

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 8 January 2018 commencing at 2.00 pm and finishing at 4.40 pm.

Present:

Voting Members: Councillor Les Sibley – in the Chair

Councillor Mrs Anda Fitzgerald-O'Connor
Councillor Mike Fox-Davies
Councillor Stefan Gawrysiak
Councillor Bob Johnston
Councillor Mark Lygo
Councillor Glynis Phillips
Councillor G.A. Reynolds (Deputy Chairman)
Councillor Judy Roberts
Councillor Dan Sames
Councillor Alan Thompson
Councillor Richard Webber
Councillor Liam Walker (In place of Councillor Jeannette Matelot)

Other Members in Attendance: Councillor Charles Mathew (for Agenda Item 7)

Officers:

Whole of meeting G. Warrington & D. Mytton (law & Governance); C. Kenneford and D. Periam (Planning & Place)

Part of meeting

Agenda Item	Officer Attending
6	M. Thompson (Planning & Place)
7	R. Plater (Planning & Place)
8	K. Broughton (Planning & Place)

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

1/18 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for absence</i>	<i>Temporary Appointment</i>
Councillor Jeannette Matelot	Councillor Liam Walker

Councillor George Reynolds deputised for Councillor Matelot as Deputy Chairman for the meeting.

2/18 MINUTES

(Agenda No. 3)

The minutes of the meeting held on 27 November 2017 were approved and signed subject to amending Councillor Matthew in line 6 of paragraph 6 Minute 48/17 to read Councillor Mathew.

3/18 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
Chris Herbert (SLR Consulting for Viridor)	6. Ardley Energy Recovery Facility
John Salmon (Agent for Sheehan Haulage and Plant Hire Ltd) County Councillor Charles Mathew) 7. Sheehan Recycled Aggregates) Plant, Dix Pit)
Suzi Coyne (Agent for M & M Skip Hire Ltd)	8. M & M Skips at Worton Farm

4/18 CONTINUATION OF THE DEVELOPMENT PERMITTED BY MW.0044/08 (THE CONSTRUCTION AND OPERATION OF AN ENERGY FROM WASTE AND COMBINED HEAT AND POWER FACILITY TOGETHER WITH ASSOCIATED OFFICE, VISITOR CENTRE AND BOTTOM ASH RECYCLING FACILITIES, NEW ACCESS ROAD AND WEIGHBRIDGE FACILITIES AND THE CONTINUATION OF LANDFILL OPERATIONS AND LANDFILL GAS UTILISATION WITH CONSEQUENT AMENDMENTS TO THE PHASING AND FINAL RESTORATION LANDFORM OF THE LANDFILL SURFACE, WATER ATTENUATION FEATURES AND IMPROVEMENTS TO THE EXISTING HOUSEHOLD WASTE RECYCLING CENTRE) WITHOUT COMPLYING WITH CONDITIONS 1 AND 3, IN ORDER TO ALLOW AN IMPORT OF 326,300 TONNES PER ANNUM TO THE ARDLEY ENERGY RECOVERY FACILITY - APPLICATION MW.0085/17

(Agenda No. 6)

The Committee considered (PN6) an application to increase the maximum tonnage permitted to be imported to Ardley Energy Recovery Facility from 300,000 tonnes per year to 326,300 tonnes per year

Mary Thompson presented the report.

Chris Herbert commended the proposal and responded to questions from:

Councillor Phillips – the application was more about flexibility in tonnage now that the plant was fully operational and consistency with the maximum tonnage of 326,000 as allowed on the environmental permit.

Referring to the concerns expressed by Bucknell Parish Council and the views of many who still considered that the plant should not have been sited in this location at all Councillor Reynolds recognised that the increase was small and so moved the officer recommendation as set out in the report. Councillor Johnston seconded the motion which was then put to the Committee and -

RESOLVED: (unanimously) that subject to a supplementary legal agreement to ensure that the provisions of the existing Section 106 and routeing agreements were carried forward that planning permission for Application MW.0085/17 be approved subject to conditions as on consent MW.0044/08 amended as set out in Annex 1 to the report PN6.

