

PLANNING COMMITTEE: MINUTES

Date: Thursday 13th December 2018

Time: 10.00am – 14:39pm

Place: Council Chamber, Shire Hall, Cambridge

Present: Councillors H Batchelor (substituting for Councillor Kindersley), A Bradnam, D Connor (Chairman), L Harford, M Howell (substituting for Councillor Gardener), P Hudson, B Hunt, and J Whitehead.

Officers: Hannah Edwards – LGSS Law, Emma Fitch – Joint Interim Assistant Director, Environment and Commercial, Deborah Jeakins – Principal Enforcement and Monitoring Officer, Aaron Morley - Environmental Protection Officer, Huntingdonshire District Council, Daniel Snowdon – Democratic Services Officer and Helen Wass – Development Management Officer (Strategic and Specialist Applications).

68. APOLOGIES AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Gardener and Kindersley.

Councillor Howell informed the Committee that he knew several people personally who lived in Warboys and had never discussed the planning application with them.

69. ELECTION OF VICE CHAIR FOR THE MEETING

Owing to the apologies for absence received from Councillor Gardener it was proposed by Councillor Hudson and seconded by Councillor Hunt to elect Councillor Harford as Vice-Chairwoman for the duration of the meeting.

On being put to the vote it was resolved unanimously to elect Councillor Harford as Vice-Chairwoman for the duration of the meeting.

70. MINUTES – 1ST NOVEMBER 2018

The minutes of the Planning Committee meeting held on 1st November 2018 were agreed as a correct record and signed by the Chairman.

71. CONSTRUCTION OF A HEAT AND POWER PLANT COMPRISING BIOMASS ENERGY FROM WASTE (FLUIDISED BED COMBUSTION) FACILITY AND TREATMENT OF WASTE WATER BY EVAPORATION TREATMENT PLANT AND ASSOCIATED INFRASTRUCTURE COMPRISING TANK FARM, COMBUSTOR WITH 25 METRE HIGH CHIMNEY, PROCESS BUILDING, STORE BUILDING, OFFICE BUILDING, WALKING FLOOR CANOPY, CAR PARK, FUEL STORAGE BAYS, FIRE WATER TANK, CONVEYOR, PIPE GANTRY, DIESEL TANK, CONTROL ROOM, AUXILIARY PLANT SKID, HIGH VOLTAGE TRANSFORMERS

AT: WARBOYS LANDFILL SITE, PUDDOCK HILL, WARBOYS, PE28 2TX

LPA REF: H/5002/18/CW

FOR: SYCAMORE PLANNING LTD

As there were a large number of objectors, the Chairman sought a proposal that standing orders should be suspended. Following a proposal from Councillor Hudson, seconded by Councillor Whitehead it was resolved unanimously to suspend standing order section 9 of Part 4-Rules of Procedure, Part 4.4 – Committee and Sub-Committee Meetings.

The Chairman advised that all objectors would have up to three minutes to speak on the planning application, however objectors were urged not to repeat points covered by other speakers.

The Chairman drew attention to the admission of four late representations made by a member of the public, the Warboys Landfill Action Group (WLAG) (in respect of which two representations were made) and Warboys Parish Council. Although the Chairman acknowledged that some of the information contained in these representations went beyond the 2 points being considered during the meeting, he noted that he had exercised his discretion as Chairman on Tuesday to allow these late representations in order that the matters raised which did relate to the points being considered during the meeting could be put before Members. He confirmed that all Members and the applicant's agent were notified of his decision on Tuesday afternoon. However, upon checking that all Members had been able to read this information, it became apparent that this was not the case. Therefore the Chairman confirmed that as not all Members had been able to read the submissions, the meeting would be adjourned for 15 minutes in order to allow Members to read the representations.

Meeting adjourned at 10:09am

Meeting reconvened at 10:23am

Upon the meeting being reconvened the Chairman confirmed that all Members had read the additional representations.

In presenting the report the presenting officer summarised the application and reminded Members that the application had been considered by the Planning

Committee in September 2018. The presenting officer showed maps highlighting the location of the site, site plans and photographs showing the proposed development site. The nearest residential dwellings were identified on a map of the area along with the location of the caravan site. The proposed site layout that showed existing and proposed buildings including access from Puddock Road that would be shared with existing materials recycling facility was presented to Members.

