

The **REGULATORY COMMITTEE** met at
WARWICK on the **22nd DECEMBER, 2005**

Present:-

Councillor Richard Chattaway (Chair of Committee)
“ Dave Shilton (Vice Chair of Committee)
“ Peter Barnes
“ Les Caborn
“ Michael Doody
“ Pat Henry
“ Joan Lea
“ Brian Moss
“ Mike Perry
“ Ian Smith
“ Ray Sweet
“ John Wells

1. **General**
(1) Apologies

The Committee noted that Councillor Barry Longden was still absent ill and had been replaced for the meeting by Councillor Ray Sweet. The Chair confirmed that he was resting at home and undertook to relay the Committee's best wishes to him.

(2) Members Disclosure of Personal and Prejudicial Interests

The following disclosures were made:-

- (i) Councillor Pat Henry – personal – agenda items 2(2) and 2(3) – member of the Nuneaton and Bedworth Borough Council.
- (ii) Councillor Mike Doody – personal – agenda item 2(4) – member of the Warwick District Council.
- (iii) Councillor Ian Smith – personal – agenda item 3 – member of the Stretton-on-Dunsmore Parish Council.
- (iv) Councillor John Wells – personal – agenda item 2(1) – former member of the Rugby Borough Council and non-executive director of Rugby Primary Care Trust.

(3) Minutes of the meeting held on the 15th November 2005 and matters arising

(i) Minutes

The Committee approved the public set of minutes of the meeting of the 15th November 2005.

(ii) Matters arising

Nil.

2. Applications for Determination
(1) Rugby Cement Works – Bag Filters

The report of the Strategic Director of Environment and Economy was considered

The Chair said that he had received a lot of information the previous night with a request to read it out to Members but, because of the amount of information involved, he proposed to adjourn the meeting to enable Members to have the opportunity to read it for themselves.

The following documents were circulated to Members:-

- Letter from Councillor Patricia Wyatt, Lawford and Kings Newnham Ward, Rugby Borough Council, dated 21st December 2005
- E-mail from Mrs. L. Pallikaropoulos, dated 21st December 2005 23:35
- E-mail from Mrs. L. Pallikaropoulos, dated 21st December 2005 16:36
- Text of address by Councillor Mrs. Patricia Wyatt to Regulatory Committee – 22nd December 2005

The Committee adjourned from 10.04 a.m. to 10.12 a.m. while Members read the various documents.

On resumption, the Chair said that the Committee should not consider the requests made by Councillor Wyatt and Mrs. Pallikaropoulos for a deferral of the application until they had heard all the evidence and were in a position to judge its sufficiency.

Jasbir Kaur, Development Manager in the Planning, Transport and Economic Strategy Department introduced the report. She said that there had been five letters or e-mails in all from Mrs Pallikaropoulos since the report was published and also a letter from a Mrs. J.A. Judge to the newspapers regarding the prevalence of chest complaints around the cement works.

She then referred to the questions asked by Mrs. Pallikaropoulos in her e-mail of the previous night (timed at 23.35) and made the following points:-

1. Legal advice had been taken and it was not considered appropriate to expand the remit of the environmental impact assessment. The application was for permission to install bag filters and the proper process had been followed.
2. Officers had worked with regulatory agencies and experts who handle data regarding the cement works on a day to day basis and have a knowledge of the works.
3. The plant had been in operation for over 100 years and had lawful planning permission. The PPC permit would be enforced by the Environmental Agency and that Agency had the power to shut down the operation at short notice.
4. It was not appropriate for her to comment on the fourth point of the e-mail.

5. With respect to pre-application communications, Matthew Williams explained that the applicant had engaged with officers regarding the need for an environment impact assessment and its scope and the letters were on file and fully in the public domain.
6. She had revisited the officers' reports to Committee, sought further information and satisfied herself that the conclusions were proper.
7. The Rugby Cement Community Forum was chaired by the Rugby Borough Council and the conduct of its business was a matter for that Authority.
8. The letter from Mr. Buxton had been discussed with the County Solicitor and they were satisfied with the process and its conclusions.
9. She would not enter into correspondence defending statements regarding an application made by third parties but would instead report to the Committee for it to weigh up all comments and advice.
10. She did not believe that County Council officers had misquoted the letter from Richard Buxton, which was attached in full to the report.
11. The installation of the bag filter unit would not of itself generate additional traffic movements and therefore would have no impact upon emissions in this respect.
12. The Rugby Borough Council's statement about winter mortality rate in the Borough had been in connection with a survey of housing conditions. She had examined the survey and could find no link between elderly deaths and the cement works.
13. The Chair indicated that he would with this point.
14. On the question of deferring a decision, the Committee had a report before them and they would be able to decide the issues for themselves later.

