

**LAND AT BILSTHORPE BUSINESS PARK, EAKRING ROAD, BILSTHORPE (13/01767/CMW)**

**1.0 Purpose of Report**

- 1.1 To recommend that the Planning Committee withdraws its objection in respect of planning application 13/01767/CMW, and to seek authority to withdraw as a Rule 6 party to the forthcoming local inquiry.

**2.0 Background Information**

- 2.1 At the Planning Committee of 7 October 2014 members considered the report of the Deputy Chief Executive on the proposed development of the Bilsthorpe Energy Village.
- 2.2 The applicant companies sought permission to manage unprocessed and pre-treated waste materials through the construction and operation of a plasma gasification facility, materials recovery facility and energy generation infrastructure together with supporting infrastructure.
- 2.3 The determining authority for waste planning applications, involving the recovery, treating, storing, processing, sorting, transferring and depositing of waste, is Nottinghamshire County Council acting in its capacity as the County Planning Authority. The Planning Committee of NSDC was invited to respond as a consultee.
- 2.4 Members, having read the report and following a site inspection, agreed unanimously to authorise the Business Manager Development to write a letter of response to Nottinghamshire County Council expressing a strong objection on a number of grounds.
- 2.5 Accordingly on 14 October 2014 the Business Manager Development responded to Nottinghamshire County Council's consultation in the following terms:
- *“The proposal does not form part of the County Council's Waste Strategy and there is insufficient evidence as far as this Authority is concerned that a demonstrable need for the proposal exists. The origins and type of waste material are unknown and therefore there is no certainty on its safety, its impact in terms of noise, odour and debris on the highway during transport. Core Policy 6 of the approved Newark and Sherwood District Council Core Strategy clearly states that it is necessary for uses to respond to local needs for such a development. It is our understanding that waste could come from*

*any region unrestricted. Equally we fail to see robust evidence of an assessment of suitable, alternative sites having being considered to meet any identified demand that exists, if it indeed does.*

- *The proposal would significantly unduly impact on the highway network as a result of the significant increase in volume and type of traffic associated with the proposal.*
- *There will be significant implications for the local highway network, specifically for the A614, Ollerton roundabout and A617 which are already the most trafficked routes not only within Newark and Sherwood but indeed across the County.*
- *The true extent of the impact on the amenity of nearby dwellings and settlements taking into consideration air quality, dust, noise and vibration is unknown. This is not only with respect to the operational activities on site, with several agencies (the Environment Agency and HSE all appearing to have a role, making it difficult to understand the position as a whole) but also with respect to the movement of material from and to the site and the impact this would have.*
- *Serious concerns remain in respect of the impact on ecology having regard to the comments of Nottinghamshire Wildlife Trust. These are a significant material consideration to which great weight should be attached.*
- *Concerns as to the impact on heritage assets having particular regard to the statutory tests and policy guidance to assess any identified harm. Indeed your own conservation officer clearly identifies harm which must be given considerable weight in any planning balance.*
- *Concerns were also raised as to the potential experimental nature/limited operation of a similar facility elsewhere, that job creation and the real extent of this was uncertain (especially when only permanent job creation is considered), the end destination for ash created and whether this would create additional journeys, and that the proposal was not an efficient technology.”*

2.6 On 18 November 2014 the Planning Committee of Nottinghamshire County Council resolved to grant planning permission for the development.

2.7 However, before any decision could be issued the Secretary of State called the application in pursuant to his power under section 77 of the 1990 Act. The call in letter was sent on 19 December 2014 and confirmed that Nottinghamshire County Council no longer has the power to issue the planning permission. Instead the application will be determined by the Secretary of State following a local inquiry.

### **3.0 The Objection**

3.1 It should be emphasised that NSDC was a consultee and not the determining authority for the purposes of the planning application. This inevitably meant that at the time Members of the Planning Committee of NSDC were asked to consider the matter they did not have the full range of consultation responses before them. This point was made explicitly clear within both the committee report and NSDC's consultation response.

3.2 It was properly for the County Planning Authority to weigh the evidence, including the consultation response submitted on behalf of NSDC, and determine the application once all of the necessary information was available.

3.3 The calling in of the planning application offers an opportunity to the Planning Committee to reconsider the objections raised in light of the full evidence now available.

3.4 Of key importance in this regard is the report submitted to the County Planning Committee and the minutes of that committee meeting (a copy of both documents has been placed in the members' room for ease of reference). These documents demonstrate that the grounds of objection raised by NSDC have been addressed by the County Planning Committee.

3.5 For instance, the minutes of the County Planning Committee disclose that the resolution in favour of granting planning permission is conditional on the landowner first entering into a section 106 agreement to secure lorry routeing controls, off-site ecological mitigation works, improvements to local sewage treatment works and a financial contribution to a heritage interpretation scheme. Such an agreement would address the concerns raised in NSDC's consultation response on the grounds of highways, ecology and heritage asset impacts.

3.6 The other grounds of objection are considered comprehensively in the County Planning Committee's report. The concern Members expressed as to whether an assessment of suitable alternative sites had been carried out is addressed by confirmation that the applicant has considered 483 potential sites, and that through

a process of investigation the application site was identified as the preferred site based on technical and environmental grounds.

- 3.7 Members also observed that the evidence submitted to establish the need for the development was insufficient. Again this point has been addressed within the County Planning Committee's report; with the conclusion being that there is a need for additional recovery to address shortfalls in capacity and that the Bilsthorpe Energy Village would address the shortfall.
- 3.8 In these circumstances it would be reasonable to withdraw the objection to the planning application as the grounds of objection have been addressed by subsequent information and clarification.

#### **4.0 Rule 6 Status**

- 4.1 The secretary of State has identified NSDC as a rule 6 party to the inquiry, which creates an obligation to provide a statement of case, statement of common ground and a need to appoint counsel and expert witnesses (potentially in each of the fields of waste planning, heritage, ecology and highways) to appear at the inquiry. The cost to NSDC would be significant.
- 4.2 The applicants and Nottinghamshire County Council are likely to share common ground (given the latter's support for the application) and NSDC is currently the only rule 6 party opposing the granting of planning permission.
- 4.3 If Members are minded to withdraw the planning objection then it would be reasonable to withdraw as a rule 6 party. It is important to note that if NSDC did withdraw then the local inquiry would still proceed (and the merits of the planning application would still be examined at the inquiry in any event) and members would not be prevented from making representations to the inquiry in their own capacity.

#### **5.0 Recommendation**

On the basis that a substantial volume of material information has become available since the Planning Committee first resolved to object to the application, that the expense of proceeding with rule 6 status would be significant, that Nottinghamshire County Council was the determinative body and not NSDC and that the matter will be examined at inquiry in any event, it is recommended as follows:

- (a) that the objection to planning application 13/01767/CMW be withdrawn in light of the new information;

- (b) that the council withdraws as a rule 6 party to the local inquiry; and
- (c) that the Deputy Chief Executive is authorised to write to the Secretary of state, the Applicants and Nottinghamshire County Council confirming the same.

### **BACKGROUND PAPERS**

Application case file.

All submission documents relating to this planning application can be found on the following Websites:

- [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).
- <http://www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=ES/2950>

For further information please contact Daniel Marston (report author) on Ext 5612.

**Kirsty Cole**

**Deputy Chief Executive**