Members noted that the biomass and waste water treatment plants would operate for 24 hours a day however, feed stocks would be delivered between 7am and 7pm Mondays to Fridays and 7am and 1pm on Saturdays which equated to between 32 and 36 Heavy Goods Vehicle (HGV) movements per day, with a maximum of 38 if no wood waste material was sourced from the adjacent materials recycling facility. The presenting officer drew attention to the junction of Fenside Road and Puddock Road through photographs including aerial views provided by Mr Collins.

Members noted that the planning application was first considered on 6th September 2018 and that they had resolved to grant planning permission subject to the applicant entering into a legal agreement to secure offsite mitigation measures and subject to planning conditions. Members were informed that since 6th September a number of communications had been received:

- A letter from the Ministry of Housing, Communities and Local Government advised that the Secretary of State had decided not to call in the application for his own determination.
- Correspondence from a member of the public, copies of which were attached at appendix 1 to the officer report, who had objected to the planning application had also been received and were referred to in the appendices to the officer report.
- Warboys Parish Council and WLAG had written to the Chief Executive, copies of which were attached at appendix 4a to the officer report, detailing concerns with the decision of the Committee. Warboys Parish Council and WLAG were also considering whether to progress the matter to a judicial review and invited the Council to review its decision, the response to which was provided by LGSS Law Ltd and also contained in the officer report at Appendix B. The response concluded whilst there was no foundation to the challenge there were two areas that officers wished Members to consider further. Specifically the two issues were potential noise levels experienced at the nearby caravan site and the effects of water vapour emissions from the waste water evaporation chimney on local atmospheric conditions. Both matters were raised at 6th September Planning Committee but further advice had been sought from relevant technical specialists. With regard to the potential noise impact on the caravan site the Environmental Protection Officer (EPO) from Huntingdonshire District Council Aaron Morley advised that he was satisfied that consideration had been given to the buildings closest to the site when measurements had been conducted and that the presence of the caravans would not have changed his advice. With

regard to water vapour the Environment Agency (EA) had confirmed that it would be considered by them as part of the environmental permit application. Officers remained of the opinion that the advice in paragraph 183 of the National Planning Policy Framework (NPPF) applied and water vapour would be covered by EA permitting process. Officers remained satisfied that nothing had changed in the planning balance and recommended that the decision be upheld.

In response to Member Questions officers:

- Confirmed with Huntingdonshire District Council's EPO that noise assessments were carried out in open air gardens. It was explained that the British Standard for assessments was that they were carried out in a free field environment and not inside any type of property as the construction of buildings varied greatly which affected audible noise levels.
- Clarified that planning permission for touring caravans was in place for the caravan site and there was no planning permission for permanent residency at the site. It would therefore be a matter for Huntingdonshire District Council to carry out enforcement action against any permanent use that may be taking place.
- Commented that they were unaware of any development or increased usage that may have taken place at the caravan site.
- Confirmed that the Environment Agency would monitor the air quality and emissions from the site.

Speaking in objection to the application, Councillor Dr Sheila Withams speaking on behalf of Warboys Parish Council as Chairman addressed the Committee. Councillor Withams thanked Members for considering the matter again and noted that comments were limited to 2 matters. Councillor Withams questioned whether under the Council's constitution Members were permitted to reach a different decision as the matter had been considered within the previous 6 months. Councillor Withams drew attention to the email sent by the Parish Council which requested Members pay regard to the cumulative impact on the community and should not be left to the Environment Agency alone. Members were urged to consider the application, its cumulative effects with other industrial processes at the site and refuse the application.

Speaking in support of the application on behalf of the applicant, Paul McLaughlin, Sycamore Planning Ltd addressed the Committee. Mr McLaughlin drew attention to the lack of objection received from statutory consultees in the application presented to the September meeting of the Committee. There were still no objections received from statutory consultees and the Section 106 agreement had been drafted and was ready to be signed. Attention was drawn to the role of the Environment Agency and that they had raised no objections. In conclusion Mr McLaughlin urged the Committee to uphold its original decision.

In response to a Member question it was confirmed by Mr McLaughlin that when pre-application advice was sought from the Environment Agency the water vapour matter would be assessed within the environmental permit process.

Speaking in support of the application Mr Neil Foxall, Caulmert Ltd addressed the Committee and drew attention to cumulative noise disturbance. A cumulative noise assessment had been undertaken, which had resulted in no objections received from statutory consultees. With regard to the caravan site there were in fact properties located closer to the site which had been assessed as set out within British Standards in free field conditions and therefore there could be no impact upon occupiers of the caravans with regard to noise. With regard to water vapour consideration would be given as part of the environmental permit.

In response to a Member question it was clarified that water vapour would contain trace chemicals as set out in the submitted air quality assessment.

