



Directorate of Place and Community

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Jonathan Haine
PO Box 100
County Hall
Preston
PR1 0LD

Dear Mr Haine,

PLANNING APPLICATION LCC/2022/0003 - County Matter - Demolition of existing building and erection of purpose-built building (and ancillary structures) to house high treatment facility for the management of medical waste. Location: Tower House, Stopgate Lane, Simonswood

I refer to the above application which was reported to the County's Development Control Committee on 7 September 2022 and subsequently deferred at that meeting. West Lancashire Borough Council has previously made representations to the application and would reiterate its **OBJECTION** to the proposals.

The Council notes that it had been requested that having originally made representations to the proposal in March 2022, it may receive a copy of the Committee Report as requested, and in turn, officers were not made aware of the Planning Committee meeting taking place on that date and were therefore unable to register to speak. However, the Council has now registered to speak when the Committee reconvenes on 7 December 2022 and will be represented by Steve Faulkner (Planning Services Manager).

Policy position and need for facility

It is clear the previous Committee Report acknowledges that the existing policies of the Minerals and Waste Local Plan (MWLP) as being out of date, and as such greater weight must be afforded to the policies of the National Planning Policy Framework. Despite this, officers advised members at the Committee meeting that the key relevant policies against which the application should be assessed were Policies WM2 and WM3 of the MWLP, placing weight on the proposition that the policies would be unlikely to change even if they were updated. As such there is an outstanding inconsistency between the advice set out in the previous Committee Report and that expressed to members verbally in the previous Committee meeting that remains unaddressed.

Even were the MWLP policies up-to-date, and reliance were to be placed on Policy WM3, there remains clear non-compliance, as the provision of up to 50,000 tonnes for sites identified by Policy WM2 expressly excludes thermal treatment methods. Pyrolysis is identified as a thermal treatment in Appendix C of the MWLP. As these policies are both out of date and not complied



with, it is therefore necessary to clearly explain the need for the facility in line with the provisions of the National Planning Policy for Waste (October 2014). Section 5 states:

"When determining waste planning applications, waste planning authorities should...only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;"

There appears to be no demonstration whatsoever for the need for the facility in line with this requirement. The failure to demonstrate need is even more pertinent in circumstances where there is no up-to-date analysis of the current processes being undertaken elsewhere at Simonswood and no obvious ongoing enforcement, making it impractical to simply place reliance for emissions on a permitting regime. It is of serious concern to WLBC that existing operators in the locality appear to be operating in breach of their planning conditions, and it is considered that the ongoing failure of LCC to appropriately investigate these and ensure compliance represents a significant material planning consideration that should weigh heavily against this proposal.

Energy recovery

It is also noted that the proposal gives rise to conflict with Policy DM4 of the MWLP, on the basis that such proposals must demonstrate energy recovery from the process. It is evident that much of the energy generated will be wasted. As stated by previous objections of WLBC, Policy DM4 in the MWLP states that all development that include processes capable of recovering energy from waste will be required to capture heat or electricity produced directly or as a by-product of the waste treatment process and either, use it on site or export it to the national grid or a local energy or heat consumer. In this context, proposals will be required to demonstrate that the scheme offers the best practicable use of the energy resource through the submission of a Combined Heat and Power Feasibility Review.

The application proposes that heat from the process would be used to heat wood for a local business (so Policy WM4 of the MWLP also applies), and the previous Committee Report suggests that there is a memorandum of understanding with the adjacent Waste Transfer Station that would allow for this but the detail of planning condition 3 appears to require nothing more than the laying of an electricity cable linking the adjacent site with no further detail specifying the need for the transfer of energy.

Equally, once the cable is laid it could be removed and there would be no breach of condition. In short, the condition could be complied with and offer no guarantee that the energy generated will not be lost. The memorandum of understanding does not carry the status of a contract guaranteeing that access will be afforded for infrastructure to be laid, that would become binding subject to the granting of a planning permission. WLBC can also not find the MOU on the County Council's website and it is not clear exactly what they are affording weight to in respect of the scheme's compliance with WM4.



There is also no evidence that in the event of the processing and washing plant adjacent ceasing, that there is any guarantee of heat/electrical energy derived from the operations being useable elsewhere. Given it is accepted that a combined heat and power feasibility review is required by condition 4, it is considered given this uncertainty that such a document must be provided in the present and made available prior to determination.

Relationship with other regimes / Pollution Control

It was explained at the Committee meeting in response to the raising of this point that it should be assumed that other regimes would operate properly in mitigation, but it appears that even the appropriate mitigation applicable to existing nearby sites is not taking place and this offers no confidence that further breaches of planning control, if arising, would be appropriately investigated, and no confidence that nearby residents of Simonswood and those in Knowsley (close to nearby schools) will not see their existing quality of life suffer further as a result.

The process of pyrolysis is essentially untested, and the latest Atkins report, submitted and made available after the previous Planning Committee where approval was recommended, still casts several doubts over the various impacts likely to result. There is considerable concern over the number of assumptions made throughout, including a failure to clearly explain maximum emission concentrations in the area, and various assumptions made in the absence of up-to-date data on the same. Additionally, though pyrolysis is the stated process, the application remains described as an 'incinerator' and would enable the operator to move away from the expensive pyrolysis solution to a more traditional incineration method which is not accurately reflected in the emissions data presented.

