Rivenhall Parish Council

SERVING THE COMMUNITIES OF RIVENHALL AND RIVENHALL END IN THE BRAINTREE DISTRICT IN THE COUNTY OF ESSEX

CLERK TO THE PARISH COUNCIL

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Our Ref: F4/R4

Essex County Council
Minerals & Waste Planning
Environmental Planning
County Hall
Chelmsford
CM1 1QH

Dear Sir/Madam,

Application No: ESS/34/15/BTE – Variation of Condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility.

Rivenhall Parish Council resolved at its September 2015 monthly meeting to object to the above application for the following reasons.

This latest application is a combined Section 73 application to vary the drawings and plans covered by condition 2 of the original consent, with also a series of condition submission of details documents.

However, and as per previous patterns with the applicant, it is an application seeking (via the Section 73 application) to significantly vary the nature of the plant – yet at the same time removing the previously set out internal processing detail and substituting this with "indicative" drawings.

This latter change adds to the problem of uncertainty surrounding this plant which has been the subject of many applications to vary, from the original "RCF" (and iterations) through to the "eRCF" (and iterations), followed by the consent for the IWMF in 2010 and subsequent applications to vary that consent through phasing it (unsuccessful), removal of geographic sourcing of the main inputs of incinerator waste and paper/card and also extending the consent to 7 years.

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The applicant has not built, nor appears able to build, what he has planning permission for. It is not the role of the planning system to allow "planning creep" whereby a scheme is moved by stages to something substantially different to that originally consented.

It is accepted that the external appearance of the plant is not proposed to change significantly (though the stack height remains uncertain), however the key matter in this application is the proposed major change in the function of the plant in the way it treats waste, which was of course a key consideration of the 2009 Inquiry and the Secretary of State's decision.

The applicant has already had over 5 years to submit details and apply for an Environmental Permit. He has been given an extra year to March 2016 by Essex County Council yet is appealing to the Planning Inspectorate for another year to 2017 – a matter on which the Parish Council has already commented.

At this late stage, it is unacceptable to allow a significant change in the function of the plant through a Section 73 application. The effect of the application to change the process flow diagrams and remove internal layout detail covered by condition 2 is not a minor change, it is a fundamental change, as discussed in more detail below.

Furthermore, the applicant has stated in the current application that yet more applications will be submitted, which just adds to the planning creep.

When the applicant submitted his application to remove geographical sourcing of paper and incinerator fuel, he set out arguments clearly indicating an intention to move towards increased reliance on waste incineration and a lower commitment to recycling and composting. That application discussed the plant in terms of a merchant C&I waste facility and also argued for a wider range of incinerator inputs.

The intensified emphasis on incineration is now set out in the new application before Essex County Council and raises questions about the description that it is an "integrated facility" and the status as a claimed "Combined Heat and Power" (CHP) plant. That latter description was only ever based on using heat and steam from the incinerator to (internal) benefit of the paper pulping plant, not for any external benefit. Now the new application proposes almost halving the capacity of the paper pulping plant.

It is clear that the application seeks to make way for a much larger incinerator capacity by reducing recycling elements of the facility and changing the balance of internal waste circulation/export from the plant.

The increased incinerator capacity over the consented tonnage (360 ktpa) is 65%. It should be noted that this is an increase of 98% over the first iteration of the eRCF (now IWMF) which proposed a 300 ktpa waste incinerator.

The calculation shown by the applicant relating to energy yield is not a material consideration. The consented facility had an incinerator/CHP capacity of 360 ktpa, not over 400 ktpa as claimed. The consent capacity was set out both in the process diagrams, the text and was related to the transport assessments.

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The paper pulping plant is now proposed in the new application to be reduced from 360 ktpa to just 170 ktpa, a reduction of 53%. The paper pulping plant was advanced by the applicant, and was key to the 2010 decision, as a justification for such a large plant, located as it is in the countryside.

The MBT is proposed to be reduced from a capacity of 250 ktpa to 170 ktpa.

The MRF is proposed to be increased from a capacity of 287.5 ktpa to 300 ktpa, though it is unclear (see below) how this relates to the proposed export of recyclable materials.