Speaking in objection to the application, Mr Guy McCallan addressed the Committee. Mr McCallan read a statement on behalf of Mr Simon Collins, a local resident, which highlighted the residents of the caravan site having been overlooked. He considered that granting permission would therefore be in contravention of planning policy CS32 that related to traffic and highways within the Cambridgeshire and Peterborough Minerals and Waste Core Strategy. The proposed evaporator chimney was 17 metres high, but 13 metres below the escarpment. Wind speed data at Monks Wood used by the applicant were not reflective of the true wind speed at the site which was much lower and therefore would not disperse the emissions. The topology of the site would exacerbate the issue and cause emissions and water vapour to be trapped. Attention was drawn to the untested process and he questioned how the Environment Agency could regulate such untested technologies. He considered that granting planning permission would impact upon the landscape character and surrounding uses giving rise to unacceptable impacts in contravention of policy CS33 – protection and landscape character and CS34 protecting surrounding uses of the development control policies of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy. Mr McCallan highlighted the role of the Environment Agency in the planning process and relayed an email from the Environment Agency that suggested matters that were not considered during the September 2018 meeting of the Committee should have been.

Mrs Katie McCallan addressed Members in objection to the application. In commenting on the noise aspect of the application and the impact it would have upon the caravan site and the wider neighbourhood, Mrs McCallan advised she lived 1 kilometre from the site and could clearly hear activities at the site. She considered it would therefore be difficult for anyone to maintain a healthy lifestyle, particularly with the proposed 24 hour operation of the site, and this should not be underestimated. The current limited hours of operation were the only mitigation for her property in terms of noise disturbance. Residents of the scrap yard next to the site had been ignored and should be considered. HGV movements creating noise would increase greatly due to the opening of the second business and the access road was inadequate to allow HGVs to pass one another. Mrs McCallan suggested

that a bund should be built around the entire site and planted with mature evergreens that would provide visual and aural attenuation.

A Member sought clarity regarding the nearby caravan site currently being occupied by construction workers for A14, and noted the current status of the planning permission for the site. It was also agreed that it would be appropriate for the District Councillor to comment on the current planning status of the site when they addressed the committee.

Clarification was sought with the Huntingdonshire District Council EPO as to whether the noise assessment that had been undertaken assessed disturbance from vehicular movements at the site. The EPO confirmed that the acoustic assessment was of the existing sound from site. The first assessment that was submitted was insufficient because background noise levels were assessed too high and therefore further modelling was undertaken to determine an accurate background noise level. With regard to HGV movements at the site it was confirmed that in the report presented to Committee in September 2018 that HGV movements at the landfill site and the materials recycling facility when they were operating together would be up to 26 per hour. The current proposal when combined with the materials recycling facility would generate up to 20 movements per hour, therefore the current proposal would not result in a higher level of traffic than had previously been permitted.

Members noted the location and status of the caravans next to the scrap yard and the occupants had been written to inviting them to comment but none had been received. It was confirmed that any noise condition would apply to the caravans at the scrap yard.

Mrs Leslie Dunkling addressed the Committee in objection to the application and stated that incorrect information provided to the Committee had led to flawed decision making. Mrs Dunkling provided examples where measurements were incorrectly stated within the officer report such as the distance between the plant and Mrs Dunkling's property. Attention was drawn to the impact of noise and that when noise measurements were taken, advanced warning was provided to the site operator and the noise was reduced for the period being measured. The caravan site would also be disturbed by increased lorry traffic as well as noise from the plant itself. In conclusion, Mrs Dunkling expressed concern regarding the unknown environmental impact of the technologies to be used at the site.

A Member sought reassurance that the correct measures had been used. Officers referred to the September officer report, specifically paragraph 3.4 that provided the measurements, the reports submitted in the application varied dependent on their purpose and the starting point for the measurement.

Mr Anthony Dunkling who was recorded as being registered to speak confirmed that he had not requested to address the Committee at this meeting.

Mr Roy Reeves speaking in objection to the application as a local resident addressed the Committee and spoke in relation to the presence of the nearby caravan site. Referring to appendix 4Ba of the officer report, Mr Reeves highlighted the comments of the EPO that the caravan site was further away from the site than

3 nearer properties, however Mr Reeves commented that they were in fact equidistant from the site. Due to the construction of caravans they would not afford similar protection from noise to houses and drew attention to the comments of the EPO that any dwelling would benefit from noise attenuation at the site. Mr Reeves informed Members that no assessment had been undertaken by the applicant to determine the impact of noise on the occupants of caravans as opposed to traditional dwellings. Mr Reeves informed the Committee that planning permission had been in place for the caravan site for over 20 years however, had not opened as a touring site possibly due to its proximity to the landfill site. An application to Huntingdonshire District Council relating to the all year round operation of the caravan site had been submitted and had not yet been determined. Mr Reeves drew attention to national planning policy that requires regard to be paid to cumulative effects of a development. If the planning application was approved then the effects of industrial processes already in place at the site would be exacerbated and cause harm to nearby residents.

