfill by diverting waste; reduction of gas from landfill waste; production of renewable energy and reductions in landfill tax. The facility was urgently needed and he commended the recommendation to approve the application.

Responding to questions from:

Councillor Tanner - he confirmed that by submitting a second application it had given an opportunity for the Committee to consider a change to policy and detail. He confirmed that he would be happy to live downwind of this type of facility and had in fact done so in the past.

Councillor Hannaby – there had been an extensive site assessment programme and no better site had been found.

Councillor Seale – he confirmed that Viridor undertook waste management and commercially looked to make a profit to enable that business to operate. He advised that the building at the Ardley facility would be lower than the one at Colnbrook (36 meters compared to 46 metres) and confirmed that it was steam coming from Colnbrook chimney and not smoke.

Councillor Sanders - he did not accept that the changes between this application and the previous ones were insignificant.

Councillor Reynolds – Viridor had not expressly made the application for temporary permission because it was for the Council to decide whether a condition to limit the life of the permission was necessary. If it had Viridor would not have objected.

Mr Tugwell presented the report. Viridor had indicated that it would accept a time limit condition, which constituted a significant difference from the first application. The life expectancy of the facility would be set at 35 years, which the applicants had

accepted and if that was to be extended then a new application would be required. The proposal had been designed to meet Oxfordshire's needs first and foremost. Traffic levels on the B430 prior to construction of the M40 were 15,000 vehicles per day. Current levels were between 5,500-6,000 per day and the County Council considered the existing road infrastructure would be capable of dealing with the scale of increase in traffic. The facility would be carefully monitored and he did not expect air quality levels to deteriorate as suggested by an earlier speaker.

Need – it was necessary to reduce the amount of waste going to landfill. The legacies from landfill were well documented and with limited landfill available Oxfordshire needed to deal with its waste stream. A number of factors including the economy and recycling levels influenced how that could be done. Figures for residual waste had been based on a minimum but there was the potential for those levels to increase. Very soon Oxfordshire would have insufficient LATS allowances requiring purchases from other authorities incurring further cost.

Regulation process – the second part of the process involved environmental impact regulated by the Environmental Agency who had issued a permit for this facility at this location. The facility would be subject to rigorous monitoring by the Agency.

A Viridor representative confirmed that at the Colnbrook facility constant monitoring was undertaken on each stack with averages taken to compare with the environmental permit. These figures were reported to the Environmental Agency and made public. Other samples were taken and sent for independent testing. Working hours would be 24 hours per day with Sundays reserved for routine maintenance.

Councillor Tanner considered that realistically it would be difficult to refuse a repeat application for a facility that had been there for 35 years and expressed concern regarding importation of waste from outside Oxfordshire.

Councillor Crabbe had some concern regarding the ability of the Environment Agency to adequately fund monitoring during the current economic climate and thought perhaps that should instead be a charge on the developer.

Councillor Reynolds' understanding was that the Oxford Waste Partnership had not been advocating a case for incineration but merely an interest in the generation of energy. He felt the applications were identical and the second one should have been submitted as an application for temporary permission. The facility was too big for Oxfordshire's needs and he had concerns regarding levels of residual waste because of the continuing increase in recycling levels and over the importation of waste from outside the County. The policy context had not changed. He also had concerns regarding the use of average monitoring figures whereas if an accident occurred then there would be a huge problem. Nothing had changed and he considered it would be unreasonable not to refuse the application again.

Mr Tugwell confirmed rules regarding referral to the Secretary of State had changed and there was now no formal requirement to do that in this case although he confirmed that the government office had received a request to call in the application. The Chairman proposed, and Councillor Hannaby seconded that the recommendation as set out in the officer report be approved.

Councillor Tanner proposed that Condition 52 be amended by deleting all the text after Oxfordshire in order to reflect the need to deal solely with waste emanating from within Oxfordshire.

The amendment seconded by Councillor Sanders was lost by 11 votes to 2.

A further amendment by Councillor Seale to replace the words "or from" with "and" in Condition 52 was accepted by the mover and seconder of the motion.

