

## **SUMMARY**

### **Introduction**

- S1 In 2006 SITA Cornwall Limited (SITA) entered into an Integrated Waste Management Contract with Cornwall County Council. The contract is to manage the recycling, composting, recovery and disposal of Cornwall's municipal waste for a 30 year period.
- S2 The contract requires, amongst other matters, for SITA to construct a single centrally located energy from waste (EfW) facility to deal with residual waste arisings in Cornwall.
- S3 The contract specifies land at Rostowrack Farm, St Dennis as the site for the new plant. The Council is to make the land available to SITA, and be responsible for providing the access road and haul road.

### **Background**

- S4 The site of the proposed CERC buildings is located between the villages of St Dennis and Treviscoe. It is on agricultural land to the north of a mineral railway line that separates the site from buildings and plant associated with the china clay industry.
- S5 Throughout the course of late 2006 and all of 2007 discussions were held with Cornwall County Council planning officers to identify key matters that needed addressing in the preparation of the planning application and to seek advice in response to specific issues.
- S6 The planning application was submitted on 20 March 2008.
- S7 The Council's Planning (Development Control) Committee considered the application on 26 March 2009 (CD B1 and B2).

- S8 The comprehensive report to the Committee succinctly sets out in paragraphs 125 to 130 inclusive why planning permission for the development should be granted (CD B1). The officer's overall conclusion in paragraph 131 is that:
- a. "I believe the proposal is in accordance with National policies and the Development Plan. There are no other material considerations that would lead me to make a recommendation other than for approval".
- S9 Notwithstanding the very clear "overall conclusion" in the officer's report and its recommendation for approval the Committee resolved to refuse the application.

### **Need**

- S10 Both the Waste Local Plan (CD D5) and Submission Stage Waste Development Framework (CD D6) include appendices setting out assessments of future waste management needs. In the case of the former document it assumes the provision of a 200,000 tonne per annum energy from waste plant. In the case of the latter document its assessment assumes "the capacity of the plant will be 240,000 tonnes per annum".
- S11 SITA produced its own assessment of need (CD A2).
- S12 The assessment concluded "that the proposed EfW facility is well judged in terms of its scale if it is to meet the need for the management of residual MSW in Cornwall".
- S13 In reaching its conclusion the need assessment assumes that national recycling and composting targets will be met. Therefore the CERC will not "crowd out" recycling. This is reinforced by the terms of the contract which prevent waste put out for recycling to be taken to the plant.

## Policy Context

- S14 Waste Strategy 2007 (CD F1) is the most up to date statement of national waste policy and is a significant material consideration.
- S15 The CERC proposal will help to deliver the objectives of WS 2007. It will contribute significantly to increased diversion of residual municipal waste from landfill. It will therefore help meet or exceed Cornwall's contribution to national targets for reducing landfill. It will help meet or exceed Cornwall's contribution to national targets for recovery of energy from residual waste. It provides both the opportunity to increase diversion from landfill of non-municipal waste and achieve the synergy referred to in WS 2007 through the recovery of commercial and industrial waste, if there is spare capacity. It delivers investment in a timely manner in a key piece of infrastructure to achieve the other objectives.
- S16 The Energy White Paper (2007) (CD E1) is a material consideration and places energy from waste in a wider energy policy context.
- S17 The CERC proposal will help to meet the objectives of the Energy White Paper by providing electricity and heat. The choice of site at Rostowrack Farm maximises opportunities for combined heat and power.
- S18 The glossary to the Planning and Climate Change Supplement to PPS 1 (CD E3) defines renewable energy as including energy from waste. The Supplement gives clear policy guidance that renewable projects, of which the CERC is one, should be promoted and encouraged.
- S19 Of particular significance to the CERC proposal is the policy advice of the PPS Supplement stating that applicants for energy development should not be required to demonstrate the "overall need for renewable energy".
- S20 Planning Policy Statement 10 (CD E6) sets out national policies for sustainable waste management.

- S21 The CERC contributes in a significant way to delivering the objectives of PPS 10. It will drive waste management up the waste hierarchy. It will use waste as a resource and substantially reduce reliance on landfill. It enables sufficient and timely provision of waste management facilities to meet the needs of Cornwall. It helps implement the national waste strategy, in line with European legislation. It helps to secure the recovery of waste without endangering human health and without harming the environment. It reflects the needs of the waste collection and waste disposal authority. The design and layout of the CERC supports sustainable waste management.
- S22 The Draft National Policy Statements for Energy (EN-1) (CD E17) and Renewable Energy Infrastructure (EN-3) (CD E18) have some relevance. EN-1 states “The Infrastructure Planning Commission does not need to consider the relative advantages of one technology over another given the Government’s view that companies should be permitted to determine the individual projects to bring forward within the strategic framework set by Government, taking account of the clear benefits of a diverse energy mix”.
- S23 The draft South West Regional Spatial Strategy (CD D2) includes as part of Policy W2 criteria for the location of new “strategic’ waste management facilities. It proposes a sequential approach. Of the three steps in the sequence the third is “in close proximity to the urban area primarily served by the facility”.
- S24 The CERC is not intended to serve any one urban area but the whole of Cornwall. It is well located to do that. It therefore satisfies the sequential test of Policy W2.
- S25 The County Structure Plan deals with waste management in Policy 6. The supporting text states that “the detailed framework for the management of all wastes is set out in the Cornwall Waste Local Plan.

