

## Jane Moseley

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**From:** Jane Moseley  
**Sent:** 21 September 2018 12:26  
**To:** Daniel Smyth (smythD@rpsgroup.com)  
**Cc:** 'Chris Lecointe'; 'Keith Riley'; Camilla Fisher (camilla.fisher@rpsgroup.com); Katie Kam; Michael Elkington  
**Subject:** JM DS resp lett - clarify RfR 21Sep18  
**Attachments:** DS Letter to JM\_20180829.pdf

Dan

~~Without Prejudice Save as to Costs: Wealden EfW Application~~ WSCC subsequently agreed to remove this caveat

I write in response to the attached letter in which you sought clarification of the reasons given for the refusal of the planning application for an energy-from-waste facility at Wealden Brickworks (ref. WSCC/015/18/NH). For ease of reference, I have included your text below (in black), with my response underneath (in blue and indented).

The following is given without prejudice to the planning process. It is intended to clarify how members reached their decision on the application, and to assist RPS and your clients in considering how to proceed following the refusal of the application. WSCC reserves its right to review its position in the event that an appeal against the refusal is submitted.

1. In terms of need, the site is allocated for strategic waste management purposes. Please confirm whether the Waste Local Plan explicitly excludes the thermal treatment of waste using the type of technology envisaged in this application.

Policy W10(a) states that the allocated sites, including Brookhurst Wood, are *"acceptable, in principle, for the development of waste management facilities for the transfer, recycling, and/or recovery of waste (including the recycling of inert waste)"*. Paragraph 2.7.4 identifies that facilities for 'recovery' include energy from waste plants and other thermal treatment, such as gasification and pyrolysis. Furthermore, the Glossary defines 'recovery' as *"waste treatment processes such as anaerobic digestion, energy recovery via direct combustion, gasification, pyrolysis or other technologies"*.

Therefore, the Waste Local Plan does not exclude the use, in principle, of any type of technology, including thermal treatment, at the allocated Brookhurst Wood site.

It was also stated in the committee meeting that the county was "self-sufficient" in terms of waste disposal. Please define what is meant by this term and confirm the disposal locations WSCC is utilising for its household waste.

I cannot find evidence from the webcast that the Planning Committee stated that the County was 'self-sufficient' with regard to waste disposal. There were several references to waste being taken to and from Surrey, indicating the contrary.

Paragraph 2.9.1 of the Waste Local Plan states that *"'Self-sufficiency' has been a feature of recent guidance, that is, that WPAs should plan for waste management sufficient capacity to deal with the waste arisings in their areas"*. The Glossary defines 'net self-sufficiency' as *"To provide waste*

*management capacity equivalent to the amount of waste arising and requiring management within the Plan Area". Please note that this relates to all waste management capacity, not just that relating to waste disposal.*

With regard to disposal locations for household waste arising in the County, it is primarily taken (via the MBT plant) to Redhill landfill site in Surrey.

2. Reason 2 uses the term 'visual amenity'. We do not understand this term. Please can you clarify what is meant by 'visual amenity'?

*The word 'visual amenity' is defined in the glossary to the Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment' (third edition 2013) as "The overall pleasantness of the views people enjoy of their surroundings, which provides an attractive visual setting or backdrop for the enjoyment of activities of the people living, working, recreating, visiting or travelling through an area".*

3. In terms of visual impact, please confirm at which particular viewpoints WSCC considers there to be unacceptable impacts? Please also confirm the difference in visual impact assessed when compared to the assessments that accompanied the allocation of the site in the Waste Local Plan.

During the Committee meeting, the members did not specify the specific viewpoints where impacts would be unacceptable. However, they did note that the scale of the facility was significant and that the intrinsic character and beauty of the area would be changed by the stack and the building.

The impact assessments undertaken in allocating sites in the Waste Local Plan are very high level, confirming only that there are no 'show-stoppers' in terms of each constraint that would prevent their allocation 'in principle', and identifying the development principles that apply for each site. However, this does not mean that any detailed proposal that may come forward is acceptable in terms of its visual impact, as was made clear in the officer's recommendation of refusal of the previous application (WSCC/062/16/NH). This is in keeping with Paragraph 7.1.3 of the Waste Local Plan, which states that *"Allocation of a site gives certainty to the waste industry and local communities about the acceptability 'in principle' of the use of an identified site for a future waste land-use. However, all planning applications must be judged on their merits and the allocation of a site in the Plan does not mean that a proposal for the allocated use will automatically be granted planning permission; the proposal must be acceptable in its own right taking into account all the material considerations"*.