The substantive motion was then put to the Committee and –

RESOLVED (by 10 votes to 4) that subject to legal agreements to cover the following matters:

- (i) route of all large HGVs to/from the M40 via the B430 through Ardley;
- (ii) provision of a construction travel plan all vehicles to be routed to/from M40 via B430 through Ardley;
- (iii) provision of an operational travel plan, with £1k monitoring fee;
- (iv) provision of a pedestrian crossing on the B430 in Ardley;
- (v) commitment to submitting an application to divert bridleway 27;
- (vi) funding for improvements to the Rights of Way network;
- (vii) long term maintenance of the restored landfill;
- (viii) public access to the old quarry face;

the planning application for the development described in planning application 10/00849/CM be approved subject to conditions to be determined by the Interim Head of Sustainable Development but to cover matters to include the following:

- 1) detailed compliance; (in accordance with submitted plans/documents);
- 2) detailed duration 3 years;
- 3) consent limited in duration to 35 years from the date of facility becoming operational;
- 4) notwithstanding Condition 3, if the plant ceases to be used for a period of more than 36 months a scheme for demolition and removal of the building, and subsequent restoration to be submitted and agreed;
- 5) no waste to be treated until link to electricity grid is completed;
- 6) construction works not to start until construction of new access begun;
- 7) no traffic movements (apart from staff working at the EfW plant) except during between:-
 - 7 am 7pm Mondays to Fridays;
 - 7 am 1pm Saturdays and
 - on 12 nominated Saturdays 1pm-4pm (hours to be agreed) Sundays (there shall be no more than 10 vehicle movements on Sundays)
- 8) notwithstanding Condition 7, hours of operation of site for receipt of waste from OCC Household Waste Recycling sites to be agreed;
- 9) hours of operation of Household Waste Recycling Facility to be agreed;
- 10) construction hours to be agreed;

- 11) EfW may operate continuously but no outside operations except during hours agreed under Condition 7 (other than for essential maintenance etc);
- 12) submission and implementation of a scheme to ensure that the waste treated is residual;
- 13) plan to be agreed for incinerator bottom ash operations;
- 14) details of changes for bridleway 27 provision on definitive line and implementation if line not diverted:
- 15) implement approved flood risk assessment and site drainage plan;
- 16) agree details of groundwater and surface water drainage plan;
- 17) agree plan for external lighting;
- 18) details of design and location of CCTV cameras to be submitted and agreed;
- 19) no external lighting outside hours permitted for traffic movements except for site safety and security;
- 20) recording of dinosaur footprints;
- 21) maximum of 500,000 tpa of waste to site until landfill completed;
- 22) maximum of 2,000 tonnes of waste to site each day until landfill ends;
- 23) restoration/landscape plan to be submitted and agreed;
- 24) tree retention/protection measures to be agreed;
- 25) no removal of trees/hedgerows during bird breeding season;
- 26) pest control measures to be agreed;
- 27) with exception of Household Waste Reception Site, no waste other than that associated with EfW plant to be sorted/stored on site for disposal elsewhere;
- 28) any gates/fences that are damaged to be repaired;
- 29) no mud on highway;
- 30) no reversing bleepers (or other means of audible warning) to be used other than white noise:
- 31) all plant/machinery etc. to use equipment that minimises noise;
- 32) prior to commissioning of EfW plant, a Combined Heat and Power (CHP) feasibility review to be submitted and approved. Any scheme approved to be implemented;
- 33) signage on B430 to be agreed prior to occupation of EfW plant;
- 34) fencing details to be agreed;
- 35) schedule of external materials to be used to be agreed;
- 36) details of leachate treatment plant to be agreed;
- 37) access details/arrangements to be agreed after landfill operations completed;
- 38) details of wheel washing proposals to be agreed;
- 39) location of landfill gas wellheads and collection mains to be agreed;
- 40) surface water drainage details to be agreed;
- 41) landfilling to cease by 2019;
- 42) household waste recycling facility to be removed by end of 2018;
- 43) if landfill operations cease for a 12 month period at any time before landfilling is completed, reinstatement and restoration scheme to be submitted and agreed;
- 44) hours of use for landfill operations to be agreed;
- 45) phasing of landfill/restoration to be in accordance with approved plans:
- 46) details of soil storage bunds to be agreed;
- 47) topsoil to be retained on site. Details of working of any imported soils to be agreed;
- 48) depth and quality of soils above capping layer to be agreed, soils to be handled only in dry weather conditions;

- 49)
- aftercare scheme to be submitted and agreed; skip storage restricted to Household Waste Recycling facility or at location to 50) be agreed;
- all Oxfordshire MSW shall be processed through the plant; 51)
- no waste to be imported or processed other than from Oxfordshire and 52) adjoining authorities;
- records of daily tonnage, origin and nature of waste to be kept. 53)

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