

Planning and Rights of Way Committee

10 January 2023 – At a meeting of the Planning and Rights of Way Committee held at 10.30 am at County Hall, Chichester, PO19 1RQ.

Present: Cllr Burrett (Chairman)

Cllr Ali, Cllr Duncton, Cllr Gibson, Cllr McDonald, Cllr Montyn, Cllr Oakley, Cllr Patel, Cllr Quinn and Cllr Wild

Apologies were received from Cllr Atkins and Cllr Joy

Part I

20. Declarations of Interest

20.1 In accordance with the County Council's Constitution: Code of Practice on Probity and Protocol on Public Participation in Planning and Rights of Way Committees, the following members declared that they have been lobbied in relation to Item 4 - Planning Application WSCC/015/22: Cllr Ali, Cllr Burrett, Cllr Duncton, Cllr Gibson, Cllr McDonald, Cllr Montyn, Cllr Oakley, Cllr Patel, Cllr Quinn and Cllr Wild.

21. Minutes of the last meeting of the Committee

21.1 Resolved – That the minutes of the Planning and Rights of Way Committee held on 8 November 2022 be approved and that they be signed by the Chairman.

22. Urgent Matters

22.1 There were no urgent matters.

23. Planning Application: Waste

WSCC/015/22 - Change of use of existing hangar building from B2/B8 industrial/storage to sui generis, installation of combined heat and power plant, receipt of up to 15,000 tonnes per year of feedstock, generation and export of up to 1.25mW electricity and 5.5mW thermal and installation of HV meter cabinet. South Coast Skip Hire, Unit H9-H10 Ford Road, Ford, Arundel, BN18 0BD.

23.1 The Committee considered a report by the Head of Planning Services. The report was introduced by Edward Anderson, Planner, who gave a presentation on the proposals, details of the consultation, key issues in respect of the application and the following updates that were proposed:

- Regarding Recommendation (b), the deletion of all words following the word "crossing" because there is no need to refer

to deliveries/pickup at the locations mentioned in the original wording. The amended Recommendation (b) would read:

(b) the completion of a S106 legal agreement controlling movements of HGVs associated with the operation of the EfW CHP unit so as to prohibit the movements of HGVs along Horsemere Green Lane and beyond the northern side of the Ford railway crossing.

- Conditions 14 and 23 to be merged because they essentially covered the same issue. Condition 23 would be removed and the updated Condition 14 and its title would read:

Condition 14 - Storage and Processing of Waste

14. No waste types, other than those set out in the approved application details included in Condition No. 2 (RDF Composition), and any process residuals, shall be imported, sorted, stockpiled or processed on the site. All feedstock and residuals shall only be stored within the building, with no materials to be stored outside.

Reason: in the interests of safeguarding the amenity of nearby residential and commercial properties.

23.2 Cllr Amanda Worne, representing Yapton Ward, Arun District Council and being also a Ford Parish Councillor and a Yapton Parish Councillor, spoke in objection to the application on behalf of the residents of Yapton, Ford and Climping. The Government's 'Net Zero Strategy' sets out policies and proposals for decarbonisation as per the Climate Change Act 2008. In November 2022 at COP 27 it was stated how, so far, we are failing miserably to achieve this. The proposed incinerator would be very close to existing housing and new housing developments and is not suitable for the area. People living near other incinerators complain of noise, litter, increased vehicle traffic, air pollution and smells, especially in summer. Toxic ash will be produced and this still has to go to landfill. The incinerator will increase air pollution and produce CO₂. The generation of heat is not worth these things. The Greenpeace document 'Unearthed' states that waste incinerators are three times more likely to be built in the UK's most deprived neighbourhoods. Residents in Ford, which is not a rich area, feel it is being used as a dumping ground. The facility will not really benefit the local economy. Concerns were raised regarding the height of the chimney [flue] including views from the surrounding area and whether it would carry toxins high enough above houses in the locality. Use of landfill should be reduced but recycling, reusing and changing the materials that we use is the way forward; burning waste disincentivises this in a climate of finite resources with over 7 billion people on Earth.