The AD (food composting) plant is proposed to be reduced from 85 ktpa to just 30 ktpa.

The "eRCF" was proposed as a "closed loop" system where the paper pulping plant and incinerator (CHP) were closely linked. This proposal was used to justify the CHP designation. However, now not only is the incinerator proposed to rely far more on imported RDF (337.5 ktpa), the previous proposal to use sludge from the paper pulping plant to fuel the incinerator has been abandoned. It is now proposed to export the sludge (68 ktpa) by road.

So it is clear that in order to make the incinerator capacity much larger, recycling elements of the plant have been greatly reduced, so that the overall plant capacity stays within its previous planning limit on total tonnage inputs.

The much larger incinerator also results in the export of ash by road more than doubling. With the additional export of paper pulp sludge, the "closed loop" scenario of the consented plant is now much weakened (see details below).

The current application includes a helpful comparison of the consented haulage tonnages and that now proposed as set out in tables 1 and 2 of the Traffic Flow Review.

This information confirms the sharp shift in emphasis of the plant away from an integrated facility with a significant recycling function, towards a plant dominated by the burning and disposal of waste.

The consented plant flows in table 1 show that of the 853,500 tpa total inputs, 300,500 tpa is exported as recycled product – a conversion rate of 35%. The landfill and ash exports are shown as totalling 117,575 tpa, a conversion rate of 14%. [It is understood that the balance tonnage loss is due to drying, digestion and burning].

The new proposal in table 2 shows that of the total inputs of 863,692 tpa (note this breaches condition 29 of the consent), 163,771 tpa is exported as recycled product – a conversion rate of just 19%, almost halving that of the original consent proposal. The landfill, ash and new element of exported sludge are shown as totalling 231,054 tpa, a conversion rate of 27%, almost double that of the original consented proposal.

So now, the applicant proposes that the plant will export far more waste material than recycled product, whereas in the 2010 consent it was the other way round.

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The discrepancies in the flows should be the subject of a request to the applicant for clarification. It is stated in table 2 that the rejects total is just 1.5 ktpa. Yet in the consented plant, this was 42.5 ktpa – why are the figures so different ? Secondly, why is the export of recyclables from the MRF and MBT only 45 ktpa ? The combined capacity of these two elements is 470 ktpa as stated in the Section 73 Statement of Support document. The implication, even allowing for assumed MBT drying losses and rejects from the MRF, is that the majority of material sent to the MRF will be incinerated.

In the decision letter of March 2010, the Secretary of State at paragraph 14 stated that the plant as proposed met policy by driving waste management up the waste hierarchy, provided facilities to meet the needs of the community and would help to reduce carbon emissions.

Comparing the current application to the consented plant it is clear that waste management is being driven down the waste hierarchy, the recycling outputs falling from 35% of inputs to just 19% and the export of rejects to landfill, ash and sludge totalling 27% of inputs compared to just 14% in the original. The much larger incinerator capacity will draw in more waste and from further afield, in breach of the proximity principle, material that will be destroyed in terms of recyclable resource. The increased incinerator capacity will also produce higher levels of carbon emissions as no carbon capture process is proposed. The new emissions will be of the order of 500,000 tonnes CO2 per annum, pumped directly into the atmosphere.

In short the new plant proposal is unsustainable development, can no longer demonstrate that it is "integrated" facility and the argument of CHP benefit is weakened.

The larger incinerator capacity also raises further questions about the stack height. The applicant still maintains it will be 35m high, though he knows the height will be decided by the Environment Agency. For comparison, the recently commissioned (much smaller capacity) incinerator at Ipswich has a stack 81.5m high.

The applicant appears prepared to commence construction without the stack height and design being certain. This would be a breach of condition 14 (which requires elevations to appropriate scales of the stack) and condition 56 (which limits the stack height to 85 m above OD - i.e. a 35m stack above current ground levels).

Condition 14 states specifically that no development shall commence until the final details of the stack height are determined – it states that the stack shall be constructed and maintained in accordance with those details submitted (prior to construction commencing).

