

Development Control Committee – 7 December 2022

Update Sheet

Item 5 – Application LCC/2022/003 – Proposed medical waste treatment facility, Simonswood industrial Estate, Stopgate Lane, Kirkby

Since the committee report was prepared the following further representations have been received. The representations from 'Stop the Simonswood Incinerator Action Group' and Knowsley Council have already been circulated to members of the Committee directly so the following is a summary of the comments made.

Knowsley Council: Wish to reaffirm and explain Knowsley Council's strong objections to the application specifically in relation to the most recent officer report. Seven key points are raised.

1. Planning policy matters: Knowsley consider that Policy WM2 of the Lancashire Minerals and Waste Local Plan relates to large scale waste management facilities and specifically excludes smaller scale development such as the proposal. Knowsley therefore consider that policy WM2 is not relevant. Instead Knowsley consider that policy WM3 is the relevant policy, and this policy specifically excludes thermal treatment plants. Knowsley therefore consider that the proposal cannot be compliant with an up-to-date local plan. In such a case, the applicant must demonstrate a market need for the facility which has not been done.
2. Knowsley also disagree with officer's assessment that parts of policies WM2 and WM3 are out of date. Knowsley consider that it is not possible to separate the policies in this way – they are either in date or are out of date. Knowsley consider that both policies are out of date and therefore it cannot be concluded that the proposal is consistent with an up-to-date local plan. Knowsley therefore consider that the applicant should have to demonstrate a need for the facility and that any need is already met by existing facilities.
3. It has not been demonstrated that there is a need for the facility. Knowsley note that the committee reports do not discuss the need for the development nor has the applicant submitted any evidence on this point. Knowsley therefore consider that the application conflicts with the development and should be refused for the reason stated in their response.
4. Breaches of planning and permit controls: Knowsley do not consider that the imposition of planning conditions would be sufficient to address harm as there is no guarantee that conditions would be complied with. Knowsley consider that this should form a basis for refusing the application.
5. Compliance with Policy DM4: Knowsley consider that it has not been demonstrated that the energy resources that would be produced would be used properly, contrary to Policy DM4. Conditions 3 and 4 do not deal with the issue properly either.

6. Compliance with Environmental Impact Assessment Regulations 2017: Knowsley note that the application was amended to increase the height of the stack and include the Organic Rankine Cycle (ORC) engine. However, Knowsley consider that the Environmental Impact Assessment (EIA) was not updated to take account of these changes.
7. Atkins report: Knowsley are still concerned about the emission levels of chromium V and the lack of base line data from the local area. Knowsley consider that the failure to demonstrate the environmental impact should be a reason for refusal.

Stop the Simonswood Incinerator Action Group: The submission makes the following points:

- The incineration of hazardous medical waste is not the same as municipal waste but is significantly and inherently more dangerous to public health and the environment.
- The World Health Organisation states that even small-scale incinerators should not be sited within proximity of residential areas, agricultural land or livestock habitats
- There is no clear demonstrable need for this facility based upon current local and national incinerator capacity levels.
- The planning application and Lancashire County Council officer consideration is in conflict with several Lancashire County Council policies.

West Lancashire Borough Council: Wish to reiterate their objections and raise the following issues:

- Policy position and need for the facility: The Borough Council consider that the planning policy advice that was provided was unclear. The Borough Council consider that policies WM2 and WM3 are both out of date and therefore a need for the facility must be demonstrated as required by National Planning Policy for Waste. There has been no such demonstration.
- Energy recovery: It is evident that much of the energy will be wasted. The combined heat and power review should be submitted now and not for the future as suggested by condition 4.
- Pollution control: the pyrolysis process proposed is untested and could be changed to a more traditional incineration method in the future with different emission impacts.
- Highways/Traffic: The Borough Council draw attention to the breaches of the traffic regulation orders by heavy goods vehicles (HGVs) in their area. They note the control in condition 11 but have doubts whether it would pass the test for conditions
- Environmental Impact Assessment: The increase in stack height should have given rise to a reconsideration of visual impact issues within the Environmental Impact Assessment (EIA). The Borough Council also consider that the application should have been accompanied by a full Landscape and Visual Impact Assessment.

