

The **REGULATORY COMMITTEE** met at
WARWICK on the **21st AUGUST, 2007**

Present:-

Councillor Peter Barnes (Chair of Committee)

- “ Brian Moss (Vice Chair)
- “ Barry Longden
- “ Richard Chattaway
- “ Jose Compton
- “ Michael Doody
- “ Pat Henry
- “ Joan Lea
- “ Sue Main
- “ Ian Smith
- “ Mick Stanley

Also present:-

Councillor John Appleton for agenda item 2(4).

Councillor Ray Sweet for agenda item 2(3)

Officers

Peter Endall, Senior Solicitor, Performance &
Development Directorate

Jasbir Kaur, Development Manager, Environment &
Economy Directorate

Ian Grace, Principal Planner, Environment &
Economy

Sue Broomhead, Senior Planner, Environment &
Economy Directorate

Neal Richmond, Senior Planning Officer,
Environment & Economy Directorate

Matthew Williams, Planner, Environment & Economy
Directorate

Simon Prescott, Road Safety Engineer, Environment
& Economy

Phil Maull, Senior Committee Administrator,
Performance & Development Directorate

1. General

(1) Apologies

An apology for absence was submitted from Councillor Nina Knapman.

(2) Members Disclosure of Personal and Prejudicial Interests

Personal interests were declared as follows:-

- (i) Councillor Jose Compton – agenda items 2(1), 2(2) and 2(3) – member of the Warwickshire Waste Partnership; agenda item 2(5) – former chair of governors of Warwick Nursery School.
- (ii) Councillor Joan Lea – agenda item 2(3) – member of Planning Committee of North Warwickshire Borough Council. That Committee had considered the application on two occasions but she had taken no part in the discussion or the decision.
- (iii) Councillor Brian Moss – agenda item 2(3) – said that he had been a member of the Planning Committee of North Warwickshire Borough Council until the May 2007 elections but he had not voted on the issue of the Baxterley Shale tip.
- (iv) Councillor Barry Longden – agenda item 3 – member of the Warwickshire Local Government Pension Scheme.
- (v) Councillor Ray Sweet – agenda item 2(3) – he had voted against the application as a member of the Planning Committee for North Warwickshire Borough Council. Councillor Mick Stanley had replaced him on the Regulatory Committee for the meeting. He was attending today as the local member.
- (vi) Councillor Richard Chattaway – agenda item 3 – wife was a member of the Warwickshire Local Government Pension Scheme.

(3) Minutes of the meeting held on the 24th July 2007 and matters arising

(i) Minutes

Resolved:-

That the minutes of the Regulatory Committee's 24th July 2007 meeting be approved and be signed by the Chair.

(ii) Matters arising

Nil.

2. Applications for Determination

(1) Bubbenhall Landfill Site - Amendments to Profile and Restoration of Landfill (Revised Proposal)

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

Councillor Michael Doody said that Bubbenhall and Weston-under-Wetherley Parish Councils were not able to send representatives to the meeting and asked the Committee to consider deferring the application to the next meeting.

Having confirmed with officers that the normal notice had been given of the proposal, the Committee decided to deal with the application at this meeting.

Matthew Williams introduced the report.

Councillor Michael Doody said that the Committee had refused the previous application and he understood that this decision was now subject to an appeal. The water lying on the ground as a consequence of settlement was no worse than on other fields around the site. It was unrealistic to continue tipping on the site with the proposed annual tonnage for fifteen years. The Bubbenhall and Weston-under-Wetherley Parish Councils found the proposals totally unreasonable. If this application were approved there was nothing to prevent the applicants proceeding with the appeal on the previous application and ending up with both.

Councillor Richard Chattaway said that he had a concern that there was a possibility that two active planning approvals could exist for the site and was minded to defer a decision until after the result of the appeal was known.

Matthew Williams clarified the situation by confirming that the applicants had indicated that the revised proposal was being put forward as an alternative and if approved that the appeal would be withdrawn.

Councillor Joan Lea said that the Committee in considering the previous application had originally indicated that they were minded to approve it but had sought further information. However, following further information at the next meeting they had decided to refuse the application. With the current application, the applicant had attempted to address some of the concerns in reducing the quantity of material to be tipped, introducing an end date of fifteen years and offering £30,000 for improvements to local rights of way. In the circumstances she proposed to move the recommendation as printed.

Councillor Jose Compton said that she would second the proposal.

