

**MINUTES** of the meeting of the **PLANNING AND REGULATORY COMMITTEE** held at 11.00 am on 9 December 2015 at Ashcombe Suite, County Hall, Kingston upon Thames, Surrey KT1 2DN.

These minutes are subject to confirmation by the Committee at its meeting.

**Members Present:**

Mr Tim Hall (Chairman)  
Mr Keith Taylor (Vice-Chairman)  
Mr Ian Beardsmore  
Mr Steve Cosser  
Mrs Carol Coleman  
Mr Jonathan Essex  
Mrs Margaret Hicks  
Mr David Munro  
Mr George Johnson  
Mr Michael Sydney  
Mr Richard Wilson

**Apologies:**

Mr Ernest Mallett MBE

**42/15 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]**

Apologies were received from Ernest Mallett.

**43/15 MINUTES OF THE LAST MEETING [Item 2]**

The minutes of the meeting held on 14 October 2015 were agreed as an accurate record of the meeting.

**44/15 PETITIONS [Item 3]**

There were no petitions.

**45/15 PUBLIC QUESTION TIME [Item 4]**

Malcolm Robertson, a Local Resident, asked a question in relation to item 7. The question and response was tabled and is attached as annex 1.

A supplementary question was asked and a general response was given at the meeting, a formal response would be confirmed and sent to the questioner.

The following points were made by the Local Resident in the supplementary question:

- Thanked Surrey County Council (SCC) officers for the timely response to the question.

- Informed the Committee that the response to the submitted question raised concern regarding the EU directive on endangering human health and harming the environment incorporated into English Law by waste regulations of 2011. It was felt that the council considers the EU directive as being of less importance than national guidelines. It was added that SCC should appreciate that the rule of law was paramount and planning guidelines rank well below the law of the land.
- Informed the Committee that the supplementary question was based on the fact that the Committee was reliant on the response of consultees and independent experts. It was asked how the Committee was able to come to an informed decision if a major consultee was yet to consider matters in depth and, just as importantly, if there has been a failure to gain independent expert advice.

The Planning Development & Control Team Manager gave a general response to the supplementary question. The following response was given:

- Noted that points raised in the supplementary question were addressed in the officer report. It was made clear that planning guidance confirms that authorities should rely on permitting regimes working properly and should not seek to amend or challenge guidelines. In this particular case SCC had taken the decision and was advised by the EA, no objections had been raised. It was noted that the detail given by the EA should be accepted.
- It was noted that the report details advice received by the SCC geotechnical officer, which brought no objection. What was required in terms of advice and legislation had been met.
- It was confirmed that a full response to the supplementary question would be provided in writing. The questioner requested that the National Planning Casework Unit (NPCU) would also receive the formal response. The Chairman agreed for this to be arranged.

#### **46/15 MEMBERS' QUESTION TIME [Item 5]**

There were no Member questions.

#### **47/15 DECLARATIONS OF INTERESTS [Item 6]**

There were no Declarations of Interest.

#### **48/15 MINERALS/WASTE SP13/01553/AMD: CHARLTON LANE WASTE MANAGEMENT FACILITY, CHARLTON LANE, SHEPPERTON, SURREY TW17 8QA [Item 7]**

##### **Declarations of Interest:**

None

##### **Officers:**

Alan Stones, Planning Development & Control Team Manager  
 Mark O'Hare, Senior Planning Officer  
 Nancy El-Shatoury, Principal Solicitor

**Speakers:**

Peter Francis, a local resident, made representations in objection to the application. The following points were made:

- Informed the Committee that he had provided advice and guidance to the applicant and Surrey County Council (SCC) on objections in relation to the proposed bunding arrangements in particular the Anaerobic Digestion Plant (AD). It was noted that there had been other areas where serious incidences had occurred, and examples of these were given to the applicant.
- Noted that the tank area should be located a minimum prescribed distance from the wall, added that the drawings provided in the report did not allocate five tanks at the required distance. Any leakage from the tanks could flow to the other side of the wall.
- Expressed to the Committee that the tank area must be re-designed or additional tank protection should be established. Officers were asked how this would be rectified.
- It was expressed to the Committee that the applicant did not wait for approval from SCC before confirming the new tank and wall area design.
- Deferring approval of this application could allow more time for further design faults.

Malcolm Robertson, a local resident, made representations in objection to the application. The following points were made:

- Informed the Committee that the original tank design by SITA had been rejected by the EA, requiring an improved design, the new tank design had not yet been submitted to the Environment Agency (EA) for scrutiny.
- Noted that there was a serious concern for the risk of fire, due to the tanks containing methane.
- Other causes for concern for the risk of fire/explosion were the close proximity of tanks to one another and lack of access for emergency service vehicles.
- It was expressed that no advice was provided on fire safety, SCC were not advised of crucial issues.
- It was expressed to the Committee that the application should either be rejected or deferred until adequate information is provided from the applicant.

