

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 9 July 2012 commencing at 2.00 pm and finishing at 3.45 pm

Present:

Voting Members:

Councillor Steve Hayward – in the Chair

Councillor Mrs Catherine Fulljames (Deputy Chairman)

Councillor Tony Crabbe

Councillor Mrs Anda Fitzgerald-O'Connor

Councillor Patrick Greene

Councillor Jenny Hannaby

Councillor Ray Jelf

Councillor Charles Mathew (In place of Councillor Stewart Lilly)

Councillor David Nimmo-Smith

Councillor Neil Owen

Councillor Anne Purse (In place of Councillor Alan Armitage)

Councillor G.A. Reynolds

Councillor John Sanders

Councillor Lawrie Stratford

Councillor John Tanner

Officers:

Whole of meeting

G. Warrington and J. Crouch (Law and Culture);
Rob Dance (Environment & Economy)

Part of meeting

Agenda Item

Officer Attending

5.

M. Thompson (Environment & Economy)

6.

M. Islam (Environment & Economy)

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.

38/12 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

| <i>Apology</i> | <i>Temporary Appointment</i> |
|--|--|
| Councillor Alan Armitage Councillor Stewart Lilly | Councillor Anne Purse Councillor Charles Mathew |

Councillor Mathew had been asked to leave the meeting at 2.04am due to the Chairman's insistence that Councillor Mathew's lateness meant he was disqualified from attending as a substitute. This edict was later rescinded on advice from the clerk to the meeting and Councillor Mathew had been retrieved by him from elsewhere in the building to resume his role as substitute for Councillor Lilly as previously arranged and noted by the clerk on the addenda papers. The Chairman offered his apologies and said there were 'new rules' and he had been mistaken as he often had been subject to disqualification in this manner in the past. Councillor Mathew apologised for being slightly delayed for the start of the meeting.

39/12 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE

(Agenda No. 2)

Councillor Mrs Fulljames declared a disclosable pecuniary interest with regard to Item 6. At a previous meeting and with regard to an item at Ardley she had accepted the advice of legal officers that she had had a personal and prejudicial interest by reason of proximity. After making representations as local member she intended leaving the meeting and taking no part in the substantive discussion or voting thereafter

40/12 MINUTES

(Agenda No. 3)

The minutes of the meeting held on 28 May 2012 were agreed and signed.

Minute 31/12 - Ashgrove Farm, Ardley

Councillor Mrs Fulljames advised that meetings of the Liaison Committee were ongoing with regard to issues of smell. The recent spell of wet weather had seen a decrease in the number of reports although some were still being reported.

Minute 33/12 – Sutton Courtenay Landfill Site

At the suggestion of Councillor Greene the clerk to the Committee undertook to record precisely the name of a public speaker when they responded to questions from members of the Committee

41/12 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

| <i>Speaker</i> | <i>Item</i> |
|---|---|
| David Reeves Hazel Watt Chris Thornton Chris Herbert |)) 6. Ardley Leachate Treatment Plant)) |
| Alex Facy | 7. St. Andrew's School, Chinnor |

42/12 CHAIRMAN'S UPDATES

(Agenda No. 5)

Mr Dance advised as follows:

Waterstock Golf Course

There had been a further High Court hearing on Thursday 5 July 2012 regarding the lack of removal of any waste or a detailed specification for doing so. A judgement was expected later this week.

Thrupp Lane, Radley

All matters had now been resolved. The old plant had now been removed and the consent issued.

Sutton Courtenay Landfill Site

A drainage scheme had been submitted which was acceptable to Oxfordshire County Council and the Environment Agency but not Sutton Courtenay Parish Council. FCC were being given the opportunity to provide one further bit of information in order to satisfy the Parish Council's concerns.

Members Training and Seminars

Reported recent visit to Harwell and Winfrith.

Two further seminars planned for September 2012. The first on 13 September (morning session) would be to consider how the County Council used planning conditions. The second on 26 September (morning session) was an invitation from the Oxfordshire Minerals Producers Group on "Recycling". Mr Dance undertook to confirm the venue for the latter with members

43/12 APPLICATION TO CONTINUE IMPORTING LEACHATE FOR TREATMENT AT ARDLEY LEACHATE TREATMENT PLANT

(Agenda No. 6)

The Committee considered an application submitted by Viridor for development at Ardley Landfill Site to use the existing leachate treatment plant, which currently had permission to treat leachate generated by the adjacent landfill site, to treat leachate imported from other landfill sites. There was no condition to prevent this under a previous landfilling consent. However, the energy from waste consent issued by the Secretary of State (SOS) did contain a specific condition preventing import. This was a retrospective application as the importation of leachate had been ongoing since the implementation of the SOS permission which had specifically prevented it and was being reported to Committee as objections had been received to the proposal.

The Committee also had before it an amended recommendation as set out in the published addenda.

