

MW



Our Ref: BH/LW/CJM  
EA2006/0651  
Your Ref: 06/1427/FUL

Development Standards  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD  
FAO: Mr Mark Williamson

1 DEC 2006

If telephoning ask for:  
Linda White

7 December 2006

Dear Sirs

**TOWN & COUNTRY PLANNING SCOTLAND ACT 1997  
PLANNING APPLICATION: 06/01427/FUL  
PROPOSED DEVELOPMENT OF AN ENERGY FROM WASTE PLANT TOGETHER WITH A  
MATERIALS RECLAMATION FACILITY, ASSOCIATED INFRASTRUCTURE & LANDSCAPE  
WORKS AT LAND AT BINN FARM, GLENFARG**

I refer to my letter dated 15 September 2006 regarding the above application and a subsequent meeting held on 30 October 2006 between representatives of SITA, AXIS and SEPA and the meeting held on 23 November 2006 between SEPA (Linda White, Ian Buchanan, Emma Taylor, Katherine Donnachie and John Lamb) and the Council's waste, planning and environmental health representatives.

**SUMMARY OF SEPA's PRESENT POSITION**

Having now considered the comments made by the agents, AXIS, in their representations dated 19 October 2006 and 3 November 2006, together with the points discussed at the SEPA-Council liaison meeting, SEPA wishes to confirm its current position on this planning application. The numbering is consistent with SEPA's earlier response.

1. SEPA **withdraws its first objection** to the extent that objection was based on the grounds that the applicant had not demonstrated a need for development of an Energy from Waste (EfW) plant with an operational capacity of 60 000 tonnes per annum to process Perth and Kinross Councils Municipal Solid Waste (MSW); however SEPA **sustains its first objection** to the extent that objection was based on the grounds that the applicant has not demonstrated that the proposal has been assessed rigorously against alternatives in support of Policy 77 of the Perth Area/ Central Area Local Plan and the Environmental Impact Assessment (Scotland) Regulations 1990;
2. SEPA **withdraws its second objection** which was based on the grounds that the applicant had not provided sufficient information to assess the potential impact upon the environment relative to protection of air quality and the water environment; and

Cont....



Chairman  
Sir Ken Collins

Chief Executive  
Dr Campbell Gemmell

**Edinburgh Office**  
Clearwater House, Heriot Watt Research Park  
Avenue north, Riccarton, Edinburgh EH14 4AP  
tel 0131 449 7296 fax 0131 449 7277  
www.sepa.org.uk

2.

3. **SEPA sustains its third objection** to the proposal on the grounds that the proposal does not maximise potential energy recovery in accordance with national planning policy and advice with particular regard to PAN 63: Waste Management Planning, SEPA's Thermal Treatment Guidelines and the Scottish Executive's SPP10: Planning for Waste Management (Draft).

As you are aware planning decisions should always be made on planning grounds. Scottish Ministers expect that the planning system is not used to secure objectives that are more properly achieved under other legislation. The grant of planning permission does not remove the need for prospective developers or operators to seek other statutory consents nor does it imply that these consents will be forthcoming. Even where legal or administrative measures outwith the planning system exist for controlling a particular activity, this can still be a consideration to which weight is given. If a consideration is material in planning terms, it must be taken into account in reaching a decision.

The recently published PAN 51: Planning, Environmental Protection and Regulation states that where SEPA is required to provide comments on a planning application and is also the environmental regulator, then the Agency should assess the land use aspects of the planning application to clarify whether, on the information available at the time, the proposed development is potentially capable of being consented under the licensing regime. SEPA has sought to fulfil this duty in compiling its representations to the current EfW proposal and accordingly, SEPA advises the Council that **based upon the information submitted, it is unlikely that SEPA would grant a permit under the Pollution Prevention and Control (Scotland) Regulations (as amended).**

Accordingly, SEPA would draw your attention to PAN 51 which states that:

*A grant of planning permission can be said to "establish the principle of development" but this is only relevant to planning. It carries no weight so far as environmental protection regimes are concerned. The granting of planning consent does not therefore establish anything so far as other licences, permissions or authorisations are concerned, and they have to be determined according to their own requirements. A valid planning consent must be in place, however, before a Waste Management Licence (WML) or PPC permit can be issued. Nevertheless, the aim should be to avoid situations where planning consent cannot be implemented because other environmental controls cannot be satisfied.*

SEPA stresses that in its view planning powers do not provide an alternative mechanism for controlling matters which are properly dealt with under the responsibility of the environmental protection regimes. Consequently, SEPA's determination of any future PPC application will not be influenced by the granting of planning consent.