Gareth Philips, the applicant, spoke in support of the application. The following points were made:

- Informed the Committee that the applicant had discussed bund design with the EA.
- A secondary cladding had been provided on the wall in case of failure of the tank skin.
- Drew the Committee's attention to paragraph 24 of the officer's report The EA would not permit the application if SITA had not met all the pre-operational requirements.
- Noted that there were further submissions that were required but construction could continue before these were completed.
- Noted that there were no objections received from Thames Water.

- Noted that views expressed crossed over to permitting issues instead of planning.

The Local Members had not registered to speak and Ian Beardsmore would speak as a member of the committee

**Key points raised during the discussion:**

1. The Senior Planning Officer introduced the report and informed the Committee that the application was to gain approval for amendments to the surface water drainage and containment design associated with the tank area to the north of the Eco Park. Approval for initial planning permission on this application had been approved in March 2015, with major construction works commencing in June 2015, set to continue for two years. Construction was permitted to start; minor material amendments were required before completion. The Environment Agency (EA) had previously agreed a partial discharge on surface water drainage and other minor material issues could be agreed during operation.
2. The Committee was informed that the concrete wall was 1.25m high, with a 2m fence; the Charlton Lane Community Liaison group was informed of the bunding arrangements.
3. It was reiterated that the EA permitting regime takes into consideration all aspects of risk, including fire and tank distances.
4. The Committee felt that safety could not be taken lightly. A Member requested examples of other sites with a similar design and measures. It was responded that bunding arrangements must comply with EA regulations and other sites would have common principles. It was added that the EA were happy with the agreed plans.
5. There was a discussion around access to emergency vehicles. A Member raised concern that the ramps in the plan would be inadequate for fire vehicles to drive over because of the operational design. It was added that if the design had to be changed once built, the cost would be the responsibility of SCC. Officers noted to Members that the EA had no significant concerns, all 'what if' situations had been addressed and detailed in the permit. Other Members stressed that the committee was independent to the Council as the waste management authority.
6. Members discussed the remit of the Committee in relation to the application. It was expressed that it was not appropriate to consider matters outside of the recommendation. Many of the details being discussed were related to the permitting regime controlled by the EA. Officers confirmed that there was no grey area between the role of the planning authority and the permitting regimes and that there was clearly defined boundaries in national guidance.

**RESOLVED:**

The Committee agreed to **PERMIT** subject to conditions and the application being referred to the National Planning Casework Unit as a departure, for the reasons set out in the report.

**Action/further information to be provided:**

None.

**49/15 DATE OF NEXT MEETING [Item 8]**

The next Planning and Regulatory Committee will be held on 6 January 2016 at 10.30 am.

Meeting closed at 11.55 am

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**Chairman**

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**PLANNING & REGULATORY COMMITTEE****WEDNESDAY 9 DECEMBER 2015****ITEM 4 PUBLIC QUESTION TIME****PUBLIC QUESTIONS****(1) MR MALCOLM ROBERTSON TO ASK:**

Have Members of this Committee received any formal training concerning the provisions of Regulation 18 (a) of the Waste (England and Wales) Regulations 2011, which requires that in the exercise of its planning functions:-

A Planning Authority must have regard to Article 13 of the Waste Framework Directive when exercising its planning functions to the extent that those functions relate to waste management.

Article 13 stipulates that waste management is to be carried out without endangering Human Health, without harming the Environment and, in particular: (a) without risk to water, air, soil, plants or animals; (b) without causing a nuisance through noise or odours, and (c) without adversely affecting the Countryside or places of special interest.

**Reply:**

The provisions of Article 13 of the Waste Framework Directive are transposed into national planning policy and guidance which in turn define the manner in which planning decisions are made by the County Planning Authority. Annex B to the National Planning Policy for Waste sets out the criteria for assessing impacts on the environment and this informs the approach of all planning authorities when considering planning applications. The primacy of national planning guidance is set out in Officer reports to Planning & Regulatory Committee which then deal in more detail with potential impacts on the environment and amenity.

You will note that paragraph 42 of the officer report to the committee meeting of 9 December refers to a relevant section from the National Planning Practice Guidance document which makes clear that a planning decision should be informed by the views of any relevant regulatory body. Members are also entitled to assume that other regimes dealing with the control of pollution outside the planning process will operate effectively. Where appropriate, Members will receive advice from independent specialist advisors on technical issues.

With regard to the application for Charlton Lane Waste Management Facility to be determined on 9 December 2015, Members have the benefit of specialist advice a number of consultees listed below and recorded in the Officer report -

- Spelthorne Borough Council (Pollution Control)
- The Environment Agency
- County Geotechnical Consultants
- County Landscape Officer
- Thames Water
- BAA Aerodrome Safeguarding
- County Noise Consultant.
- County Environmental Assessment

Where necessary Members also receive appropriate training from independent experts for the types of application they determine and the issues raised.

Members recently had training on Air Quality to bring them up to speed on recent changes to the guidance for assessment and also on Landscape Character Assessment.