Mr Reeves could not recall problems with flooding during his 60 years as a resident of Bucknell until recently. However, since 2007 there had been 4 incidents when the problem had been so severe he had had to hire equipment to deal with the fall out. Thames Water had showed little concern regarding flooding. He was convinced that these problems had been caused as a result of the additional treatment of imported leachate and he urged that the application be refused and Viridor instructed to abide by the decision of the Inspector at the Public Inquiry and cease importing leachate.

Hazel Watt referred to Condition 38 forbidding the import of leachate onto the Ardley site. That condition had been imposed after a long, rigorous and expensive public inquiry in 2010 and included for practical and environmental reasons. The Secretary of State had supported that line in February 2011, when he refused Viridor's request for the ban on the import of leachate to be lifted. To annul Condition 38 now, would show flagrant disrespect to both the Secretary Of State and the Planning Inspectorate. The papers for today's meeting made scant reference to the flooding and sewage overflow experienced in Bucknell and despite several attempts no official body has yet attempted to solve and/or discuss those problems. It was true that there had been no flooding nor sewage overflow since the end of 2010 and residents had concluded that this was because of lower than average rainfall between 2009-2011 although it could be because of more regular drain clearance by Thames Water Board's Contractors. There was local concern that this was only a temporary solution and would not survive further import of leachate, in addition to that produced when the incinerator was fully operational. The report also referred to an email from Thames Water to Viridor which suggested that there had been a failure in establishing a link between the leachate discharge and the flooding. This should not be considered to mean that there wasn't a link and it was considered that that investigation had been flawed and that another line of inquiry should have been pursued to substantiate the findings. It was not even clear whether treated or untreated effluent had been used in the investigation and that was fundamental as the test would be meaningless if not made on treated effluent. Furthermore, the

existence of gel had not been denied and the investigations had been made in 2007, but there was still flooding in 2010.

- Why had the County Council as the Waste Authority not made in-depth inquiries about these matters?
- Why had the Environment Agency not responded to the massive amount of evidence presented to it?
- Why had Thames Water not informed Bucknell residents of the action taken up to now rather than try to conceal the need for drain clearances by late night activity? What are their plans for the future that will help protect our residents from the horrors of flooding and sewage overflow?
- Why had Viridor not commissioned research into these matters?
- Can the authorities explain why sewage overflow occurred in December 2010 at a point in Bucknell where only one house had discharged into the sewage system after that released from Viridor's Ardley site?
- Why import leachate when the incinerator will provide much more? Why take the risk of accommodating alien unknown toxicity?

There was considerable public concern and she suggested that any final decision should be deferred pending answers to these matters. The controversial development of the incinerator had already been the subject of a long and expensive legal challenge and in choosing to challenge the conditions imposed by the Planning Inspectorate, the Secretary of State and the High Court, any party approving the annulment of Condition 38 should reasonably expect to find any such decision the subject of further opposition. This highly undesirable outcome could be avoided through full and proper engagement with the concerns raised in this presentation.

Mrs Watt then responded to questions from:

Councillor Greene – there had been very heavy rainfall recently but no overflow that weekend. That had been put down to drain clearance work.

Councillor Sanders – there had been no analysis of the gel blocking the drains although some residents had witnessed it.

Councillor Purse – there was no indication of what was producing the gel and that is what residents were asking to be investigated.

Councillor Mathew – residents were asking for proper and thorough tests. Leachate had been analysed but those tests were meaningless unless made on treated leachate.

Chris Thornton advised that the Fewcott with Ardley Parish Council had been a Rule 6 party at the Public Inquiry. The Inspector had been qualified to make the decision he did and he quoted the condition imposed by the Inspector. The local authority could only vary that condition and a decision to allow this application would be tantamount to a reversal. He urged the Committee to refuse the application.

There were no questions from members of the Committee.

Chris Herbert confirmed that this operation had been ongoing for some time and approval would enable Viridor to continue the service with no change to day to day operations. Viridor were aware of the concerns regarding flooding which had first been raised at the EfW public inquiry and which had led to the condition imposed by the Inspector not to allow importation of leachate. However, since that inquiry these issues had been discussed with Thames Water and the Environment Agency and samples of contents from the sewer flow analysed and incubated. That process had failed to find a conclusive link between the village and the landfill. This operation formed part of the discharge consent and was subject to regular audit sampling. Currently the treatment process consisted of 50% landfill and 50% imported material. Treated leachate from landfill would still be disposed of in the sewer even if none was imported. He referred to the 2 permissions for the energy from waste operation – one from the Secretary of State with the condition regarding importation attached and the other from the County Council which had no such condition.

Mr Herbert then responded to questions from:

Councillor Greene – if Viridor were only treating 50% of current levels in accordance with the Inspector's condition then there would be a reduction in flow through the sewers but taken together levels were still within the prescribed discharge levels. He was not aware of the detail of alternative treatment facilities.

Councillor Hayward – Importation had been carried out for 8 years.

Councillor Hannaby – Viridor had relied on testing by Thames Water. That testing had been based on a sample of sewer flow on a regular basis. The incubation test for the gel had been a one-off. He could not explain past flooding events and the Company had relied on advice from Thames Water who were the regulatory body.

