

That a hearing is held in respect of the proposed energy from waste facility at Greenbank Crescent, Aberdeen, before being referred back to the Planning and Development Management Committee for determination.

PURPOSE OF REPORT

The purpose of the report is to seek Members resolution on two matters; firstly, whether a pre-determination hearing (hearing) for the proposed energy from waste facility (the proposed development) at Greenbank Crescent, Altens should be held prior to the determination of the application by the Planning Development Management Committee; and secondly, allowing for the significance of the proposed development, and the representations received, is whether the Planning Development Management Committee or the full Council should be the appropriate forum for the hearing, should Members resolve that a pre-determination hearing is held.

This matter is brought to the Committee under the discretionary powers conferred on local planning authorities under section 38A(4) of the Town and Country Planning (Scotland) Act 1997 (the Act) as introduced by the Planning etc (Scotland) Act 2006 (the 2006 Act).

Whilst this report does not provide any assessment of the proposed development it does set out the background to its production, an introduction to the proposal, and the basis of the recommendation of the Acting Head of Service (Planning and Sustainable Development). It should be noted that the purpose of this report is to consider whether a hearing should be held and consultee responses, save those of the Community Councils, are not cited as they form part of the assessment process that is not the subject of this report.

BACKGROUND

The 2006 Act introduced the concept of the hierarchy of developments and defines the three categories in the hierarchy of development to which all planning applications will be allocated. The three categories are national development, major development and local development.

The 3rd National Planning Framework describes and designates developments that are national developments. Scottish Ministers have powers to make regulations to describe classes of development other than national developments and to assign each class to either major or local developments. The proposed development is categorised as a major development.

Under the provisions of section 38(A) of the Act the planning authority are to give to the applicant and to persons who submit representations to the planning authority in respect of that application in accordance with Regulations made by Scottish Ministers an opportunity of appearing before and being heard by a committee of the authority known as a pre-determination hearing.

A hearing is mandatory under section 38A(1) of the Act and Regulations when considering national developments or major developments significantly contrary to the Development Plan. In this case the proposed development is not captured by this provision of the Act or Regulations.

However, section 38(A)4 of the Act allows the planning authority discretion to hold hearings for other types of applications and offer the applicant and any interested parties an opportunity to address the hearing.

Circular 4 of 2009 (*Development Management Procedures*) (the Circular) states that examples of such categories of development which the authority might decide as requiring a hearing could include, for example, applications in which the Council has a financial interest; applications that have attracted a given number and type of objection; or an application relating to development in sensitive areas protected by statutory designations.

To supplement the Circular the Council on the 10th of June 2010 issued *Guidelines: When to hold public hearings in relation to planning applications*, which provided that when a planning application has been the subject of more than 20 objections; and the Council has a financial interest; and/or the application is a departure from the development plan then the Committee would determine if a hearing is to be held.

PROPOSED DEVELOPMENT

In brief, the proposal comprises the demolition of the current gas holder on the site and its replacement with a Energy from Waste (EfW) facility comprising the following principle elements:

- 'Main' building measuring some 47.50 metres high, length of 170.00 metres with a depth of 51.40 metres that will house the processing plant, together with office and welfare functions. This aspect of the scheme also incorporates the flue stack that extends to 80.00 metres in height;
- Air Cooled Condensers and Combined Heat and Power (CHP) building with a height of 20.00 metres, length of 66.00 metres and depth of 20.00 metres;
- Substation compound that measures 15.00 in length, depth of 10.00 metres and 7.00 in height; and
- Firewater Tank that has a diameter of 15.00 metres and height of 12.00 metres

Other developmental elements include two weighbridges, parking for 22 cars, landscaping, drainage, albeit no details have been submitted in respect of perimeter fencing, security and utility lighting, save quoting similar developments.

With regard to the operation of the facility it would process domestic residual municipal waste from the administrative areas of Aberdeen City Council, Aberdeenshire and Moray Councils. There will be no pre-treatment of waste on site. The combustion process would recover energy from waste in the form of heat.

The scheme does not incorporate the exporting of electricity to the national grid or provide heat to the existing heat networks at Stockehill, Hazlehead, Seaton or

Tillydrone. It should be noted that there is no heat network to service the Torry community.

Whilst the facility will operate on a continuous basis, it is proposed that the delivery of waste and dispatch of materials would only occur between 07:00 hrs and 19:00 hrs Monday to Friday and between 07:00 hrs and 13:00 hrs on a Saturday. The consequent vehicle movements associated with the operational capacity of the facility (i.e. 150,000 tonnes of waste per annum) would equate to some 222 heavy good vehicle movements per week (40 movements a day).