In response to Member questions it was confirmed that although there was planning permission for a warden to live on site at the caravan site, there was not a warden living there currently. Members noted that planning permission for the caravan site had been in place since 1998.

Professor Brian Lake, speaking in objection to the planning application presented to Members slides that demonstrated the effects of an atmospheric condition known as atmospheric inversion. Weather conditions in the Warboys area led to atmospheric inversion occurring several times a month during winter months. Further slides were presented that showed the inversion layer over Salt Lake City, USA and an evaporator in North Carolina, USA. The water vapour that would be produced by the proposed development would be trapped by the inversion layer and contain pollutants including those produced by the gas engine. The cumulative effects of the proposed development on the inversion would make living conditions for local inhabitants on the fen and those in the caravans less than desirable. Pollutants would also be deposited on land and nearby crops. A view was shown of normal inversion in the area which would become much worse if planning permission was granted.

In response to a Member question, Professor Lake questioned the accuracy of the modelling with regard to air quality. It was not clear what pollutants would be contained within the water vapour and the emissions from the gas engine would contain various volatile organic compounds that would become trapped in the inversion layer.

Officers explained to the Committee that matters such as air quality had been assessed from a planning land use perspective, and that pollutants, the environment and in particular their safety, were matters for the Environment Agency covered during the environmental permitting process. In particular, officers tried to address the confusion about whether matters of air quality, noise and dust etc. had been considered and it was confirmed that these had all been assessed, as demonstrated by the officer report, and not discounted as suggested. Furthermore, air quality modelling had been provided to the Environment Agency and Environmental Protection Officers at the District Council, therefore officers had checked again and there was no doubt regarding the robustness of the air quality

assessment conclusions. Officers then provided clarification in relation to the Committee's role in assessing the cumulative impact of the planning application. Officers explained to the committee that when considering the cumulative impact, Members would need to do so from a land use planning perspective which had been addressed within the officer report and relevant planning conditions that had been proposed.

The Chairman called a short adjournment to the meeting at 11:38am. The meeting was reconvened at 11:52am.

It was confirmed that Alison Jones (local resident) had already left the meeting and therefore was not able to address the Committee.

Speaking in objection to the application as a local resident, Mr David Ball addressed Members. Mr Ball informed Members that the proposed plant would create unknown and possibly hazardous emissions and a widely visible plume. It would contribute significantly to global warming and produce few significant benefits. The incinerator would be one of the most inefficient in the country supplying only 8% of energy created to the national grid, the remaining 92% will enter the atmosphere via the evaporator unit together with carbon dioxide and other harmful pollutants. The toxins were unknown, had not been evaluated and not included in the planning application. The proposed development would harm local weather conditions and also contribute unnecessarily to climate change.

Mrs Betty Ball, Warboys Landfill Action Group addressed the Committee in objection to the planning application. Mrs Ball noted that at the 6th September Planning Committee, Members struggled to find reasons to refuse planning permission for the development. Members at that meeting were advised that concerns regarding emissions were the remit of the Environment Agency. Mrs Ball cited several legal cases that demonstrated that it was the responsibility of the Planning Committee to consider such matters. Such cases provided Members with the freedom to come to their own conclusions regarding the safety of the proposal for the community.

Speaking in objection to the planning application, Mrs Susan Wright addressed Members. Mrs Wright drew attention to water vapour that would be emitted from the proposed site. There were many incinerators working in the country, however the proposed waste water evaporator was different from all others that were operational in the UK. Mrs Wright informed the Committee that it had resulted in there being no data on which the applicant could base their views regarding the safety of the operation or the possible emissions into the local atmosphere.

Dr Rona Allery addressed Members in objection to the application. Dr Allery drew attention to the workers who lived at the caravan site and the proposed mitigation would be insufficient to prevent noise disturbance at the site. Government policies were highlighted that illustrated that Councillors could and should consider cumulative effects of developments at a site. Dr Allery questioned the validity of the noise modelling report. Attention was drawn to noise complaints that had been made regarding the site. Dr Allery concluded by noting that similar operations existed in the USA but were unlikely to be close to properties and therefore the application should be refused.