Councillor Purse – the sewer connection to the Bucknell sewer was new but he could not give an exact date. Testing was carried out to ensure compliance with the discharge consent.

Councillor Stratford – he accepted that Viridor had not complied with the condition imposed by the Inspector some 18 months before but they had followed up local concerns with Thames Water.

Councillor Sanders – testing had not shown a link between the gel and leachate. There was no dispute that there were problems in Bucknell village but the cause of those problems had not been determined. There would be variations in levels of leachate and the conditions attached to the discharge consent covered that.

Councillor Tanner – he understood that if permission were granted then Viridor would abide by all 6 conditions.

Councillor Mathew – the responsibility for the sewer was with Thames Water and it was for them to undertake any investigation. They had tested samples of sewer flow which had not produced a gel substance and the conclusion had been drawn that the gel had not resulted from Viridor's processes.

Councillor Owen – with regard to calls for an independent investigation he reiterated that Thames Water were the responsible body for the sewer.

Councillor Mrs Fulljames endorsed the comments made by Mr Reeves, Mrs Watt and Mr Thornton and referred to the great concern locally regarding the importation of leachate. There had only been one investigative test on the sewer flow and the perception locally was that the County Council supported unequivocally any proposal put forward for this particular site with no concern for local people and quoted the EfW plant, recent problems with Agrivert and now Viridor as examples. She referred to the request by Sir Tony Baldry MP to the Secretary of State to call the application in for determination bearing in mind the condition which had been imposed by a government Inspector not to allow importation. She considered that this application should be refused or at very least deferred until the September meeting to allow Thames Water and the Environment Agency to attend and address local concerns.

Councillor Mrs Fulljames then left the meeting.

Mr Dance accepted there were high levels of concern locally. However, it was clear that this was development requiring planning permission and the County Council as planning authority were responsible for considering and deciding the application. No objections had been received from either Thames Water, who had issued a discharge consent, or the Environment Agency, who had issued a waste management licence. The application needed to be considered on its planning merits and he was content that the County Council was in a position to do that. In planning terms there was no reason to refuse the application but if deferred until September he could not foresee any adverse consequences which might result. He was not empowered to summons representatives from Thames Water or the Environment Agency to attend but could ask them to do so if that is what the Committee wished.

He confirmed that the County Council as waste authority had consulted Thames Water and Environment Agency who were the responsible agencies for these matters and neither had raised an objection. The applicant's agent had responded with regard to actions taken by Viridor and the decision to import leachate had been a commercial one taken by the applicants hence their application.

Councillor Hannaby felt that as investigations had not established what had caused the gel substance or a link between the treatment operation and the village there were no reasonable grounds on which to refuse the application.

Councillor Stratford referred to the amount of information provided at the Public Inquiry prompting the Inspector to impose a condition which prevented importation. Officers had indicated there was still work to be done to finalise a routing agreement and that presented an option for the Committee to defer the application until the September meeting, ask Thames Water and the Environment Agency to send representatives to that meeting to address concerns which had been expressed and in the meantime instruct Viridor to cease importation of leachate. He so moved and Councillor Greene seconded.

Councillor Tanner then moved an amendment that Application MW.0084/12 be refused on the grounds that Viridor had breached conditions imposed by the Inquiry Inspector to prevent importation of leachate.

The amendment was put to the Committee and lost by 9 votes to 2.

Councillor Crabbe considered Viridor were acting within the terms of their licence. It was important to ascertain the cause of flooding events but he could see no valid reason to refuse the application.

Councillor Stratford's motion was then put to the Committee and –

RESOLVED (by 10 votes to 4) that:

- (a) Application MW.0084/12 be deferred to the September meeting and Viridor instructed to cease the importation of leachate until the current application had been determined;
- (b) officers be asked to invite representatives from Thames Water and Environment Agency to the September meeting to address issues of flooding in the locality of Bucknell.

Councillor Mrs Fulljames then rejoined the meeting.

44/12 TO CONTINUE DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 1 (APPROVED PALNS AND PARTICULARS), CONDITION 3 (LIGHTING) AND CONDITION 4 (HOURS OF OPERATION) OF PLANNING PERMISSION R3.0071/10 (INSTALLATION OF OXFORD SWIMMING POOL ENCLOSURE OVER EXISTING POOL) AT ST ANDREW'S SCHOOL, CHINNOR - APPLICATION R3.0071/12

(Agenda No. 7)

The Committee considered an application to change the hours of use and installation of safety light at the Chinnor Community swimming pool at St Andrew's school.

Mr Facy confirmed that the pool had been operating for many years and it was only recently that complaints had been received. It was well used outside school hours but under strict controls. The roof would help reduce operating costs.

Mr Islam reported that a further 22 representations in support of the application had been received since the report had been published.

RESOLVED: (on a motion by Councillor Nimmo-Smith, seconded by Councillor Mrs Fulljames and carried nem con) that application R3.0071/12 be granted subject to conditions to be determined by the Deputy Director for Environment & Economy (Growth and Infrastructure) but in accordance with those set out at Annex 1 to the report PN7.

PN3

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..... in the Chair

Date of signing