4. In terms of traffic, we believe that the debate was conducted using traffic numbers that did not form the basis of the application. You will recall your query on this point during the debate. We have been advised that it would be in WSCC's best interests to reconsider its position on the basis of this reason for refusal, as this was made in error. There is otherwise no logical basis for this reason for refusal and it will inevitably be the subject of a costs application for any appeal Britaniacrest chooses to make. For the avoidance of any doubt, it would be impossible to operate the facility during construction, so construction traffic flows cannot be added to operational traffic flows. Should WSCC determine not to withdraw this reason for refusal, please confirm which junctions or links on the network or which part of the network WSCC allege would be unable to perform or severely impacted with the facility in construction or operation.

Thank you for clarifying the position regarding operating the plant during construction, which I note, for our records, relates to members stating that the

development would result in 356 HGV movements (i.e. the construction movements added to operational movements).

Given this misunderstanding by our members, it is our intention to ask them to clarify their position if an appeal is submitted. However, during the debate, members expressed concern about the impact of additional vehicles on un-dualled parts of the A24, the already congested A264, and on country roads in the area. As discussed in our meeting, we cannot withdraw any reasons for refusal once the decision notice is issued as this would in effect mean that we were seeking to issue a second decision on the same application.

5. In terms of 'residential amenity', please clarify the meaning of this term and confirm which of the topics assessed in your officer's report WSCC alleges would result in adverse effects on residential amenity. Please also state the manner in which residential amenity is adversely affected.

The fourth reason for refusal states that the development would have an unacceptable impact on residential amenity, with reference to Policies W10 and W19 of the West Sussex Waste Local Plan.

Policy W10 relates to the strategic waste allocations and refers to the development principles for each site. For the Wealden Brickworks site at Brookhurst Wood, these are set out at paragraph 7.3.15 and include:

- *"assessment of impact (e.g. traffic, noise, odour) on the amenity of nearby dwellings and businesses and possible mitigation required; and*
- *the cumulative impacts of traffic, noise, and odour on the environment and local communities to be satisfactorily addressed and mitigated as required, taking into account all existing, permitted, allocated, or proposed development within the wider area;"*

Policy W19 relates to Public Health and Amenity and refers to lighting, noise, dust, odours and other emissions, including those arising from traffic.

In terms of the topics of concern in this regard, the impact on residential amenity is considered at paragraphs 9.55 to 9.74 of the Committee Report. During the debate, members expressed concerns about noise impacts during construction and operation; disturbance from vehicle movements, particularly along country roads; and the impact on vulnerable groups. However, WSCC reserves the right to clarify our position if an appeal is submitted.

6. In terms of public health, we would be grateful if you could confirm by which pathway WSCC alleges the proposal would cause a significant adverse impact. Is this emissions from construction or operational traffic or is this the fear that a perception of risk might lead to an impact on public health? If so, please explain on what basis this judgement has been made. Please also explain what population was considered by the councillors in reaching their decision. As you know, this is an area that can be very wide ranging and costly and is already dealt with by the Environment Agency in its duty as Regulator. We would recommend that WSCC considers its position carefully in this regard, as the debate that we witnessed was not informed by any evidence, and there is a separate regulatory process that should not be undermined or duplicated in this area. We would strongly encourage WSCC to either set out the evidential basis upon which it has made its decision or withdraw this reason for refusal.

During the debate, members expressed concern over the public health impacts on 'vulnerable groups', especially children; about the impact of NOX and CO2 in the plume; and the cumulative impact of stack emissions along with vehicles

travelling to/from the site and dust. There were also concerns about the lack of certainty provided by Public Health England's response (at paragraph 9.80 of the Officer's Report) that there is 'unlikely' to be an impact on public health.

As noted above, we cannot lawfully withdraw reasons for refusal. However, we intend to ask the members to clarify their position on all of their reasons for refusal.

7. With regard to cumulative effects, please confirm what other existing, allocated and permitted development, including the North of Horsham development, should have been considered in the application that was not considered, or what other evidence the council relied upon to reach its decision, other than the Environmental Statement that accompanied the application. Please provide this evidence if it exists.

Members did not specify that any other development should have been considered.

Regards  
Jane.

**Jane Moseley**

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**From:** Daniel Smyth [mailto:[smythD@rpsgroup.com](mailto:smythD@rpsgroup.com)]  
**Sent:** 29 August 2018 15:01  
**To:** Jane Moseley  
**Cc:** Chris Lecointe; Keith Riley; Camilla Fisher; Katie Kam  
**Subject:** RE: Former Wealden Brickworks

Dear Jane

Please see attached a letter requesting clarification of the reasons for refusal given by WSCC in refusing consent for the 3Rs application at the former Wealden Brickworks site.

Please note that we have also requested your availability for a meeting to explore whether there are any opportunities to revise the application to address the reasons for refusal and submit a revised application to address any legitimate concerns and avoid the need to incur the costs and delay of progressing an appeal.

I trust the content of the letter is clear but please let me know if you would like to discuss this before responding.

I trust you had a good holiday break.

Kind regards

Dan

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