Councillor Joan Lea, seconded by Councillor Jose Compton, then moved and it was Resolved, six members having voted in favour and three against:-

That the Regulatory Committee:

- (i) Authorises the grant of planning permission to vary the profile of the site to ensure adequate post-settlement gradients were achieved to promote surface water drainage across the site; and to alter the restoration scheme at Bubbenhall Landfill Site, Weston Lane, Bubbenhall, subject to the signing of a Section 106 Agreement to secure a contribution of £30,000 towards the local Public Rights of Way Network and to the conditions contained in Appendix B of the report of the Strategic Director for Environment and Economy;

- (ii) Approves the reasons, summaries and statements in Appendix C.

(2) Coleshill Sludge Destruction Plant, Water Orton – Conversion of the Existing Sludge Destruction Plant into an Energy from Waste Installation

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

Sue Broomhead introduced the report.

Councillor Joan Lea thanked officers for the site visit in respect of this application, as this had proved very useful. She understood that Councillor Peter Fowler now accepted the proposal in light of the agreed routing for lorries.

It was then Resolved:-

That the application be referred to the Secretary of State in accordance with Circular November 2005 – The Town and Country Planning (Green Belt) Direction 2005, and subject to the application not being called in for her determination that the Regulatory Committee authorises the grant of planning permission for the conversion of a Sludge Destruction Plant, Lichfield Road, Water Orton, Birmingham, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director for Environment and Economy.

(3) The Former Shale Tip, Baxterley, North Warwickshire – Removal of 200,000 Tonnes of Shale, the Construction of a Biomass Power Plant, and Creation of a Waste Recovery Park

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

During the course of the discussion on this item the Committee adjourned from 11.40 a.m. to 11.45 a.m.

A set of plans was circulated to members.

Ian Grace gave Members the following update to representations received:-

- (i) The Friends of the Earth objected to the proposal as it was in the greenbelt. If the facility had been sited elsewhere, they would have supported it.
- (ii) A resident had sent a letter concerning her daughter who suffered from asthma and her husband who suffered from a weak chest. It was

possible that pollutants could worsen their condition and might even result in her husband becoming unfit for work. If this happened the County Council would be sued. Despite agreed weight limits, around sixty lorries used the narrow lanes.

- (iii) Another resident who also suffered from asthma similarly indicated that he would sue the County Council if his condition became worse as a result of the Committee granting planning permission. The impact on Shustoke Village would be disastrous. HGV vehicles using the country lanes forced other vehicles into the hedges and could be seen travelling in convoy through the village. Lorries were unable to pass each other at the Coleshill crossroads. Cyclists using the lanes and pedestrians walking in the centre of the village were put at risks from the lorries.
- (iv) The applicants had contacted the police who had indicated that they had no problems with the proposal provided that mud was not deposited on the roads.
- (v) Councillor John Moore, North Warwickshire Borough Council, had expressed shock and disappointment at learning that, despite 1,000 plus objections and the application having twice been rejected by North Warwickshire Borough Council, the County Council were mindful to accept Merevale Estate's application for planning permission to develop an Eco Waste Station on the edge of Baxterley Village. He supported fully Baxterley Parish Council and the other objectors in their campaign against this proposal that would bring misery and chaos to a quiet rural community and would significantly impact on neighbouring areas. The area was a very attractive rural setting and the infrastructure could not accommodate such a large industrial development. The roads in the immediate vicinity of the site were inadequate to cope with the volume and type of traffic. It was estimated that there would be up to 300 lorry movements per day. The proposed access to the site was a short distant from the brow of a hill. During periods of high traffic flow it was probable that more than one HGV might be waiting to turn right across the traffic to enter the site. If that built up, traffic coming over the brow would have a very short time to brake and this would be exacerbated by inclement weather. The proposals were contrary to North Warwickshire Borough Council's Local Plan and the County Council's own planning policies. He had no problems with the concept of an eco-waste station but believed that for it to be effective, it was imperative that it was small and utilised local resources. Anything that might be gained from the proposal was lost to increased traffic bringing greater risk of accidents, more wear and tear on local roads, noise and chemical pollution. He questioned how the County Council would enforce the proposed twenty-four conditions, as there was already evidence of HGVs disregarding the present weight restrictions. The Police seemingly were unable to find the necessary resources to combat the existing nuisance.

Ian Grace then briefly summed up the application.

Arising from questions raised by Members, it was confirmed:-

- (a) Although some trees would be lost around the perimeter of the site, most would be retained.
- (b) The County Council relied on advice from the Borough Council's Environmental Health Department and the Environment Agency for issues impacting on health. In addition the Environment Agency would regulate the operation of the site.
- (c) The determination of when a site could be deemed to have been abandoned was fraught with difficulty.