23.3 Mr Chris Jarvis, Planning and Development Consultant, MEWP Ltd, agent for the applicant, spoke in support of the application. The proposal is for a small-scale combined heat and power plant to generate low carbon heat and power, located in an existing building. The operator's current waste transfer station and recycling facility, immediately to the south and

within the same building, manages a maximum 65,000 tonnes of commercial waste each year. 30% is not recyclable and is currently exported to the Netherlands and Sweden as refuse derived fuel (RDF). The RDF would be utilised within West Sussex instead. Up to 1.25We of electricity could be exported to the National Grid, with the ability to supply up to 5.5Wt of heat to customers. Whilst small, these figures should not be underestimated in a time of high energy costs. The proposal would help towards meeting the shortfall in non-inert waste recovery capacity identified in Policy W1 of the Waste Local Plan (WLP), which has grown since 2014 by around 60% to 451,000 tonnes. It will also help towards self-sufficiency. Rudford Industrial Estate is identified as an Area of Search for waste management facilities in Policy W3, which supports proposals for new facilities when they are "in built-up areas or on suitable previously developed land outside built-up areas". In the Arun Local Plan, this land is defined as such. The proposal is likely to give rise to a net reduction in HGV movements on the public highway. It would not give rise to significant impacts on air quality, either individually or cumulatively with other development, nor noise. There would be limited visual impact.

23.4 Cllr Jacky Pendleton, West Sussex County Councillor for Middleton, spoke in objection to the application. Over 250 objections by local residents equates to a big proportion of Ford's population. The All-Party Parliamentary Group on Air Pollution's paper 'Pollution from Waste Incineration' opposes further permissions such as this being granted and calls for a moratorium on additional incineration capacity. At first glance, the site could be seen to be acceptable, being on an existing site. But it is in a built-up area, very close to existing housing and approved new housing that will be built in the near future. It is the worst kind of industrial development in the wrong place. Rudford Industrial Estate is higgledy-piggledy with disorganised HGV movements and close buildings. The proposal enhances fire risk. The EfW would not sit well alongside plans to improve environmental pursuits such as walking and cycling tourism along the coastal route. The impacts would risk the prosperity of the area. Harmful particles and toxins will be released including heavy metals and fly-ash. Studies have linked incineration to a wide range of health impacts. CO₂ would accelerate climate change and any benefit would be negated by construction. Incineration undermines recycling and is incompatible with carbon net zero 2050 targets. The chimney [flue] would be visible from the Grade I listed church and other listed buildings, the South Downs National Park, Arundel and footpaths by the River Arun. The additional odour would be objectionable. It is only stated that a decrease in HGV movements would be "likely". The new EfW site due to be built just outside Horsham should be sufficient to handle the shortfall in non-inert waste recovery. The Waste Management Plan, which was put together in 2004, is out of date and was rolled over (possibly in 2009); it was not changed but Ford and Climping have developed as a residential area since then. There is no design quality in either the building or the proposed flue. There will be increased background noise. There is a concern about the impact on local water sources.

23.5 During the debate the Committee raised the points below and a response or clarification was provided by Planning and Legal officers where applicable, as follows:

References to the generation of electricity and heat

Point raised – Clarification was sought regarding different references in the Committee report to the amount of electricity and heat that would be generated.

Response – References throughout the Committee report to 1.235We of electricity and 2.4Wt of heat are taken from the Planning Statement provided by the applicant. However, as per the description of the application, this could be up to 1.25We of electricity and up to 2.5Wt of heat.

Status of the site in the WLP

Points raised – Clarification was sought regarding the status of the site being an unallocated site in the WLP, whilst noting that the applicant operates an existing waste transfer station on Rudford Industrial Estate.

Response – Policy W10 of the WLP allocates sites in West Sussex for built waste facilities. The proposed site is not included within this list. However, because the WLP seeks to manage waste within the county it allows, in principle, that waste management occurs on other unallocated sites around the county. Under Policy W3, the applicant must demonstrate that the proposal could not be delivered on an allocated site, which they have done. For clarification, it should be noted that the operator's current waste transfer station is outside the red-line boundary of the application.

Environmental concerns - general

Points raised – Concern was raised that the application does not address environmental matters including the production of more greenhouse gases, concerns about air pollution, particulates and toxins such as fly-ash and the risks posed to human health, the need for more recycling as opposed to the burning of waste and the possible burning of asbestos and toxic waste. The proposal would be subject to an Environmental Permit and the responsibility for this lies with another agency that must be assumed to carry out their role correctly. It is a challenge to strike a balance between the aims of carbon net zero and the requirements of waste management policy, noting that all applications must be determined against material considerations.

Response – In this case, the Environmental Permit would be issued by Arun District Council, as the responsible pollution control authority, because this proposal is for a small-scale facility. The Committee must assume that other agencies will carry out their role appropriately. In determining the application, the Committee must decide if the proposal is an acceptable use of the land. Through the provision of an Air Quality Assessment, the applicant has demonstrated that air pollution will be within set standards, to be regulated and enforced via the Environmental Permit. The Environmental Permit would specify the type of waste to be burned.