Though National Planning Policy does invite LPAs to focus on local plan processes (which as stated above remain out-of-date), such continued reliance on assumption offers no confidence that the scheme will be able to function within the parameters of pollution control regimes and is very likely to add significant pressure to resources for monitoring and investigating activity at this site.

Highway Impacts/Residential Amenity

WLBC have previously expressed concerns over the impacts brought from noise, pollution and disturbance from HGV's accessing the Industrial Estate. Whilst there are weight restrictions in place on local roads designed to try and ease these issues, LCC are all too aware that these restrictions are regularly flouted. It is also noted that the developer has suggested routes for HGVs which respect existing restrictions and the report previously recommended to Committee suggests a scheme of traffic management measures be applied (condition 11).

WLBC has little confidence that given the current flouting of the existing restrictions, that adding planning conditions is anything other than a further layer of control that would prove unlikely to be enforced and indeed, it is not clear that such a measure would pass the test of Planning Practice Guidance, as there would be identifiable method of monitoring the vehicles accessing and egressing the site or any way of associating those doing so with general users of other nearby sites elsewhere.



The additional traffic movements would have serious impacts on residential amenity because of the increased noise, vibration and pollution and this runs contrary to various policies notably Policy DM2 of the MWLP and associated paragraphs of the Framework, notably, 174, 185 and 186.

Environmental Impact Assessment (EIA), Landscape and visual impacts

The Council also notes that the Committee Report has referred to an increase in the stack height from 14 metres to 26 metres, but the plan is hidden in Appendix 1 of the revised Environmental Statement and not readily accessible for those concerned over height and scale. It is understood that landscape matters were originally scoped out of the ES, but the increase in height should have given rise to a reconsideration of this issue and as the application stands the increased stack height and its visual impact is not meaningfully addressed. The report also refers to an Environmental Statement addendum which appears to try and resolve matters relating to emissions from the increased stack, and now provides a further addendum relating to impacts on human health (29 September 2022).

Neither of these addendums appear to address issues of visual impact brought about by this statement and it would appear on this basis that a fully revised Environmental Statement should be supplied, based on a revised screening and scoping opinion. In the absence of this WLBC would express serious concerns over the failure to properly review and update this document.

WLBC also note the absence of a Landscape and Visual Impact Assessment (LVIA), which would be appropriate for a development giving rise to such a substantial visual feature. In such an assessment it would be critical to also acknowledge the lack of enforcement and other unauthorised operations on existing sites nearby leading to spoils of a height significantly greater than permitted, which if not addressed would lead to a distortion of the true and legitimate visual impact of the stack.

The chosen location is within 1km of the Simonswood Moss which has been recognised as a Special Protection Area and has been the subject of significant investment programme aimed at regeneration of the depleted peat moss. It is inevitable that the toxic air emissions from this incinerator will deposit damaging particulate matter and trace metals that will have a detrimental impact on the surrounding landscape.

Habitat Regulations

The Council has noted that there has been further representation from Natural England to the effect that a Habitats Regulations Assessment (HRA) must be undertaken prior to the granting of planning permission and that this must also take account of the impacts on the SSSI at Martin Mere, Burscough. This is set out in their advice dated 5 September 2022.

We note in this advice that Natural England have confirmed that the application does not contain sufficient information to conclude that the proposed development is not likely to damage or destroy the interest features for which this SSSI has been notified. The report has said that ecological impacts would be acceptable subject to there being no objections being received, but they have since clarified what they believe to be necessary to ensure all impacts are considered in full and



on their later memo wrote to confirm that LCC must then determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. It would be necessary to consult Natural England on the appropriate assessment and for the outcome of this to be made publicly available in advance of the Committee when it reconvenes.

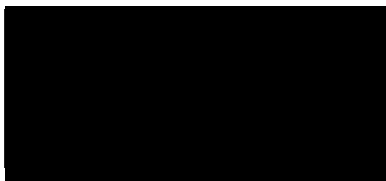
The failure to undertake an HRA would be a serious oversight and risks the possibility of an unsound decision being made. The ES must therefore be updated to ensure that these impacts are appropriately covered. A review of the LCC website on 25 November 2022 has established that the HRA remains outstanding.

Summary and conclusion

The Council therefore sustains its previous objections and respectfully asks that Lancashire County Council refuses the proposal. The objections remain based on conflict with certain policies of the MWLP and the potential impact on those residents nearby and the local environment brought by all of the issues identified in this letter including the failure to ensure that the specific requirements of the EIA Regulations and Habitat Regulations are properly addressed.

The Council also notes that a request has been made by the Secretary of State for the application to be called in and the LCC website does not record a response to their request for assurance that the application will not be approved until such time that they have confirmed they do not wish to do so. WLBC would trust that the Secretary of State has received said assurance.

Yours sincerely



Paul Charlson
Head of Planning & Regulatory Services