Ken Broomfield, Chairman of Baxterley Parish Council

The Parish Council was wholly against the proposal. Suggestions that local farmers should grow energy crops were unsuccessful because relatively low prices did not make it viable form of diversification. The supply of wooden pallets was unreliable, as plastic ones were replacing them. Woodchip would have to be imported to the site over long distances. The containers bringing in food waste would have to be washed down. There was no indication how the applicants proposed to dispose of the corrosive leachate that would be produced. A home for the elderly overlooked the site.

Jim Beeston, local resident

The shale was unfit for landfill use. The site had now returned to nature. He believed the applicants were jumping on the save the planet bandwagon. There was not a demand for new facilities, as scrap metal was already catered for and there was already a local facility for dealing with recycling pallets. The proposal would damage the amenities of an area of leafy lanes that were too narrow for heavy traffic. There were three equestrian centres in the area. He asked that the Committee vote against the application.

Christopher Brett, spokesperson for Baxterley Action Committee

There were good reasons why the scheme should not proceed. He questioned the vehicle figures because there was a mismatch between the number of vehicle movements and the result when dividing the payload into the tonnage. The consultants who had calculated the figures were employees of the applicant and he understood that the Environment and Economy Department had not checked them. The proposal would have a huge affect on the area and this should be subject to a public inquiry.

John Steedman, Mineral Planning Consultant for Baxterley Parish Council

He said that the site had been abandoned and a fresh licence would be required. There was no demand for the shale and the mineral issue was incidental. It was a Greenfield site and there was no justification for the proposal.

Judy Vero, Honorary Secretary of Atherstone Civic Society and representative of CPRE Warwickshire

The area had paid a high price for past mining activities. It had the lowest health and life expectancy. Newcomers only came to the area because they could not afford to buy houses elsewhere. The application was flawed.

Mark Bolton, applicant's representative

The scheme was for waste treatment and green energy and much of the protest was erroneous. Traffic movements were 240 to 260 HGVs. 10,000 trees were to be planted and the intention was that the facility would not be seen, heard or smelt. The site had excellent access to the highway and there was a legal routing system. The scheme was fully in line with national government policy and would help towards the solution to climate change. Food waste would be carried to the site in sealed tankers and driven inside the building.

Ian Grace said that the traffic movement figures had been checked by Simon Prescott a Safety Engineer in the Environment and Economy Directorate's Road Safety Unit.

Councillor Ray Sweet said that Baxterley Parish Council and the North Warwickshire Borough Council Planning Committee had objected to the proposal. It did not comply with the Local Plan. The applicant had not applied to the Borough Council to collect green waste on their behalf and that Council was satisfied with existing arrangements. Any green waste would therefore have to be brought into the area from vast distances. The Furnace End crossroads was dangerous. He referred to the long list of objectors and said that there was also a petition with a thousand signatures. Residents from Bentley Nursing Home would overlook the site and would be subject to noise and dust from it. There had been considerable effort to create tourism in North Warwickshire and granting permission for the application would only harm those efforts. There was a fear of the application among the residents of North Warwickshire. He urged members to think carefully about what they were doing and asked that they reject the application.

Councillor Richard Chattaway congratulated the protestors about the civilised and non-aggressive way they had organised their campaign. He was alerted whenever a statutory consultee objected to an application. The fact that there was a need for twenty-four conditions to be placed on any permission meant that he had to be satisfied that all could be enforced and this might prove difficult for some of them. There was some debate about lorry movements but without doubt the narrow lanes in the vicinity of the site were unsuitable for HGVs. He considered that the application site was not in the right place. Although he accepted the importance of recycling, it should be achieved without creating a larger carbon footprint. He therefore proposed that the application should be refused.

Councillor Mick Stanley said that he had been aware of the issue being discussed in North Warwickshire but he had not spoken about it. He was aware of the importance of such facilities but did not agree that the proposed site was the right one. There was a major transport issue; traffic came to complete halt twice a day on the A5 and this led to HGVs being forced onto country lanes.

Councillor Brian Moss said that there was a measure of subjectivity around the issues. Professional officers from two councils had drawn different conclusions

from the same information. He was well aware of the area and knew that verges had been ploughed up by HGVs. Although there were weight restrictions on the roads in the area, he was not aware of a single prosecution. He was reminded of the early days of glass recycling when motorists did more damage to the environment by making individual journeys to take bottles to the recycling centre than by not recycling.