- Habitats Regulations: There has been a failure to carry out a Habitats Risk Assessment.

Advice: Many of the matters raised are addressed in the committee reports that have been prepared. However, the following comments are made:

Planning policy: The issues with policies WM2 and WM3 were discussed in the previous report. It is considered that WM2 is the relevant policy, and that the proposal is compliant with that policy. In relation to whether these policies are up to date, a policy is not out of date simply because it is in a time expired plan. This was confirmed in 2020 in the case of Peel v SoS. Policies WM2 and WM3 identify and allocate sites based on identified waste needs. Nothing has changed at these allocated sites to render them unsuitable for allocation and therefore this aspect of the policies is not out of date and the need for them has not reduced.

In addition the paragraph 11 test within the National Planning Policy Framework (NPPF) relates to the policies of the development plan as a whole and therefore the exercise in deciding whether the proposal is policy compliant must consider the West Lancashire Local Plan (2012 to 2027) as well as the Lancashire Minerals and Waste Local Plan (LMWLP).

Knowsley have commented on the volume of waste capacity that has been permitted on the Simonswood Industrial Estate. However, it should be remembered that given the location of this site, a large part of this capacity will be dealing with the waste produced from the Merseyside region including from Knowsley and is not waste from Lancashire.

Finally the Lancashire Minerals and Waste Local Plan (LMWLP) does not prevent small scale thermal treatment. To do so would be contrary to national policy. Thermal treatment facilities are excluded from policy WM3 because the scale of such development would usually make them unsuitable for the sites listed in policy WM3. However that is not the case here where the development is small scale.

Habitats Regulations Assessment: A Habitats Regulations Assessment (HRA) has been produced and Natural England are satisfied with its conclusions.

Environmental Impact Assessment: Given the location and scale of the development, landscape issues were excluded from the Environmental Impact Assessment (EIA) at scoping stage. The increase in stack height was not considered to be such a significant change that the Environmental Impact Assessment (EIA) should be revisited to include landscape issues. However, the noise chapter of the Environmental Statement (ES) was updated to assess the additional impacts of the Organic Rankine Cycle (ORC) engine.

Atkins report: In relation to the concerns about chromium V, there was no baseline data in the local area for the applicant to use for the assessment of this pollutant.

Baseline data for the nearest monitoring location was therefore used which is in Runcorn. The background levels of various metal pollutants are likely to be considerably higher in the Runcorn area than Simonswood due to the higher level of industrial activity in that area. Atkins are satisfied with the applicants modelling approach which is sufficiently conservative due to the use of data from areas where metals concentrations will be higher than Simonswood.

Energy recovery: this issue is addressed in the report to the 7 September Committee. The application was amended to specifically include new equipment to achieve policy compliance with policy DM4. A user for the surplus electricity has been identified and the applicant has an agreement in place for the supply of this power which has been seen by county council officers. In the event that the identified user ceases to operate, condition 4 requires a review of the situation. There are other potential users in the locality for the electrical energy and/or heat. When the aggregates washing plant is not operational (during the night) the excess power can be exported to the grid.

Heavy Goods Vehicles: The site will generate a small number of heavy goods vehicles (HGVs), (12 per day) compared to the much higher number already originating from Simonswood Industrial Estate.

Recommendation

Additional condition

15. No demolition works on the site shall be undertaken between 1 March and 31 July unless the building has first been checked by a qualified ecologist and it has been confirmed that no breeding or nesting birds are present within the building.

Reason: In the interests of ecology and to conform with Policy DM2 of the Joint Lancashire Mineral and Waste Local Plan.