BASIS OF RECOMMENDATION

Consultation

As the proposal constitutes a major development it is subject to the provisions of the Proposal of Application Notice procedure that provides for public engagement on the proposed planning application to be undertaken by the Applicant.

The first round of public events were held on the 16th of November 2015 at Torry St Fittick's Parish Church of Scotland between 10:00 and 21:00 hrs, with a subsequent event held on the following day at the Aberdeen Altens Hotel on Souterhead Road between 12:00 and 21:00 hrs.

A second round of consultation events were held on:

- 29th February 2016 at Torry St Fittick's Parish Council between 12:00 and 20:00 hrs
- 1st March 2016 at Aberdeen Altens Hotel between 12:00 and 20:00 hrs
- 2nd March 2016 at Tullos Primary School between 15:30 and 19:00 hrs

Aside from the aforementioned public events the Applicants addressed the Pre-Application Forum meeting on the 14th of January 2016. In addition, a series of meetings were held with the Case Officer and the Master Planning, Design and Conservation Team on design aspects of the proposed facility.

The planning application for the proposed development was validated by the Local Planning authority on the 15th of March 2016 and all relevant parties were duly notified. As the proposal constitutes a Schedule 1 development as set out in The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the statutory newspaper advert on the proposed development sought the submissions of representations on the application by the end of the 27th of April 2016. The Community Councils of Torry, Nigg, Cove and Althens and Kincorth/Leggart were given to the end of the 16th of May 2016 to submit their representations allowing for the meeting schedules of each of the Councils.

Representations Received

The Application has attracted a significant number of objections compromising:

- Pro-forma letter/e-mail of objection – 211
- Individual letters of objection - 25

It should be noted that 1 representation in support of the proposed development was received on the basis that it is *an excellent idea to lessen landfill and provide cheaper energy* and is therefore a qualified representation of support. One further representation supported the principle of the development but raised concerns with regard to traffic impact and odour emissions.

The pro-forma representation raised the following issues

- Contrary to national policy on zero waste and will contribute to climate change
- Damaging to the environment
- Loss of amenity
- Damaging to health and the wellbeing of communities
- Financial implications
- Does not address the source of waste and contrary to policy R3 [New Energy from Waste Facilities] of the extant Aberdeen Local Development Plan (ALDP)
- Incinerate waste in one building in the North East is contrary to policy NE10 [Air Quality] of the ALDP
- Will lower air quality
- Size and design of the building contrary to policies D1 Architecture and Placemaking] and D6 [Landscape] of the ALDP
- Add to traffic congestion and air-pollution
- Date flawed
- Contrary to policy CF1 [Existing Community Sites and Facilities] of the ALDP and will adversely affect the health and mental wellbeing of the residents of Torry
- Too close to many thousands of family homes and one of the local primary schools

The policy headings have been added for clarification within the [] brackets.

Whereas; the individual letters of objection related to some 19 matters:

- Impact upon public health
- Proximity to primary school
- Increase in pollution
- Wrong location/site selection
- Should focus upon recycling
- Next to local nature reserve
- Road safety
- Increase in traffic
- Proximity to residents
- Damage to the environment

- Decrease property value
- Community problems
- Odour emissions
- Affect standard of living
- Lower house prices
- Does not supply heating
- Contribute to climate change
- Loss of amenity
- Design

The *Guidelines* merely states that part of the trigger event for determining whether a hearing should be held is receipt of 20 objections and not the originators of these objections. Consequently, responses of each of the Community Council's objecting to the proposed development are appended for Members reference.

The number of objections together and their content, which overwhelmingly focus upon relevant planning matters material to the decision taking process is considered to validate a hearing being held.

Financial Interest

The Applicant (i.e. Aberdeen City Council) does not own the Site; however, the Applicant is in the process of purchasing the land for the purpose of the development and has an interest in the operation of the facility. Therefore the Applicant has a clear financial interest in the planning application.

SUMMARY

The level of interest and in particular the nature of the objections raised on the application that address issues which are material to the decision-taking process are such that on this ground alone a hearing is justified as set out within the Circular as underpinned by the Act and the Council's own guidelines.

In addition, the financial interest that the Council has in the application warrants that a hearing is held on this matter.

RECOMMENDATION

That a hearing is held before being referred back to the Planning and Development Management Committee for determination.