Councillor Barry Longden was not convinced by the arguments against the application. He was convinced that the previous use of the site meant that it was not a Greenfield site. Vehicles were routed away from villages. The County Council depended on local residents policing traffic movements and reporting any infringements. The County Council was in favour of recycling and there should be consistency in decisions. He proposed moving the recommendation as printed.

Councillor Jose Compton supported Councillor Barry Longden's views. She thought that the proposed conditions were very tight and therefore seconded his proposal.

Councillor Ian Smith considered that there must be a better site for the facilities rather than eroding the Green Belt.

Councillor Joan Lea considered that the best solution was for the applicant and the community affected to talk together and wondered whether there was a possibility for them to reach an alternative way forward.

There being no seconder for Councillor Richard Chattaway's motion, the Committee voted on the motion moved by Councillor Barry Longden and seconded by Councillor Jose Compton, namely:-

That:-

- (A) The Committee is minded (subject to the application not being called in for determination by the Secretary of State) to authorise the grant of planning permission subject to a satisfactory Section 106 agreement and the conditions detailed in Appendix B attached to this report.
- (B) The Statement of Reasons, Considerations and Measures required by Regulation 21 of the EIA Regulations and Article 22 of the GPDO be prepared for consideration by the Committee.

The motion was declared lost, five members having voted against and three in favour, with one abstention (Councillor Joan Lea).

Ian Grace referred to a request from the Atherstone Civic Society for a recorded vote. Members declined this because they had already voted, it was

not their normal practice to have a recorded vote and they did not consider there was any reason to depart from that practice on this occasion.

It was explained that the position with regard to the application was that planning permission had not been granted but neither had it been refused. If no further action were taken at this meeting, it would come back to the next meeting of the Committee for decision. Peter Endall reminded Members that the applicant had a right to expect that the application should be dealt with in a timely manner.

Councillor Sue Main then seconded Councillor Richard Chattaway's motion and it was Resolved, six members having voted in favour and three against:-

That the Regulatory Committee refuse the grant of planning permission for the removal of 200,000 tonnes of shale, the construction of a biomass power plant and the creation of a waste recovery park at the former shale tip, Baxterley and that officers draw up reasons for refusal based on those planning policy issues outlined in paragraph 2.1 of the report of the Strategic Director for Environment and Economy.

(4) Canalside Yard, Napton – Office Building

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

Councillor John Appleton said that the proposal was an improvement on the existing situation. It was important to ensure that the right type of plants was provided to ensure that the site was adequately screened. Both he and the Parish Council supported the proposal.

It was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission for the construction of an office building with associated car parking and weighbridge at Canalside Yard, Brickyard Lane, Napton, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director for Environment and Economy.

(5) Warwick Nursery School – Erection of Two Extensions to Create a Children's Centre

The report of the Strategic Director for Environment and Economy was considered it was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission for the erection of two extensions to create a children's centre on land at Warwick Nursery School, Coventry Road, Warwick, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director for Environment and Economy.

(6) Kenilworth Nursery School – Construction of a Single Storey Building to Create a Children's Centre with Associated Facilities

The report of the Strategic Director for Environment and Economy was considered and it was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission for the construction of a single storey building to create a Children's Centre with associated facilities at Kenilworth Nursery School, Kenilworth, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director for Environment and Economy.

(7) Exhall Grange School, Bedworth – Increase in the Height of the 'Gym Block' by 1 metre to comply with Sport England Specifications

The report of the Strategic Director for Environment and Economy was considered and it was then Resolved:-

That the Regulatory Committee authorises the grant of planning permission to increase the height of the 'Gym Block' by 1 metre to comply with Sport England specifications at Exhall Grange School and Science College, Wheelwright Lane, Ash Green, Bedworth, subject to the conditions and for the reasons contained in Appendix B of the report of the Strategic Director for Environment and Economy.

(8) Bridge Details Relating to the Approved Rugby Western Relief Road

The report of the Strategic Director for Environment and Economy was considered and it was then Resolved:-

That the Regulatory Committee authorises the discharge of Condition number 2 of Planning Permission R1442/02CC093 for Bridge designs relating to the approved Rugby Western Relief Road.

3. Appointment of representatives to the Local Authority Pension Fund Forum – Recommendation from the Warwickshire Pension Fund Investment Board

Resolved:-

That the Regulatory Committee agree that the Warwickshire Pension Fund Investment Board's Chair or his nominee who may be any member of the Pension Fund Investment Board be appointed as the representative of the Warwickshire Local Government Pension Scheme to the Local Authority Pension Fund Forum together with the Strategic Director of Resources or his nominee.

4. Any other items

Nil.

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Chair of Committee

The Committee rose at 12.50 p.m.