

HEARING SESSION 1 HEARING STATEMENT

Introduction

1. Hearing Session 1 will be conducted on Tuesday 23rd March at 10.00 a.m. and will discuss 'Strategic/Policy Considerations'.
2. The initial questions and discussion points surround:
 - National Policy;
 - Conformity with the development plan;
 - Need for the ERF and rationale for site location/consideration of alternatives;
 - Waste Planning Assessment and Sustainability Considerations;
 - Publication of WG strategy 'Beyond Recycling' (2 March 2021).
3. Môr Hafren Bio Power Limited (the Applicant) confirms that the Hearing Session will be led by Planning Agent, Maureen Darrie (Director, GP Planning Limited) on its behalf.
4. Relevant specialists responsible for preparation of the technical input into the assessment of the above impacts will be available to answer specific technical points raised by the Inspector or Inspector or in response to matters raised by interested parties attending the Hearing Session.
5. This Hearing Statement is submitted in advance of the closing date for further representations in response to additional information submitted by the Applicant on 1st February 2021, the closing date for which is 11th February 2021.
6. At the time of preparing the Hearing Statement no further responses have been received.
7. The Applicant respectfully requests an opportunity to respond to any comments raised in respect of the matters to be raised at this Hearing Session, either in advance or by way of an Opening Statement.

National Policy

8. Point 1 relates to Future Wales: the national plan 2040 and Planning Policy Wales (PPW) Edition 11, 24th February 2021. The question posed for consideration relates to whether both documents materially alter the national policy considerations which bear upon the determination of the application and, if so, in what respect.
9. The Applicant addresses PPW and relevant policy in its formal planning application in the Planning Statement (DOC 9), Waste Planning Statement (DOC 10) and Environmental Statement (DOC 34).
10. During the course of the examination, the Applicant was also required to submit a position statement on the proposed changes to the National Development Framework, which were laid before the Senedd for 90 days on Monday 21st September 2020. The Applicant's document (DOC 82) is a statement on the implications arising from the document.

11. The Applicant maintains its position on the National Plan, as laid out in DOC 82, as nothing has changed in respect of policy direction.
12. The pertinent policy matters in PPW 11 are already covered in the submitted documents referred to above. The Applicant does not consider that any new policy issues relating to built waste management infrastructure materially alters the considerations or bear upon the determination of the application.

Local Policy

13. Point 2 relates to conformity with development plan and is addressed to Cardiff Council. It specifically asks if the LPA considers that the proposed development conflicts with any of the policies in the Development Plan and, if so, in what way.
14. At the time of preparing this Statement, the only document that has been submitted by the Council is the Local Impact Report (LIR).
15. The LIR refers to relevant policies. The LIR refers to specific topic areas and matters to be addressed by the Applicant.
16. The Applicant has addressed a range of matters raised in the LIR.
17. The Applicant has also addressed policy compliance in the submitted application documents (referenced in 9. above).
18. Of particular relevance is the fact that planning permission has previously been granted at the site for a waste management use, so the principle of a waste management use is established. Furthermore the site's allocation for employment use makes it a preferable location for any future waste management use.
19. The Applicant is seeking to agree a Statement of Common Ground with the Council which will be available in advance of the Hearings and will specifically address any areas of difference between the parties on policy compliance.

Need for the ERF and rationale of site consideration and location of alternatives

20. Point 3 relates to the above matters and seeks views on:
 - The key waste statistics (including source references) that provide the most authoritative, reliable and accurate basis for assessing the need for the ERF within the SE Wales context through the life of the development;
 - The key factors that support the selection of the site to accommodate the proposed ERF facility;
 - The extent to which other sites were considered and was the initial sieving exercise restricted to sites already possessing planning permission for a waste processing facility, and why.
21. In respect of bullet point one, the Applicant has provided a Waste Planning Assessment (DOC 10) as part of the formal planning application submission. The Applicant has also provide a response to third parties in DOC 100, Technical Note 1.
22. In respect of bullet point 2, the Environmental Statement (DOC 34) addresses consideration of alternatives in Chapter 5.