Moratoria on EfW facilities

Point raised – It has been stated there is a moratorium on EfW facilities in Wales and Scotland.

Response – In Scotland there is no outright ban on EfWs, although the Scottish Government has a long term plan to phase out energy from waste by 2050. The current position in England is that the Government continues to support energy from waste, as set out in the 2021 'Waste Management Plan for England', which states that it "supports efficient energy recovery from energy from waste".

UK Health Security Agency

Points raised – The UK Health Security Agency has stated that there is insufficient information contained in the planning application to be able to fully assess the impact of the proposed development on public health. Is the Committee in a position to proceed to a decision on that basis? Is the Health Security Agency a statutory consultee?

Response – The UK Health Security Agency has made it clear that well run and regulated municipal waste incinerators are not a significant risk to public health. The UK Health Security Agency is not a statutory consultee; however, West Sussex County Council seeks expertise on planning applications from sources that would be helpful as well as from statutory consultees.

Third-party objections

Point raised – Were third-party objections to the application individual objections, generic or part of a petition?

Response – Over 95% of the objections were individual and diverse. A very small number were from linked family members and were broadly similar.

Waste recovery shortfall

Points raised – Is the production of electricity alone sufficient to comply with recovery of waste or does heat produced and exported also need to be factored in to ensure that it complies? The figure of 15,000 tonnes of waste is being judged against a figure of 131 tonnes of shortfall in waste recovery capacity (from a review dated 2019/20 and so not up-to-date) if all anticipated waste management sites were to be on line. This differs greatly if judged against 451,000 tonnes of shortfall should these sites not become operational. The site must be considered in the context of other waste disposal facilities in West Sussex that have been approved, and whether there is still a need for this site to help meet the shortfall in waste recovery.

Response – The definition of waste recovery is set out in the glossary to the WLP. Para. 9.16 of the Committee report details the energy to be produced and how this has been shown to be sufficient to demonstrate the proposals would genuinely qualify as 'recovery' in the waste hierarchy. Sites including the Horsham EfW and the Ford Airfield site gasification plant account for consented, but as yet unbuilt, capacity. However, irrespective of these, there remains a substantial shortfall in waste recovery capacity in West Sussex. The 15,000 tonnes of waste is a reliable waste supply, sourced adjacent to the proposed EfW.

HGV movements

Points raised – The proposed utilisation of RDF next to the site on which it is produced would reduce vehicle movements when compared against its exportation. Have HGV movements been balanced against the relocation of companies currently utilising the application site for B2/B8 use and their likely HGV movements elsewhere? Of the 15,000 tonnes of RDF, 2,500 tonnes of residual waste will still need to be moved off site.

Response – The relocation of existing B2 uses within the building has not been considered. In terms of the proposal and the operator's current waste transfer operations, there would likely be an overall net reduction of 2.5 HGV movements per day on the highway network.

Volume of CO₂ produced

Point raised – The transport of RDF to the Netherlands and Sweden currently produces CO₂. If there is an alternative use for the RDF what would be the amount of CO₂ produced?

Response – Carbon net zero and zero waste to landfill are strategic objectives. There is a 131,000 tonne shortfall in waste recovery capacity for dealing with non-inert waste, if all permitted but not operational facilities are taken into account. The RDF has already had all recyclable material removed so there are no alternative uses for it. 15,000 tonnes of RDF utilised in a local West Sussex EfW instead of being sold abroad would result in a reduced amount of CO₂ being produced. Additionally, it would also move most of this waste up the waste hierarchy.

Site access

Points raised – What is the planning status of the currently closed-up access onto Church Road/Ford Road that forms part of the application red-line boundary? If it is to be opened for use, have the likely highways impacts been assessed?

Response – Use of the site access that is part of the application red-line boundary is understood to be a private agreement between the site operator and the owners of Rudford Industrial Estate. This

access could be used; however, the applicant's intention is to continue to use the main entrance to Rudford Industrial Estate. An approved Delivery and Service Management Plan would be required by pre-commencement condition. This would secure routing details for the movement of the RDF from the waste transfer station to the EfW and the movement of residual waste off site.

The site building/hangar

Points raised – What is the age of the site building/hangar? Would it be considered a non-designated heritage asset?

Response – The building is believed to date from the 1950s. It is not a listed building nor is it considered to be a heritage asset.