- S26 The Waste Local Plan is the most relevant Development Plan document for assessing the application.
- S27 It is a ‘saved’ Development Plan document. The strategy in the Plan is for a single EfW plant . This is reflected by a clear policy support for a single Energy from Waste Plant in the Central Cornwall area of Search.
- S28 The Waste Local Plan recognises that the approach of a single centralised EfW plant “could have a significant visual and landscape impact”.
- S29 Chapter 6 of the Waste Local Plan sets out a suite of development control policies for protecting the environment. It is noteworthy that none of these policies are referred to in the reasons for refusal. The conclusion must be that the Council accepts that there are no “significant adverse effects” on any of the environmental assets referred to in the policies.
- S30 The Submission Stage Waste Development Framework is also a material consideration. It repeats the strategy of support for a single Energy from Waste Plant and identifies the application site as one of two preferred sites for such a facility.
- S31 Policy CC4 of the Mineral Local Plan identifies areas where “applications for plant development will be considered favourably”. About seventy percent of the plant part of the application site is shown as part of a larger area where Policy CC4 applies. This demonstrates that the principle of development of part of the site has been accepted by the planning authority for what could be large scale development.
- S32 The Restormel Local Plan pre-dates the Waste Local Plan. The Restormel Local Plan (CD D4) is not a development plan document for considering applications for waste management facilities. Therefore little weight should be attached to it in the consideration of this application.

## Reasons for refusal

### *Reason for refusal 1*

- S33 My assessment of the proposal against Policy L6 of the Waste Local Plan is that it satisfies criteria (a), (c), (d), (e), and (g). Criterion (f) is not relevant. In the case of criterion (b) it meets at least the spirit of the criterion. In the case of criterion (h) the proposal exceeds the capacity limitation but there are justifiable reasons why an exception should be made.

### *Reason for refusal 6*

- S34 The approach adopted in the assessment of alternative sites is proportionate with the requirements of the Town and Country Planning (EIA) Regulations to provide “an outline of the main alternatives” and “an indication of the main reasons for ....choice taking into account environmental effects”.
- S35 The approach adopted in the applicant’s assessment of alternative sites, is not dissimilar to the approach in the Cornwall Centralised Energy from Waste Facility Site Search Report (2006) undertaken by the Council.

### *Reason for refusal 7*

- S36 The reason for refusal states that the development is “contrary to the regeneration ambitions of the china clay area within the china clay Strategic Investment Framework....”. However, the likelihood of the CERC proposal is clearly acknowledged in the St Austell, St Blazey and Clay Area Strategic Investment Framework and Economic Strategy. Furthermore, the proposed development fully meets the key priorities of the document (providing new employment, improving operation of the china clay industry, providing renewable energy). It will also contribute to regeneration by increasing spend in local businesses during construction and operation.

S37 The CERC is also, in itself, part of the regeneration of the area. It is a modern, up to date facility moving management of waste up the waste hierarchy in a new purpose designed building of distinctive architecture. The proposals as a whole are supportive of regeneration ambitions.

*Reason for refusal 8*

S38 The very comprehensive and detailed scoping opinion issued by the Council makes no reference in the transport section to assessing the use of rail in the EIA. The Council as Waste Disposal Authority did not make it a requirement of the IWMC that use be made of rail. It is clear that it was the Council, not SITA, that decided not to transport waste by rail as it was considered too costly (as stated by both the WDA and the County Council's Environment Policy Development and Scrutiny Committee). However, the proposals do allow for the potential for rail transport in the future.

S39 The text supporting Policy 1 of the County Structure Plan (CD D3) comments on "the need to ensure that the most accessible location (by all means of travel) is chosen to meet the particular development need". The CERC application site meets this test. The development is serving a county need and therefore it is in reasonable proximity and accessibility to the primary road network and adjoins an operational railway line providing the opportunity to utilise rail in the future.

**Conclusion**

S40 It is inevitable that in a county such as Cornwall a project of the type and scale proposed will have some adverse impacts.

S41 I particularly acknowledge that there are visual impacts, noise impacts, and impacts for users of public footpaths.

S42 I consider that the national policy support, the general consistency with the development plan and the overriding need in relation to acknowledged impacts lead to the clear conclusion that the appeal should be allowed.

S43 Added to this, there will be serious consequences arising from failure to grant permission, as highlighted in Fichtner's report to the Council referred to in paragraph 9.56 of my proof, namely a delay of 9 years and £150 million in additional costs. This adds further weight to my conclusion that the appeal should be allowed.