5/18 SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM AT SHEEHAN RECYCLED AGGREGATES PLANT, DIX PIT, STANTON HARCOURT, WITNEY, OX29 5BB - APPLICATION NO. MW.0073/17

(Agenda No. 7)

The Committee considered PN7 an application to increase the amount of waste imported to the existing Dix Pit Recycled Aggregates Facility from 100,000 to 175,000 tonnes per calendar year through a variation of condition 6 of planning permission no. 16/04166/CM (MW.0140/16). No other changes to the existing conditions had been proposed. This matter had been deferred at the 27 November 2017 meeting to allow further negotiation with the applicant.

Mr Periam presented the report together with the addenda sheet tabled at the meeting.

The Committee also noted a late submission from the residents of Deans Farmhouse, Evergreen Cottage, Tudor Cottage and The Green all objecting to any increase in the already high volume of HGVs on a road which they considered not fit for that type of traffic.

Responding to Councillor Johnston Mr Periam confirmed that the applicants had not been prepared to consider a staged approach to the proposed increase in vehicle movements to the site for the reasons set out in paragraph 2 of the officer report.

Mr Salmon for the applicants advised that the application supported Council policy on recycling, production of secondary aggregates and maximum diversion of waste from landfill. The route to the site followed a designated lorry route and a recent traffic consultancy report had shown that impact on Sutton village from this increase would not be as severe as had been suggested. Although there were currently over 3,000 daily movements on the road the predicted number of additional vehicles to or from Dix Pit as a result of this application would equate to one every ¼ hour with none of the extra vehicles in any event travelling through Sutton. Similarly, as the number of vehicle movements resulting from the application were considered insignificant the applicant felt any need to agree a staged increase was impractical. Sheehans were happy to comply with conditions requiring information and notification of any breaches of the routeing agreement every 3 months and had also agreed a contribution of £5,000 towards a feasibility study to determine the most effective way to improve highway safety. Contrary to what had been suggested Sheehans took its role regarding local amenity and safety seriously. They were accredited under the Fleet Operator Recognition Scheme and trained their drivers to a high standard. They had an exemplary safety record and adhered to the routeing agreement to avoid Sutton during peak hours despite the alternative route requiring a 20 mile diversion, which was both time consuming and environmentally costly and not required by other operators who used the site. Sutton village was not a typical village centre but had 24 residences spaced out on both sides of the road, over a distance of 600 meters, and

set well back from the road itself. It had a 30 mph speed limit with adequate signing and 2 HGVs were able to pass each other. The County Council's own highways department considered the road acceptable as a local lorry route. Therefore, bearing in mind that the application supported Council policies, used a designated lorry route, avoided Sutton at peak hours in accordance with the routeing agreement and had been supported by county planning and highway officers he urged the Committee to approve the application bearing in mind that the report also recognised that a refusal of permission could not be sustained on appeal.

Responding to Councillor Reynolds he confirmed an additional 40 vehicles per day over and above the current 54.

Councillor Mathew expressed regret that the applicants had been unwilling to consider a compromise staggered approach and continued to pursue their aim for an immediate increase to 175,000 tonnes. That increase equated to a vehicle through Sutton village every 4½ minutes and could not be perceived in any way as insignificant. He advised that breaches of the routeing agreement continued to occur and only that morning 5 lorries had passed him on the B4449 outside the permitted hours. He questioned the integrity of specialist reports and in his opinion all such reports should be conducted by independent specialists appointed by the county council and paid for by applicants. The carriageway was not wide enough for 2 HGVs to pass comfortably and any moves to improve the pavements would merely result in a further narrowing of the carriageway. The situation was completely unacceptable to local residents when there was a perfectly adequate alternative route via Hardwick through to Ducklington. The parish council had not been approached on proposals to improve the footpath and he had only learned of the £5,000 offer from the applicants 5 minutes before the meeting. He asked the Committee to refuse the application.

He then responded to questions from:

Councillor Johnston – the offer of £5,000 was unusual and in his view inadequate in that it wouldn't deliver a great deal. He would prefer to see any available money spent on drainage works to the south side between the 30 mph sign and Dean Farmhouse.

Councillor Fitzgerald-O'Connor – he advised that costings on drainage works had been done by OCC 6 months previously.

Mr Plater advised that footpath improvement works would involve cutting back vegetation on the existing pathway and not widening into the carriageway.

Councillor Gawrysiak – there had been regular breaches of the am hours agreement regularly since 2012 and he agreed that by implication and in his experience more lorries would inevitably mean more contraventions.