Visual impact of the development

Points raised – There is not likely to be a significant visual impact caused by the flue, although it would be visible from some views. There are other large buildings in the locality and the flue is not of a scale commensurate with other proposals or buildings. The operator has stated that a plume from the flue will be visible for approximately 1 hour per year. This seems unlikely but is difficult to dispute without expertise.

Response – None required.

Fire Risk

Points raised – Concerns were raised regarding potential fire risks due to the layout of both Rudford Industrial Estate, the building in which the facility would be housed and what was felt to be the disorganised state of the applicant's current waste transfer station, including concerns about litter and stockpiles of wood. How would fire risk be managed and would this be a material planning consideration?

Response – The operator's current waste transfer station is existing permitted development; the Committee can only make a decision about the planning application. Fire risk would be managed through the Environmental Permit. The planning process includes consultation with the Fire Authority that focuses on whether there is sufficient infrastructure to manage fire risk; see paragraph 7.15 of the report.

Benefits of energy generation

Point raised – Could the generation and exportation of heat open up avenues of funding and would this be considered a benefit?

Response – Exportation of heat could open up avenues of funding to the operator and others in the locality. However, the exportation of heat has been afforded little weight because it is not guaranteed at this stage. The Environmental Permit would require the operator

to demonstrate that the EfW is operating as efficiently as possible. The facility is expected to achieve at least a 20% efficiency rating for electricity generation; this is comparable with other similar sites.

Covering of RDF

Points raised – Currently, the RDF is wrapped in black plastic for transfer out of the country and there would be a minor benefit if this did not continue. How will the RDF be kept dry whilst being transported from the waste transfer station to the EfW?

Response – The RDF is likely to be loose at point of origin and would be placed in a skip for transfer to the EfW. Condition 12 'Sheeting of Vehicles' would require that all vehicles delivering to or removing materials from the site must have their loads enclosed within the vehicle or container or be covered/sheeted. The Environmental Permit would cover matters including dust and litter.

Responses from Environment Agency

Point raised – Clarification was sought regarding the Environment Agency response, as noted on page 26 of the Committee report, which states that the development may require an Environmental Permit or modification of such "unless an exemption applies".

Response – In this case, a Part B Environmental Permit would be required, which would be issued by Arun District Council due to the small scale of the facility.

Energy provision against the backdrop of the cost of living crisis

Point raised – Whilst not a material planning matter, the provision of UK sourced energy against the backdrop of the cost of living crisis has been in the news.

Response – Issues do arise that people have strong views or principle about, but a decision on the application must be made in accordance with the Development Plan.

Removal of residual waste

Point raised – How will residual waste be moved off site without impacting on the environment?

Response – The current waste transfer station operation requires that all recyclable material is removed to the best of the operator's economic practicability. The recovered recyclate is moved up the waste hierarchy with the environmental benefits associated with this. The remaining RDF would be thermally treated using the best technology available at this time in relation to energy and emissions outputs. The Environmental Permit, which would be the responsibility of Arun District Council, would control air quality, dust, noise, vibrations, etc.

Other EfW facilities

Point made – There are 53 operational EfW facilities in the country, 20 in construction and 3 being commissioned. The Newhaven EfW facility, which is close to the town, attracts few complaints.

Response – None required.

Comments from businesses on Rudford Industrial Estate

Point made – Have any businesses on Rudford Industrial Estate raised any concerns or objections to the transfer of materials from the current waste transfer site to the EfW facility?

Response – No, unless some had submitted objections as private or personal responses to the planning consultation.

Management of stockpiles for feedstock

Point made – If deliveries are not permitted after 18.00 hours on Fridays, 13.00 hours on Saturdays and over a bank holiday, how will stockpiles of RDF be managed in order to maintain a sufficient supply of feedstock for the 24 hour operation of the Combined Heat and Power (CHP) plant?

Response – It would be for the operator to stockpile sufficient feedstock during permitted delivery hours to maintain the operation of the CHP throughout its 24 hours of permitted operation. If there is insufficient feedstock, which is dependent on the type of waste being received at the transfer station, then the facility would operate at reduced levels or cease operation.

Heat transfer off site and Condition 22 'Combined Heat and Power'

Points raised – Where does the heat go if it is not going to be sold? Does Condition 22 'Combined Heat and Power' need to be amended to include interim arrangements to ensure that heat is suitably and safely dissipated or exported until such time that it can be made available to local businesses?