The Chair then referred to points 5 and 13 of the e-mail and said that he was not aware of officers attempting to mislead the Committee. He did not propose to say more other than to point out that there was a complaints procedure that could be followed by aggrieved parties.

At this point Councillor Mrs. Patricia Wyatt (Rugby Borough Council) addressed the Committee on issues of concern for her. The full text of her address is attached. She made the following points in response to questions:-

- The Primary Care Trust had asked for bag filters to be fixed at the beginning. The second trial ended today and so no figures were available.
- She had campaigned for five years for the installation of bag filters. Cemex had claimed that bag filters would not work in Warwickshire as the works used a semi-wet process and she could not find anywhere in the world where they were used with a semi-wet process.
- She understood that the filters did not operate at start up or shut down of the process.

Matthew Williams, confirmed that the filters would work on start up and shutdown and that this was one of their advantages.

Neville Roberts, for the applicants, introduced his team of experts – Paul Russell, Tom Callaghan and Mike Andrews – who would be available to provide any information the Committee might require. He would however be the spokesperson for the Company. He said that he had twenty-eight years experience in the cement industry. The proposal would reduce emissions and attenuate noise and the visible impact would be no greater than at present. Bag filters had operated successfully around the world and had been used in semi-wet processes. He pointed out that the installation of the bag filters represented a significant investment by the Company and the Environment Agency had concluded that they were best available technology. He then made the following responses to questions:-

- If any of the bags split, an automatic monitoring system would alert staff to the problem and its compartment would be isolated while the operation continued with the remaining compartments.
- The filters would run within the particulates limit of 30 and even if a new stricter limit of 20 were agreed the filters would still cope with that new limit.
- A factory in Wales had recently been commissioned using bag filters close to housing.
- The Company would self-monitor emissions and the Environment Agency would also carry out independent checks.

Councillor Wells made the point that the former limit of 140 was applicable to a smaller plant. The Chair asked whether installation of the bag filters would enable an increase in production and Mr. Roberts replied that there was no link. Councillor Wells asked if Cemex intended to increase production and Mr. Roberts said that it was intended to reach the production predicted in 2001. The Chair asked if there would be an effect on air quality on the first day of operation of the bag filters and Mr. Roberts said that there would be.

In discussion, Members expressed sympathy with the concerns of residents but believed that the impact of the bag filters would be to improve air quality that that their installation was overdue. Councillor Wells remarked that the bag filters would cut down enough was another matter but this was a move in the right direction. They believed it was important that the Environment Agency should monitor emissions from the site.

Councillor Wells said that it was important to be certain that the Waste Incineration Directive was being met and that there should be feedback from other agencies on that. The Committee supported a suggestion from the Chair that the development should be the subject of a follow up visit by the Committee after it had been implemented.

It was then Resolved:-

- (i) That the Regulatory Committee authorises the grant of planning permission for the installation of a new bag filter with related plant and infrastructure at Rugby Cement Works, Lawford Road, Rugby, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director of Environment and Economy; and
- (ii) That the Regulatory Committee make a follow up visit after implementation of the development and seeks feedback from the Environment Agency on the level of emissions from the Rugby Cement Works.

As the application had been subject to an Environmental Impact Assessment, a statement setting out the main reasons for the Committee's decision and other matters was circulated and adopted by the Committee and is appended as an addendum to these minutes.

(2) BR Goods Yard, Midland Road, Nuneaton – Extension of an Open Fronted Bay Enclosure and Installation of Plant and Picking Station

The report of the Strategic Director of Environment and Economy was considered.

Ian Grace, Principal Planner, explained that the written representatives had come from a resident and from the Abbey Road Residents' Association.

It was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission for the extension of an open fronted bay enclosure and the installation of plant and a waste picking station at BR Goods Yard, Midland Road, Nuneaton, subject to the conditions and for the reasons presented at Appendix B of the report of the Strategic Director of Environment and Economy.

(3) Bayton Road Industrial Estate, Bedworth – Materials Recycling Facility

The report of the Strategic Director of Environment and Economy was considered.

Ian Grace said that Hammond Skip Hire, the neighbouring business, had objected on a number of points:-

- There was no provision for parking on site.

- There was no weighbridge/plant for carrying out the operation.
- There was no room for vehicles to turn around once they entered the site.
- There was a risk of damage to the boundary wall.

He said that some of the issues had been dealt with by conditions and other conditions would be strengthened. He referred to a circulated plan that showed that it was possible for vehicles to turn within the site.