Responding to Councillor Webber Mr Periam explained that unlike planning conditions routeing agreements were legal agreements containing various clauses which an operator needed to comply with. The County Council could request details of movements from company records or could sit and observe movements and if

breaches occurred they could then be followed up. That had been done in this particular case after the November meeting but bearing in mind available staffing resources and the number of mineral and waste sites in the county which are monitored, there was a limit to how much officer time could be devoted to this at any one site. If there were persistent breaches then action would have to be taken through the civil court process.

Councillor Webber then asked whether it was right under the current system for developers to be able to appoint their own experts to undertake reviews or would it be better to have a list of approved consultants/contractors from which appointments could be made.

Mr Mytton confirmed that it would not be permissible to prevent applicants from appointing their own experts although officers could, if they wished, obtain a second opinion but at the county council's expense.

Responding to Councillor Fox-Davies who considered that there should be a break clause in any permission where an operator persistently breached the terms of an agreement Mr Periam advised that where a permission had been granted subject to an agreement the county council would seek to ensure that operators complied with the terms of that agreement. However, Mr Mytton advised that permission could not be revoked because of breaches of a routeing agreement. There would be substantial costs involved in the revocation of permission.

Councillor Sames suggested a S106 type agreement for permissions to ensure an annual contribution from operators to repair damage to roads. Mr Periam advised that that would be difficult to achieve not least of all because of the difficulties in proving what vehicle had caused damage.

Councillor Walker considered the £5,000 derisory. The carriageway was clearly not wide enough and to have a further 40 plus vehicles was a concern. He felt the applicants should have considered a staged approach and could not support the application as it stood.

Councillor Gawrysiak agreed that the contribution offered was too low and the number of vehicles proposed significant. It seemed the routeing agreement was not being enforced now and he could only see that situation worsening if this application was agreed.

Councillor Johnston understood the concerns expressed but did not think a refusal could be successfully defended on appeal.

Mr Periam advised that it was open to the applicant to appeal if the application were refused. The highway authority had not objected as a statutory consultee and so any refusal would need to be based on amenity grounds due to increased traffic movements with a demonstration of severe harm to residents.

The Chairman then moved the revised recommendation as set out in the addenda sheet as follows:

“Subject to the applicant entering into a Section 106 Legal Agreement to secure the payment of £5,000 towards highway improvement works along the B4449 through Sutton, application MW.0073/13 be approved subject to the existing conditions including the amendment made under Non-material amendment application no. MW.00889/17 to condition 6 reading as follows:

No more than 175,000 tonnes of waste shall be imported to the site in any calendar year. Records of imports, sufficient to be monitored by the Waste Planning Authority shall be kept on site and made available to the Waste Planning Authority's officers on request. Separate records shall be kept on site of any topsoil or other soil materials imported solely for use in the restoration of the Controlled Reclamation Site permitted subject to planning permission no. MW.0141/16(16/04159/CM).

and

An additional condition requiring that the operator's records of heavy goods vehicle movements to and from the site be provided to the Waste Planning Authority on a quarterly basis.”

The motion seconded by Councillor Johnston was put to the Committee and lost by 6 votes to 5 with 2 abstentions.

Recognising that the Committee seemed minded to refuse the application there was a short adjournment to consider reasons for refusal. On resumption it was **RESOLVED** (on a motion by Councillor Walker seconded by Councillor Gawrysiak and carried by 7 votes to 0 with 6 abstentions) that Application MW.0073/17 be refused as there would be an unacceptable adverse impact on the amenity of residents in Sutton village arising from the additional HGV movements proposed by the application, contrary to policy C5 of the adopted Minerals & Waste Core Strategy and that the offer of £5,000 for highway improvements could not overcome that concern.

- 6/18 M&M SKIPS AT WORTON FARM:**
1. SECTION 73 APPLICATION FOR NON-COMPLIANCE WITH CONDITIONS 1 AND 4 OF PERMISSION NO: 09/00585/CM (MW.0108/09) FOR WASTE RECYCLING AND TRANSFER FACILITY, TO ALLOW RE-SHAPING OF SITE BUNDING TO ENABLE ADDITIONAL CAR PARKING PROVISION.
2. USE OF LAND FOR STORAGE OF EMPTY SKIPS.
(Agenda No. 8)

The Committee considered two planning applications at and near to existing waste operations in the Green Belt at Worton, near Yarnton and Cassington. One (MW.0091/17) sought to remove part of a bund on land within the existing waste recycling permission to create car parking. The second proposed the permanent retention of a temporary skip storage operation.