Response – Electricity is generated through the thermal processing of the RDF. Another explanation is that heat drives the turbines to generate electricity. Any remaining heat would be lost to the atmosphere or stored locally and then dispersed. Planning officers requested that the Committee delegate authority to the Head of Planning Services to amend Condition 22, to allow it to determine which authority is responsible for the capture and dissipation of heat until it can be made available to local businesses, and to ensure that any relevant amendments be made to the condition, if appropriate.

Condition 6 'Car Parking'

Point made – A word or words appear to be missing from the end of the reason for Condition 6 'Car Parking', explaining who the car parking is intended for.

Response – This should read "Reason: to provide car parking spaces for the users of the site". Planning Officers requested that the Committee delegate authority to the Head of Planning Services to amend the reason for Condition 6 to correct the wording.

Condition 11 'Permitted Feedstock'

Point made – Clarification was sought regarding Condition 11 'Permitted Feedstock' and whether the "Reason - to minimise the impact of the development on the local highway" is sufficient.

Response – Feedstock will only be sourced from the operator's current waste transfer station on Rudford Industrial Estate and no feedstock will be delivered from elsewhere using the highway network, so this is sufficient to clarify that.

Condition 12 'Sheeting of Vehicles'

Point made – Regarding Condition 12 'Sheeting of Vehicles', clarification was sought that it is sufficient to cover any relevant matters relating to "all materials, including residuals, entering or exiting the building shall be covered or enclosed at all times" that would have been covered in the proposed to be removed Condition 23 'Storage of Materials', the main details of which are now to be combined into the amended proposed Condition 14 'Storage and Processing of Waste'.

Response – The applicant would be required to submit a Dust Suppression Scheme for approval prior to the commencement of the development, which would be in addition to management of dust being part of the Environmental Permit. Condition 12 covers the sheeting of vehicles entering or exiting the proposed EfW facility. The proposed amended Condition 14 would cover the storage of feedstock and residual materials, which must be within the building.

Condition 15 'Recording Imports and Exports'

Points made – Clarification was sought regarding Condition 15 'Recording Imports and Exports' and its "Reason: To ensure that the site operatives are conversant with the terms of the planning permission", is this sufficient to support the wording of the condition, which is broadly about record keeping and documents being available for inspection? The standard wording regarding the availability of documents for inspection can be seen in Condition 20 'Decision Notice Availability'.

Response – This was an error. Planning Officers requested that the Committee delegate authority to the Head of Planning Services

to amend the Reason for Condition 15 to ensure that it reflects that the purpose is to effectively monitor the amount of waste that goes through the facility.

23.6 Planning and Legal officers proposed that the substantive recommendations be amended, as discussed by the Committee, as follows:

That planning permission be granted subject to:

(a) the conditions and informatives set out at Appendix 1 **and authority being delegated to the Head of Planning Services to amend the Reason for Condition 15, the Reason for Condition 6, the deletion of Condition 23 and replacement with an amalgamated Condition 14, as worded [in Minute 23.1 above] and, regarding Condition 22, to check the responsibility for heat dissipation and include appropriate wording in the Condition, should it be necessary if it is a matter for the Waste Planning Authority;** and

(b) the completion of a S106 legal agreement controlling movements of HGVs associated with the operation of the EfW CHP unit so as to prohibit the movement of HGVs along Horsemere Green Lane and beyond the northern side of the Ford railway crossing, ~~unless delivering or collecting from a premises between the crossing and Arundel or Horsemere Green Lane, or a lane or road that runs from Horsemere Green Lane.~~

23.7 The substantive recommendations, as amended in Minute 23.6 above and in relation to Condition 14 in Minute 23.1, were proposed by Cllr Duncton and seconded by Cllr Ali, and voted on by the Committee and approved by a majority.

23.8 Resolved:-

That planning permission be granted subject to:

(a) the conditions and informatives set out at Appendix 1 and authority being delegated to the Head of Planning Services to amend the Reason for Condition 15, the Reason for Condition 6, the deletion of Condition 23 and replacement with an amalgamated Condition 14, as worded, and, regarding Condition 22, to check the responsibility for heat dissipation and include appropriate wording in the Condition, should it be necessary if it is a matter for the Waste Planning Authority; and

(b) the completion of a S106 legal agreement controlling movements of HGVs associated with the operation of the EfW CHP unit so as to prohibit the movement of HGVs along Horsemere Green Lane and beyond the northern side of the Ford railway crossing.

24. Date of Next Meeting

24.1 The next scheduled meeting of the Planning and Rights of Way Committee will be on Tuesday, 7 February 2023 at 10.30 am.

The meeting ended at 12.57 pm

Chairman