In response to a Member question Members noted the comments of the Council's Legal Officer regarding the status of the caravan site and that the site was further from the proposed development than the nearest receptor at which noise levels had been assessed.

A Member questioned whether any complaints had been made regarding noise by residents at the caravan park. The Principal Enforcement and Monitoring Officer confirmed that she was not aware of any complaints having been made by residents at the caravan park.

Ms Serena Allery addressed Members objecting to the planning application. In addressing Members Ms Allery commented that the topography and unique micro-climate at the proposed site had not been considered with the planning application. The Chairman clarified that her comments were specifically about the impact of the water vapour on walkers and other recreational users in the area, which meant they were different to the points already provided during the meeting. The evaporator chimney was not of sufficient height to disperse emissions effectively and therefore much more moisture would be retained in the atmosphere that would fall to the ground and cause ice in cold conditions making roads potentially dangerous. Pollutants would affect both humans and animals and enter the food chain. Cambridge Water and Anglian Water should both be re-consulted on the proposals given the unique micro-climate of the area.

Mrs Karen Armstrong spoke in objection to the application. Mrs Armstrong questioned how assessments could be undertaken by the Environment Agency regarding processes that had never been practiced before in the UK. Traffic in the area had increased over the years and had not declined as had been suggested by officers. The occupants of the caravan site should not be ignored. Mrs Armstrong reminded Members of their concerns at the meeting held on 6th September 2018 and urged them to refuse planning permission.

Members were informed that Mr Daniel Fabb (local resident) had given his apologies so he was unable to address the Committee.

Members were also informed that Mr Anthony Jones (local resident) was not present at the meeting so was also unable to address the Committee.

Speaking in objection to the application, Mr Hugh Wittome addressed Members on his behalf and on behalf of the local farming community. Mr Wittome drew attention to the unique local climate in the Warboys locality at certain times of the year, specifically the low level fogs that occurred over the landscape. The proposed site would produce a continuous plume of hazardous material that would fall across the local area. In his opinion, the generic air quality models submitted do not take this into account and massively underestimate the effects. The impact on farmland and crops would build over a number of years and Mr Wittome encouraged the Committee to refuse planning permission.

In response to a Member question, Mr Wittome explained that the proposed chimney stack was 17m high and the escarpment of the land was approximately

30m high and therefore the chimney stack was not tall enough to successfully disperse emissions.

Officers drew attention to the Environment Agency and the EPO who assessed the evidence and the modelling work that had taken place and had not expressed concern regarding the height of the chimney stack. In response a Member commented that it was disappointing that a representative of the Environment Agency was not present to ask questions of.

Attention was drawn by a Member to the officer report presented at the 6th September committee meeting, specifically paragraph 5.27 in which Public Health England stated its position regarding air quality and Members were not in a position to dispute their comments.

Mrs Jan England addressed Members objecting to the planning application. Mrs England drew attention to water vapour and the traces of chemicals it contained which were unknown. There were many chemicals disposed of at the Warboys Landfill site from many years ago from which leachate would be evaporated. Unknown chemicals would be dispersed across the fen and Warboys village depending on the wind speed and direction. The unknown chemicals would enter water courses and ultimately the sea. Referencing a recent market research exercise undertaken, Mrs England informed Members the results showed 91% of those asked were concerned about what was being discharged into rivers and the sea. The Council could not rely on the Environment Agency to monitor and enforce emissions at the site and they were not responsible for monitoring beyond the site. With no previous examples of the processes that would be used at the site there could be no assurance provided regarding their safety. Mrs England drew attention to the release of the Government's Clean Air Strategy and Air Pollution Control Programme in early 2019 that would include local air quality plans, protecting the nation's health and environment and questioned whether Councillors would want to be responsible for poisonous material in the atmosphere. Mrs England concluded by urging the Committee to refuse planning permission.

Speaking in objection to the planning application, Mr Mark England addressed the Committee. Mr England was a 4th generation farmer whose uncle farmed the land when the site was a brickworks and had detailed knowledge of the area. Mr England drew attention to atmospheric inversion which took place at considerable height and would occasionally obscure wind turbines in the area and therefore the proposed chimney stack would not be sufficiently tall to disperse emissions over the inversion layer. Mr England commented that the water vapour produced by the site would represent a danger to the environment and local communities. Warboys and Wistow Woods, located close to the proposed development is a designated Site of Special Scientific Interest (SSSI), which is a block of over 100 acres of woodland. The woods were of ancient origin and the diverse range of wildlife and plants located in the woods would be put at risk by the plume emitted from the proposed development. Mr England questioned the ability of regulatory bodies to effectively monitor the site and commented that Members had been misled with regard to the Internal Drainage Board having no objection to the application. They did object but the decision did not reach planning officers. Mr England concluded by urging Members to refuse planning permission for the untested and untried processes for the sake of the environment and the health of local communities.