Mr Broughton advised on an amendment to the plan at page 59 and then presented the applications.

Application MW.0091/17

On behalf of the applicants Mrs Coyne welcomed the officer recommendation for approval but not the proposed removal of permitted development rights, particularly as that had not been recommended in 2007. There was no clear justification now to recommend its removal which she considered would be unlawful and advised that the applicants would appeal that decision if agreed. She had raised this issue with officers in July 2017 but had received no response. There were in any event limitations and controls on what could be built and the principle of the development could not be changed, which is why removal was being opposed.

Mr Mytton advised that officers considered removal of the permitted development rights condition met the 6 tests as set out in the NPPF and it was incorrect to suggest that because this condition for removal hadn't been attached before that it couldn't be now on the basis of what might have changed. It was the officer view that the proposed bund removal and car parking constituted inappropriate development in the Green Belt and removal of permitted development rights would not materially alter the development.

Mrs Coyne then responded to questions from:

Councillor Johnston – there was case law on this point and in the applicant's view the removal of permitted development rights condition fundamentally changed the development and there was no justification for it.

Councillor Fox-Davies – she confirmed that the applicants were satisfied with conditions 1 – 3 but not 4.

Councillor Reynolds – her clients were doing a good job in managing the recycling operation at this site and a proposed extension was urgently required in order to maintain those levels of excellence.

Councillor Reynolds felt that it would be open to the applicant to apply separately for the necessary permission and on that basis moved the revised recommendation as set out in the addenda sheet. Councillor Johnston seconded the motion.

Councillor Sames did not consider the proposed changes constituted inappropriate development.

Councillor Gawrysiak accepted the legal advice given by county officers.

Councillor Webber reminded members that the threat of appeal was not a material planning consideration.

The motion was then put to the Committee and carried by 8 votes to 5. See resolution (a) below.

Mr Broughton then presented application MW.0090/17.

Suzi Coyne referred to the email that she had sent to members of the Committee prior to the meeting explaining that the application for the storage of skips was an essential part of the waste recycling operation at this site. In the normal course of things there would be 1000 skips in use but there was also a need for reserves to be stored on site. Currently the facility was outgrowing demand and it was neither financially or economically viable to move elsewhere. Contrary to the officers' view the applicant considered that very special circumstances had been demonstrated for the site to remain and it continued to be an important location for this type of operation. Recognising the government's commitment to sustaining economic growth every effort had been made to foster the site's continuing success and in so doing securing employment for 70 people. The applicants had made a large recent investment in machinery and refusal now would jeopardise the future of the site. She considered it unreasonable to have published a second reason for refusal just prior to the meeting.

Recognising the need to protect the Green Belt Councillor Phillips agreed with the officers' view that no very special circumstances had been demonstrated.

However, Councillor Sames did not feel that was the case and in view of the type of site already there this was not a visual amenity issue and he could not accept that this would cause further harm to the Green Belt.

Mr Broughton advised that officers were not specifying harm to the visual amenity but rather seeking to prevent urban sprawl. This was new development and in his view inappropriate.

Mr Periam added that the applicant had put their case as had county officers and it was for the Committee to now reach a decision on the appropriateness of the development.

RESOLVED: that

- (a) (on a motion by Councillor Reynolds, seconded by Councillor Johnston and carried by 8 votes to 5) planning permission for application no. MW.0091/17 be approved subject to conditions to be determined by the Director of Planning and Place to include the following:
 - (1) Detailed Compliance
 - (2) Development to be carried out within 3 years.
 - (3) Drainage details of the car park area to be approved.
 - (4) Permitted development rights to be removed.

- (b) (on a motion by the Chairman, seconded by Councillor Johnston and carried by 8 votes to 4) that planning permission for application no MW.0090/17 be refused for the following reasons:
 - (1) It would be inappropriate development in the Oxford Green Belt and no very special circumstances to justify making an exception have been demonstrated. The application would therefore be contrary to policy C12 of the Oxfordshire Minerals and Waste Core Strategy, policy ESD 14 of the

Cherwell Local Plan 2031 and National Planning Policy Framework paragraphs 87, 88 and 90.

- (2) It would be contrary to the priorities for locating waste facilities as set out in policy W5 of the Oxfordshire Minerals and Waste Core Strategy.

..... in the Chair

Date of signing