23. As described in Chapter 5 of the ES, the EIA Regulations 2017 brought in a requirement for the consideration of reasonable alternatives. Regulation 17(d) states that an environmental statement is a statement that provides at least, *inter alia*:
- d) a description of the reasonable alternatives studied by the applicant or appellant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the development on the environment.*
24. It is relevant to note that there is no specific direction in the EIA Regulations relating to how an assessment of alternatives should be carried out.
25. It is clear that the Regulations require an assessment of ‘reasonable’ alternatives and not ‘all’ alternatives. Alternatives in this context can relate to locational factors as well as technology selection, which has the potential to impact on the likelihood of significant effects.
26. The Applicant has taken a reasonable and proportionate approach to the consideration of alternatives and in the absence of a formal request for additional information under the Regulations considers that a compliant ES has been provided.
27. In determining an appropriate site for the establishment of an ERF in South Wales, the Applicant’s consideration of alternative sites was based on three key considerations:
1. Environmental and planning considerations;
 2. Commercial considerations, and
 3. Grid Connection.
28. In terms of environmental and planning considerations, the Applicant’s search for a suitable site was based on minimising planning risk and centred on sites which already had the benefit of planning permission for a waste management development with thermal treatment of waste at a similar proposed throughput. This is consistent with the Applicant’s model elsewhere.
29. Sites with planning permission have already been assessed against national and local planning policy and were deemed acceptable for waste management uses and the likely effects of the development of a thermal waste treatment facilities were not deemed significant.
30. The second, and critical element, was commercial consideration.
31. The Applicant recognised a need for privately funded waste infrastructure in this part of Wales and was keen to invest further in developing infrastructure in Wales, without input from public sources.
32. Having established a model based on sites with planning permission, the next step was to establish which, if any sites, were available for sale.
33. Having looked at the sites in the locality, the site at Newlands Road presented a commercial opportunity.
34. At the time of procuring the site and considering alternative sites with planning permission, the Applicant was able to view the sites on a par in terms of their acceptability in planning terms given that planning permissions for an appropriate use had already been granted.
35. The ability to connect to the Grid was also critical. The site did not have a grid connection but an opportunity to connect has now been realised.

Waste Planning Assessment and Sustainability Considerations

36. Part 4 of the Agenda seeks responses on the following:
- How will it be ensured that the ERF only takes commercial and industrial residual waste that would otherwise go to landfill and what specific kinds of waste fall within this definition and from what types of facility would the feedstock be sourced?
 - How much certainty is placed on the availability of sufficient amounts of such waste from within a 30 mile radius (within Wales) for the lifetime of the development?
 - How significant is the possibility that advances in waste recycling technologies will diminish the availability of residual feedstock over the lifetime of the development? Alternatively, is there a risk that the development would disincentivise the development of such technologies?
 - What alternative feedstock would be used if adequate feedstock within the above parameters could not be obtained?
 - How would the development contribute to meeting the national objectives in Towards Zero Waste and achieving net zero carbon emissions by 2050?
 - What measures are proposed to ensure the GVA generated by the development will impact local or wider impact areas?
 - Has consideration been given to offering an element of local ownership in the scheme? Is this practicable?
 - How realistic is the stated opportunity for heat from the ERF to be supplied to local businesses?
37. In respect of bullet point one, the planning application and environmental impact assessment carried out is based on the characteristics of the specified feedstock. Any planning application granted would require the development to be carried out in accordance with the approved plans and documents. Any deviation from those would require changes to the permission or the grant of full planning permission dependent on the nature of any changes proposed. Notwithstanding this point, the Applicant is satisfied that there is sufficient feedstock of the type applied for and the technology selected for the ERF is specifically designed to accommodate this feedstock.
38. Furthermore, the quantity, nature, type and specific permitted European Waste Codes (EWC) will be controlled via specific conditions in the Environmental Permit. As well as the detailed plant design, the associated modelling and other parameters set out in the application for an Environmental Permit will all be related to this feedstock.
39. In respect of bullet point 2, the application seeks planning permission deal with feedstock arising from *'predominantly within a 30 mile catchment area'*. This is specified in the Planning Statement (DOC 9) at paragraphs 4.2.6 and 5.7.4 (pages 33 and 49 respectively).
40. In respect of bullet point 3, it is relevant to note that feedstock supply to the plant will be controlled through a single supply contract. This contract places an obligation on the supplier to provide suitable feedstock and certain levels for the 25 year life of the proposed ERF. This is a common arrangement and required by investors wishing to guarantee appropriate returns for the life of the plant.
41. It is common misconception that increased waste recovery and recycling significantly impacts on the availability of residual waste post treatment. This is a simplistic proposition and needs to be looked at in context of a rising population, the ERF location in a growth area (generating more waste) and the shift away from landfill to methods of waste management up the waste hierarchy.
42. Evidence from the five European Countries with the highest recycling rates shows that they concurrently have the highest usage of EfW as a waste management solution. Aligned to this is a very low % use of landfill. There is a role for both to play and a positive role for EfW to play in the transition to zero waste.