In response to a Member question regarding the consultation of the Internal Drainage Board (IDB) it was confirmed by officers that the IDB had been consulted however, no response had been received. Therefore, officers were required to assume that the IDB had no objection to the proposed development. Mr England informed the Committee that the IDB had sent details of their objections to the Middle Level Commissioners, however they had not been forwarded to the Council's planning officers.

Members were informed that Mr Simon Collins was not in attendance to be able to address the Committee, but that his concerns had already been read out by Mr Guy McCallan earlier on in the meeting.

Huntingdonshire District Councillor Jill Tavener, local district Member for Warboys addressed the Committee. Councillor Tavener explained the permits that were in place for the caravan site and confirmed that it was permitted to open as a touring site between March and October. Permission for the touring caravan site had not been developed because of the landfill operation. The current owner has not been consulted, however he did not live at the site. Mr Adams the site owner had written to Councillor Tavener a letter which she read to the Committee. The letter expressed concern regarding the impact of the proposed development on the touring caravan business and the impact of HGV traffic which would pass over a weak bridge. Councillor Tavener drew attention to the definition of non-hazardous wood which included paint that had been applied to the wood which would be incinerated and form part of the plume.

Local Member for Warboys, County Councillor Terry Rogers addressed Members. Speaking in objection to the planning application, Councillor Rogers echoed comments of a Member who commented that it would have been helpful to have representatives present from the Environment Agency. Councillor Rogers expressed concern regarding the statements of Huntingdonshire District Council's EPO and questioned his expertise. Councillor Rogers drew attention to the caravan site and its potential occupancy as a touring caravan site, emphasising the importance of considering the occupants when determining the planning application. Attention was drawn by Councillor Rogers to case law and a High Court ruling raised by other public speakers as it had significant bearing on the application before the Committee. Councillor Rogers recalled at the 6th September meeting of the Committee that officers and the Chairman advised that matters relating to noise and emissions would be dealt with by the Environment Agency and questioned that advice as the County Council had a responsibility to look at the issues as a whole. The cumulative effect of noise upon the caravans was significant and it was important to note that the vapour plume contained other chemicals than just water. Councillor Rogers concluded by questioning the noise modelling relating to the biomass burner, commenting that it should not receive planning permission either.

Following the conclusion of public speakers the Chairman called a short adjournment to allow for a break at 12.49pm. The meeting was reconvened at 1.05pm.

Prior to moving to the debate the Chairman invited officers to address the Committee. In response to the comments of the Local Member, Councillor Rogers,

officers informed the Committee that both officers and Members were fully aware of all land use planning matters that required consideration and all relevant information was presented to Members at the 6th September meeting and referred to the specific paragraphs within the officer report. At the 6th September meeting, at no point had the Committee been directed not to take the cumulative impacts of the development into account and referred to the paragraphs in the officer report that supported this. In relation to the Environment Agency and the permit required by the operator, at the 6th September meeting the matter was referred to in providing assurance to concerns raised regarding the untried and untested methods at the proposed development. Officers had not advised the Committee that none of the points could be taken into consideration from an amenity or land use planning perspective. The cumulative impacts had been fully assessed by the relevant specialists and officers, and drew attention to the comments of the EPO with regard to the original noise assessment submitted by the applicant which was determined to be inaccurate in terms of background noise measurements and therefore not acceptable.

Councillor Rogers responded to the points made and again questioned the performance of the EPO and the lack of correction when a Member referred to the combustor chimney stack rather than the condenser chimney stack. Councillor Rogers concluded by referring to advice he had received in advance of the 6th September meeting regarding the role of the Environment Agency.

The Council's legal officer addressed the Committee with regard to the constitutional point raised by Councillor Dr Sheila Withams as to whether Members could reach a different conclusion to that reached on 6th September 2018. The legal officer confirmed that there was authority for Members to do so both in section 70 of the Town and Country Planning Act and from case law. In respect of the Council's constitution, section 4.4, paragraph 17.1 of the constitution provided that a motion or amendment to rescind a decision made at a meeting of the Committee or Sub-Committee within the past 6 months could not be moved unless a notice of motion was signed by at least half of the Members of the relevant Committee or Sub-Committee. There was no provision that the written motion had to be submitted in advance of the meeting therefore, if during the debate, Members considered they were minded to reach a different decision to that of the 6th September 2018 then the meeting could be briefly adjourned for that written motion to be submitted.