Yet it is indisputable that the stack height can only be known with certainty through the Environmental Permit process, which has yet not begun and can take up to 9 months according to the Environment Agency (EA). The proposed stack height of 35m needs to be seen in the context of stack heights permitted by the EA in England. At the 2009 Inquiry information from the EA was given to the Inquiry that no stacks that low had been consented for many years and that typical heights were in the range 70 to 90m. As previously stated, the Ipswich EfW plant, which has a much smaller capacity than that proposed at Rivenhall, has a stack 81.5m high.

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The larger incinerator capacity also means that there will be more pollution emitted, which local communities, wildlife, farmland, etc will be exposed to depending on weather conditions. When the wind is blowing from just West of North then Rivenhall will be downwind of the plume. The residents of Rivenhall, along with the residents of all the other communities around the site, will want to know what pollution they are to be exposed to and how high the stack will be - and again - that is only something which will emerge from the permit process. The permitting process is also key to the landscape impact of the stack, which is of course largely a function of its height. The impact on the local rural landscape was a key consideration of the 2009 Inquiry.

The Secretary of State made this clear in the decision letter in March 2010 when at paragraph 22 the S o S said "until a more thorough assessment is undertaken ... no firm conclusion can be reached" on stack height. The only means of undertaking that assessment, and to include the consultation that the S o S also referred to, is via the permitting process. Therefore, the apparent intention to proceed with construction when the stack remains uncertain would be a breach of conditions.

In respect of other matters relevant to Rivenhall, the applicant is now proposing a 2 way road around 3 sides of the building. This arrangement is shown clearly on the plans as linking directly to Woodhouse Lane. The applicant says in the application that he has no intention to use the lane. So why is that connection included ? The applicant should be asked to explain the intention of that link.

Because there is a weight restriction in Hollow Road, Kelvedon any waste site HGVs that did go in and out of the site using Woodhouse Lane would have to go through either Silver End or Rivenhall, and non HGV traffic would have no restrictions at all. The Parish Council notes that despite there being a longstanding assurance that "all quarry and waste site traffic will use the dedicated haul road access to the A120", Essex County Council recently approved an application for the quarry to use Woodhouse Lane for some of the site traffic to the A3/A4 quarry extensions. Clearly there is a precedent set and even if the waste site used the same argument that it was not to be used for heavy transport, a long standing concern locally is what happens when the single carriageway A120 access is blocked due to road crashes or heavy congestion resulting in drivers seeking alternative routes ?

With regard to the submission of condition details, the lighting details submitted in the application are poorly presented but nevertheless it can be seen that whilst some of the column mounted lighting looks reasonably well designed, the lighting on the main building has designs that are insensitive to the dark skies location and contrary to the National Planning Policy Framework which requires that naturally dark landscapes and skies are protected from light pollution. The design proposed include bulkhead units and non-asymmetric 400W floodlights. These have the potential to increase light pollution significantly in what is currently a very dark area where species such as bats and barn owls thrive. The applicant should be required to resubmit with a fully "dark skies friendly" proposal, to also include the agreed timing controls.

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In conclusion, the applicant has sought to claim that the proposed changes are "minor" and relate to changing of a condition. They are clearly not minor and involve fundamental changes to the plant functions much more towards waste disposal and away from recycling, alongside the likely increased haulage distances that follow from the cancelling of the sourcing conditions by the County Council. At the same time the applicant is proposing to remove agreed internal plant details and submit further applications at a later date.

The stack height remains uncertain. It would be a clear breach of conditions to not provide agreed final drawings of the stack prior to commencement, and yet those details cannot be known until the permit process has considered and decided upon them.

The legislation states that the planning authority has the ability to refuse a section 73 application. Rivenhall Parish Council submits that the County Council should do exactly that. If the applicant is unable (as it appears) to build the consented plant, then any substantially different plant (as currently proposed) would need a fresh application and a fresh justification against current policies, putting an end to the years of multiple applications and planning creep to which local communities have been subjected.

Yours truly,
Keith P. Taylor
Clerk to the Council.