43. There is evidence to show that waste to energy facilities are more complementary to recycling efforts rather than conflicting. In the first instance adequate planning and operational controls can be imposed to ensure that only residual waste is processed.
44. In terms of bullet point 4, as mentioned above, the fuel will be controlled through the permit. Any changes to the feedstock would require changes to the regulatory controls and possibly the plant itself. For these reasons, the Applicant is confident that the type and quantity of feedstock can be secured.
45. In terms of bullet point 5, the proposed ERF has a positive role to play in the transition to towards zero waste. The Applicant has provided a WRATE Assessment, Appendix 1 (DOC 10 Waste Planning Assessment) , which demonstrates that the facility makes a significant contribution to the climate change agenda and national policy objectives. The ERF will significantly contribute to closed loop recycling through the use and recovery of energy from residual waste. The technology used can also be used to decarbonise other sectors such as transport. As well as energy there is the prospect of heat recovery and use and re-use of furnace bottom ash in the form of a secondary aggregate.
46. The Applicant has demonstrated significant levels of GVA through construction and operation of the plant for the local and wider economy (bullet point six). It is reasonable to assume that a large proportion of the GVA generated will be retained in the locality through local supply chains and employment. The plant comprises specialist technology and components, some of which will be sourced abroad as that cannot be avoided. However, the Applicant will exercise reasonable endeavours to ensure that as much GVA as practicable remains for the benefit of the local economy.
47. In terms of local ownership (bullet point seven), the proposed ERF is privately funded. It is not currently practicable to involve local ownership but the facility would be inextricably linked to the local area through job creation, electricity generation to the local grid and opportunities for heat offtake to local businesses. The requirement for local ownership is not a planning consideration. However, through the purchase of the site and investment, the Applicant is wedded to the local area and the resultant positive benefits the plant can offer.
48. In terms of bullet point eight, the proposed ERF will be combined heat and power ready (CHP) and is being designed with the ability to add additional elements to allow heat to be distributed. The ability to bring this to fruition will be dictated by an appropriate scheme being available and the necessary infrastructure and back up heat sources being funded outside of this scheme by interested parties. The Applicant has engaged with prospective offtakers for heat and will continue to pursue options.

Beyond Recycling, March 2021

49. The final part of the Agenda relates to the recently published document, referenced above and three specific questions are posed:
 - What is the materiality of the strategy to the determination of the application?
 - How well does the proposal fit with the strategy and its milestones towards zero waste by 2050, including the intention to place a moratorium on all future large scale energy from waste developments?
 - What implications do the strategy and milestones have for the reliable availability of adequate supply of feedstock throughout the intended lifetime of the development?
50. The Applicant has duly considered the recently adopted strategy and whether there are any implications for the proposed ERF development.

51. The key point to note, is that this is a strategy. It is cited as 'living document' that sets out 'ambition'. Its focus is predominantly on achievements in public sector recycling and mechanisms for achieving improvements in public sector supply chains.
52. The Strategy (pages 6-8) sets out eight headline actions to accelerate the journey towards a circular economy and these actions are to be prioritised. Noticeable by absence, are the detailed mechanisms by which these actions will be achieved.
53. The Applicant notes that action 6 states a key step will be to transform the recycling of commercial, industrial, construction and demolition waste. There is no sense of how that is to be achieved.
54. The Applicant fully supports action 8. *'We will take full responsibility for our waste. We will reduce the amount of waste we produce and effectively manage the and what we create by having the infrastructure we need.'* This is entirely the purpose of the ERF, to provide appropriate infrastructure to manage residual waste.
55. The strategy lays out steps to be taken over the next 10 years and presents a timeline. The timeline of 'planned actions' relies upon additional consultation some actions requiring collaboration with other governments. The outcome of these actions are by no means certain and are not matters of policy that are considered material to the determination of this application.
56. As well as the headline actions, there are a series of other 'What we need to do?' at page 17/18. Again, aspirations and ambitions with no defined mechanism to achieve outcomes.
57. The strategy recognises that a range of actions are required to galvanise change including funding, legislation, taxation and procurement. These are not 'quick fixes' and meanwhile there is residual waste, declining landfill capacity and need for private sector funded infrastructure to provide a robust transition to achieve the strategy's aims and actions. This is a fundamental omission and will only shift the problem out of Wales or lower down the waste hierarchy contrary to the objectives of the strategy.
58. In addition to the headline actions, and other actions, the strategy states the government will also, *inter alia*:

Place a moratorium on future large scale energy from waste developments, as the increase in recycling and recycling and reduction in waste already means that we will not need any new large scale energy from waste infrastructure to deal with residual waste in Wales. We will also work with the UK Government to explore whether the introduction of an incineration tax would be desirable as a means to support the transition to a circular economy.

59. The Applicant comments as follows:
 - No mechanism is proposed for such a moratorium.
 - There is no definition of 'large scale'.
 - There is no evidence base in the strategy to support the assertion that increases in recycling and waste reduction lead to the conclusions regarding energy from waste infrastructure.
 - **This is NOT a statement of policy and is not material to the determination of this application.**

Maureen Darrie, Director
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