The legal officer provided Members with clarity with regard to the scope of the debate that would take place. The matter had been placed before Committee following correspondence received following the 6th September meeting relating to the determination of the application. The two matters for consideration were whether the potential noise experienced by the occupants of the caravans situated at the touring caravan site and the effects of water vapour on local atmospheric conditions. Matters outside of those two areas should not be considered or debated. The legal officer referred to paragraph 183 of the National Planning Policy Framework that provided that the focus of planning decisions should be on whether proposed development was an acceptable use of land rather than the control of processes or emissions. The Committee should assume that those regimes would operate effectively. Members were advised that there was a degree of overlap between planning and pollution controls and that both the environmental impact of

emissions to the atmosphere and also the existence of a stringent permitting regime were both material considerations. Members were to consider on the information before them whether any concerns they may have were such that the permission should be refused or whether any concerns were capable of being overcome under the permitting regime.

During the course of debate:

- A Member thanked members of the public for attending and contributing to the meeting and commented that although it took courage to refuse a planning application it sometimes took greater courage to approve an application where there were significant concerns but there were mitigation measures that could be put in place that addressed the concerns. The Committee was to consider issues regarding the proper use of land. When examined, to refuse the application would be to question the competence of the Environment Agency. Members were required to consider the guidance of the National Planning Policy Framework in allocating land for appropriate use with appropriate safeguards in place. Therefore the Member could find no reason to refuse planning permission.
- A Member noted the number of objectors to the proposal, the information presented to the Committee and was in agreement with the officer recommendation to grant planning permission.
- Sympathy was expressed with the views of the objectors by a Member, however they could find no reason to refuse planning permission. The establishment of a local liaison forum was suggested and officers confirmed that the inclusion of a planning condition requiring the establishment of such a forum was part of the resolution at the 6th September meeting.
- A Member commented that the Committee was to assess the information provided in relation to water vapour and noise. Although it would have been preferable for a representative from the Environment Agency to have been present to answer questions, the officer report provided the necessary assurance regarding their impact and would therefore be wary of ignoring such expert advice.
- A Member commented that having voted to refuse planning permission at the 6th September meeting because the application did not move waste wood sufficiently up the waste hierarchy and there being no material planning consideration for refusal relating to the two specific points before Committee she would abstain.
- A Member expressed concern regarding the geography and unique topography of the area and would therefore not support the application.

It was proposed by Councillor Hudson and seconded by Councillor Hunt that the recommendation be put to the vote. On being put to the vote it was resolved [6 in favour, 1 against and 1 abstention] to grant planning permission.

On conclusion of the item the Chairman adjourned the meeting for lunch at 13:30 the meeting was reconvened at 14:01.

Councillors Connor and Howell left the meeting during the adjournment.

72. SECTION 73 APPLICATION TO DEVELOP LAND WITHOUT COMPLYING WITH CONDITION 2 (CESSATION OF DEVELOPMENT) OF PLANNING PERMISSION F/2008/16/CW FOR A WOOD WASTE RECYCLING FACILITY

**AT: UNIT 1, 35 BENWICK ROAD INDUSTRIAL ESTATE,
WHITTLESEY, PE7 2HD**

APPLICANT: WOODACRE DEVELOPMENTS LTD

LPA NO: F/2005/18/CW

Councillor Lynda Harford acted as Chairman for this item as Councillor Connor had withdrawn from the meeting having had previous involvement with the applicants from which a perception of bias could arise.

Members considered two Section 73 applications (references F2005/18/CW and F2006/18/CW) that related to Woodacre Developments Ltd located in Whittlesey. The presenting officer informed Members that although they were two separate applications they related to one operation (the main site and a site extension area) and so she would only make one presentation that covered both items. There would be two separate votes on the items.

In presenting the application the presenting officer introduced the two proposals which were to extend the duration of the planning permissions for another 5 years. A site map was presented to Members on which the main site, extension area and adjacent haulage yard were highlighted to the Committee together with the locations of nearby businesses and residential properties. A photograph that showed the access to the site from Benwick Road which also showed the stock of processed wood was shown to the Committee together with a further photograph that showed a view within the yard where unprocessed wood was being reduced in size to the product that would leave the site.