The Chair said that he had a slight concern relating to landscaping. There was an intention to improve the visual impact of industrial estates and he suggested robust landscaping should be provided at the front of the site.

It was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission for the operation of a materials recovery facility and transfer station on land at No. 3 Yard, Colliery Lane, Bayton Road Industrial Estate, Bedworth, subject the to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director of Environment and Economy.

(4) Discharge of Ecological and Landscape Conditions Relating to the Approved Barford By-Pass

The report of the Strategic Director of Environment and Economy was considered.

It was agreed that officers should make it known that the Committee were strongly in favour of the landscaping to be planted with a mix of tree sizes and as early as practical.

It was then Resolved:-

That the ecological and landscaping details submitted in accordance with Conditions 13, 14, 15 and 16 imposed on planning permission reference no. W1494/02CC111 be approved and the Strategic Director of Environment and Economy be authorised to approve the details submitted in accordance with Condition 12 if he is satisfied, after considering any objections, with the timetable remaining to be submitted.

3. Southam Quarry: Reasons

The joint report of the Strategic Directors of Performance and Development and Environment and Economy was considered and it was Resolved:-

That the Regulatory Committee approve the reasons appended to this report for the purpose of Regulation 21(1) of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999.

4. Conditions and Obligations

The report of the Strategic Director of Performance and Development was considered.

The Committee received a presentation.

5. Any other items

None.

6. Report Containing Confidential or Exempt Information

Resolved:-

That members of the public be excluded from the meeting for the following item on grounds that their presence would involve the disclosure of confidential and exempt information as defined in paragraphs 1, 4 and 9 of Schedule 12A to the Local Government Act 1972.

7. Exempt extract from the minutes of the meeting of the Regulatory Committee held on the 15th November 2005

Resolved:-

That the Regulatory Committee approve the exempt extract from the minutes of the meeting of the meeting held on the 15th November 2005 and the minutes be signed by the Chair.

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Chair of Committee

The Committee rose at 12.38 p.m.

ADDENDUMS

Minute 2(1) – Rugby Cement Works – Bag Filters

1. Points raised in an E-mail from Mrs. L. Pallikaropoulos, dated 21st December 2005 23:35

1. So that in the event of a challenge to your Decision you will not be able to say that you had not been told the true facts, or that the Public did not try to warn you about what we regard as the “incomplete and misleading information” that has been presented to you in the Committee Report.

2. We, working in conjunction with International experts, have nothing to gain, except a cleaner, brighter future for the population of Rugby.

3. This Committee must be FULLY AWARE of the Rugby residents’ serious and increasing concern and opposition to the continuing expansion, increase in production, increase in waste burning, increase in pollution, health impact, and environmental detriment at the Rugby plant, which has no lawful planning permission, no lawful IPC permit and no lawful IPPC Permit.

4. Previous incompetent, hasty, and ill-advised actions by WCC Councillors and officers, in conjunction with RBC and the EA, have caused this situation, and severely damaged the environment, air quality and health of Rugby town”, destroying the town for residents and visitors.”

5. Officers have withheld information from the Councillors concerning pre-application letters and discussions which reveal that the TRUE purpose is not ONLY the claimed WID compliance, but also the planned increase in production, and also the planned increase in quantity and types of waste to be burnt at the plant resulting in a serious and detrimental impact on our air quality and health.

6. RBC EHO letter of 19 October contains serious errors and claims, repeated in WCC officers’ report to Committee. These false claims include that the Tyre Burning Review Group is being consulted about the waste burning, when it has not been consulted since October 2004. Data from current trials has been deliberately withheld by RBC since August 2005.

7. It is erroneously claimed that Rugby Cement Community Forum is consulted, when in fact the Committee is manipulated and controlled and informed by RBC which will not allow our questions onto the Agenda, or assist us in getting answers from the EA or Cemex.

8. Please read, and take due notice of the 14 November letter from Richard Buxton lawyer that refers to the many errors in the RBC EHO letter, and problems with the bag filter application.

9. WCC officers also decline to answer any questions, perhaps because they do not understand the technical and air quality and environmental impacts of the application?

10. WCC officers even misquote the letter of Richard Buxton, and apparently do not understand what constitutes an EIA: “the EIA process must deal with the direct, indirect, secondary and cumulative impacts of the proposal.”

11. Regarding air quality in Rugby there are serious concerns about the pollution caused by the plant and the planned increase in HGV and related cancer-causing/toxic pollution that the WCC seems keen to further inflict upon Rugby residents.

12. RBC have already declared that Rugby has the highest rate of winter mortality in the county, and we will be conducting a Health Survey in the New Year to show the impact of the works on Rugby resident’s health. The policies and actions of WCC are believed to be responsible for ill health and the high number of deaths in Rugby.

13. So Rugby in Plume asks that decide NOT to be misled by your own officers’ misinformation, and the misrepresentations as presented by the RBC and WCC officers. The RBC “position statement” as in the letter of 19th October was NOT agreed by the Rugby Councillors, who were not consulted as there were no meetings in the short time allowed.

14. We ask that you DEFER this Decision for a proper and FULL consideration, called an Environmental Impact Assessment, which will include a true examination of which pollutants you Councillors are intending to increase, and which you are intending to decrease, and what potential health effects these will have on the Rugby residents. The WCC officers are completely wrong when they say “minor alteration to the plant resulting in simple air quality impact of reduced particulate emissions”.

2. Text of address by Councillor Mrs. Patricia Wyatt to Regulatory Committee – 22nd December 2005

Good morning fellow Councillors.

I would much rather sing you a Christmas Carol, than perform this attempt to seek your cooperation on behalf of the people of Rugby, in particular the people whom I have been chosen to speak up for, living and surviving in Long Lawford area, which if you are unaware is under the fallout, dust noise and pollution, particularly particulates from the cement works, Lawford Road Rugby. I am aware at least one of you has visited the works one day when it was not working, but how many of you have placed yourselves under the plume 24/7, stood and thought what was falling and the consequences.

How many of you recall my presence when the tyre burning equipment gained permission? Now we have at present the second tyre trial being experimented on the people, the first tyre trial was enforced by the EA to cease because Rugby Cement was in breach of their permit. Please note; - if the tyre trial was found to fail when the permission to burn tyres was deemed null and void, but who gave them permission to have a second attempt – the EA – they do not have the power to protect the people. You have the power today to apply the “precautionary principle”.

These works situated in our midst are continually abusing the people.

It is plain to see and read that CEMEX want the works to operate at the optimum level, to increase their throughput by an increase of at least 50% and to allow them to meet the waste incineration directive in order to facilitate the burning of waste. The overall effect will be catastrophic.

More more more of everything, lorries, noise, odour, pollution, particulates including unknown toxic chemicals. The EA do not scrutinise the contents of the lorries entering the works, and already I know that CEMEX have tried to burn foundry sand from the Redrow/Alstom site and found it unsuitable. An experiment outside their permit.

Here is a copy of the Environmental Health Impact, document dated December 2001. This is an out-of-date document referred to by Karen Stone as an environmental impact assessment. Clearly it is not. Please ask your officers the question.

Please halt your decision making today, defer, spare the people a few more days in their lives, in which to carry out a full environmental impact assessment which may serve us the justice we so rightly deserve.

Councillor Mrs. Patricia Wyatt.

3. Statement of Main reasons and Considerations on Which the Decision is based.

Warwickshire County Council

Decision

The decision of the Regulatory Committee on 22nd December 2005 to grant planning permission, subject to conditions, for the installation of a new bag filter with related plant and infrastructure at Rugby Cement Works, Lawford Road, Rugby pursuant to Application R410/05CM030 ("the Application").

Notice of Environmental Information

In accordance with Article 22(2) of the Town and Country Planning (General Development Procedure) Order 1995 and Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 ("the EIA Regulations") notice is hereby given that the County Council in deciding the Application has taken into consideration an environmental statement and other environmental information ("the Environmental Information").

Statement under Regulation 21(1) of the EIA Regulations

Description of the Main Measures to Avoid, Reduce and Offset Major Adverse Effects

There are no major adverse effects.

Main Reasons and Considerations on Which the Decision is Based

The main considerations on which the decision was based were the policies of the Warwickshire Structure Plan 1996-2011 and the Rugby Borough Local Plan and all other material considerations set out in the Report.

The Committee agreed with the reasons for granting permission given in the Report and relied in particular on the following main reasons:

- (i) the bag filter would significantly reduce particulate emissions in up to 60% of the gases discharged from the main stack
- (ii) the scale of the proposed building and its colouring would result in the bag filter having no greater visual impact than the existing buildings
- (iii) noise mitigation measures enforced through conditions will contain noise from construction and make it unlikely that noise during operation will have any greater impact on neighbours than existing operations
- (iv) the bag filter would increase the use of electricity over current levels but there are no other likely significant adverse physical effects
- (v) the proposed development is in general accordance with the development plan there are no other planning considerations of sufficient weight to require that permission be refused.