Both applications, Members were informed, sought an extension of time. The use of land if carried out in accordance with conditions and necessary permits could be carried out without harm to neighbours and the environment and therefore in principle there were no grounds on which to refuse planning permission. Attention was drawn to the recommendation for the construction of a permanent barrier between the wood waste site and the haulage yard that would define the planning units.

In response to Member questions officers:

- Informed Members that the previous planning permissions at the site expired in June 2018 however, the applications before the Committee were submitted prior to their expiry.
- Noted the level of concern expressed by Members regarding the past performance of the site operator, in particular the adherence to planning conditions. Officers commented that the defined segregation of the wood waste site from the haulage yard would assist matters together with the requirement for a log to be maintained of vehicle movements. Members were reminded that the past performance of the operator could not be taken into consideration when determining the application. Members noted the role of the Environment Agency and its ability through statutory powers to move more quickly than the Council regarding breaches of its permit. Members were informed that the Environment Agency had previously enforced the suspension of operations at the site due to breaches of conditions of the environmental permit.
- Reminded Members that it could not be assumed that the operator would continue to breach planning conditions.
- Noted the suggestion by a Member that the applicant / operator advertise a direct phone line in order that their offices could be contacted directly in the event of issues at the site.

During debate of the application Members:

- Commented that it would have been beneficial if the applicant / operator had attended the meeting as there were sometimes legitimate reasons for breaches of planning conditions.
- Noted that the use of land at the site was appropriate.
- Expressed concern for nearby residents who suffered as a result of the operator's non-compliance with planning conditions.
- Emphasised the importance of officers investigating alleged breaches of planning conditions promptly and vigorously.
- Noted the advice of the Council's legal officer regarding the proactive investigation of the sites which was not in response to complaints received as there was case law that held such action as bordering on harassment.
- Clarified the reasons as to why the site had previously operated under an exemption from the Environment Agency. Officers explained that an exemption from the environmental permitting regime was dependent on compliance with a stringent set of conditions and if the applicant operated

outside of those conditions then they would be required to have an environmental permit.

Councillor Hunt proposed recommendation be put to the vote and was seconded by Councillor Batchelor. It was resolved unanimously that planning permission be granted subject to the conditions set out in Appendix A to these minutes.

73. SECTION 73 APPLICATION TO DEVELOP LAND WITHOUT COMPLYING WITH CONDITION 1 (CESSATION OF DEVELOPMENT) OF PLANNING PERMISSION F/2009/16/CW FOR THE EXTENSION OF A WOOD WASTE RECYCLING FACILITY

**AT: UNIT 1, 35 BENWICK ROAD INDUSTRIAL ESTATE,
WHITTLESEY, PE7 2HD**

APPLICANT: WOODACRE DEVELOPMENTS LTD

LPA NO: F/2006/18/CW

The presentation and debate relating to this matter is contained in the above minute.

It was proposed by Councillor Batchelor, seconded by Councillor Hunt that the recommendation be put to the vote.

It was resolved unanimously that planning permission be granted subject to the conditions set out at Appendix B to these minutes.

74. ENFORCEMENT UPDATE REPORT

Members received the Enforcement Update Report. The presenting officer provided the Committee with two further updates relating to enforcement actions contained within the report which had taken place since the publication of the report. Firstly, paragraph 8 of the report that related to Mill Road, Fen Drayton; Members were informed that a Certificate of Lawful Development had now been submitted and a further update would be provided once it had been validated. Secondly, regarding paragraph 10 of the report, Field 6184 / Black Bank, Little Downham Members were informed that the defendants had raised a query relating to VAT on the court costs which the Council had answered. The deadline for payment had been extended to 14th December 2018 and an update would be provided to Members at the next Committee.

During the course of discussion Members:

- Noted that the Council had recourse to the County Courts to ensure payment was received with regard to legal costs.

- Welcomed the report that gave Members confidence that if applicants failed to comply with planning conditions then they would be thoroughly investigated.
- Thanked officers for their work relating to Cottenham Skips.
- Clarified that the total amount payable to the Council in relation to Black Bank, Little Downham was £11,500.
- Noted that concerns had been raised regarding a site at Block Fen that officers had not been informed of, so it was recommended that the Principal Planning and Enforcement Officer's contact details be provided to the relevant local member for them to raise the matter with the team directly.

It was resolved to note the contents of the report.

75. SUMMARY OF DECISIONS MADE UNDER DELEGATED POWERS

It was resolved to note the decision made under delegated powers.

Chairman