Cont....

## **FURTHER DETAIL ON THE STATUS OF SEPA'S ORIGINAL GROUNDS OF OBJECTION**

### General Comments Regarding 'Need' and Strategic Options Appraisal

**(1) SEPA withdraws its first objection to the extent that objection was based on the grounds that the applicant had not demonstrated a need for development of an Energy from Waste (EfW) plant with an operational capacity of 60 000 tonnes per annum to process Perth and Kinross Council's Municipal Solid Waste (MSW)**

Although SEPA set out data extracted from the Tayside Area Waste Plan and Draft Area Waste Plan relative to need in its earlier response, the Agency acknowledges the advice of the Council's waste management function which considers the provisions of the AWP to be out of date in assessing need in light of the strategic options appraisal work undertaken in Tayside. SEPA also acknowledges the Council's view that the Strategic Outline Case (SOC), prepared by the three Tayside Local Authorities for submission to the Scottish Executive for funding (Strategic Waste Fund), which concluded that there is a need for an Energy from Waste Plant to process the Council's residual municipal waste (60 000 tonnes per annum) is a more up to date reflection of need. However, SEPA still recommend that caution is exercised in relying solely on the SOC findings as an indication of "need". As you are aware, the SOC has not yet been verified by the Scottish Executive. It is important to note that the only published document - the Tayside Area Waste Plan - does not accord with the provisions of the SOC.

SEPA does accept that there is a need for infrastructure within Perth and Kinross to process waste through energy recovery, especially given that the EfW plant in Dundee, known as DERL, is operating below capacity as estimated by the AWP (2003). Consequently, it is unlikely that the expectations of the AWP will be achievable without the development of additional processing capacity. SEPA is also aware that municipal solid waste comprises only part of total waste arisings (c25%). A recent report prepared on behalf of SEPA by Napier University<sup>1</sup> estimated that there were around 0.7 million tonnes of commercial and industrial waste produced in the Tayside Waste Strategy Area in 2004. In this respect, SEPA would reiterate its comment that if the operator intends to accept either MSW from outwith Tayside or non municipal waste, then determination of this proposal should take cognisance of the expected waste types, tonnages and sources including transportation.

**(1) SEPA sustains its first objection to the extent that objection was based on the grounds that the applicant has not demonstrated that the proposal has been assessed rigorously against alternatives in support of Policy 77 of the Perth Area/ Central Area Local Plan and the Environmental Impact Assessment (Scotland) Regulations 1990.**

SEPA is of the view that the applicants' justification for development of an Energy from Waste (EfW) plant rests solely on the contents of the SOC, a financial bid to the Scottish Executive, without an in-depth and robust consideration of:

- o the contribution of the approved site at Shore Road, Perth towards EfW capacity in Perth; and
- o possible alternative development sites.

Cont....

---

<sup>1</sup> "Estimation of Commercial and Industrial Waste Produced in Scotland in 2004"

4.

SEPA understands that the site selection criteria used by the Tayside Councils in compiling the SOC report<sup>2</sup> did not consider wider planning issues, particularly possible locations for development of a proposed EfW plant in relation to realising potential energy recovery. This is confirmed by the Environmental Statement which states that, apart from Friarton and Binn Farm, the SOC “*has not fully assessed any other sites within Perth and Kinross*”<sup>3</sup>. While SEPA accepts that existing waste management sites were reviewed as part of the SOC process, the Agency is of the view that a robust assessment of potential alternative sites located within Perth and Kinross should be undertaken by the applicant in accordance with the provisions of the Environmental Impact Assessment Regulations and best practice. SEPA considers that this should include an assessment of preferred locations described by PAN 63: Waste Management Planning and SPP10: Planning for Waste Management (Draft)(Reference: Paragraphs 21 & 44 and paragraphs 23-25 respectively).

In reaching a decision relative to the merits of this proposal, SEPA considers that the Council should be satisfied that:

- the need for energy recovery could not be met solely by the potential development of a EfW plant at Shore Road site in terms of the extant outline planning permission;
- the need for development of EfW plants located at Shore Road and Binn Farm is justified in relation to the expected waste arisings (municipal and non municipal waste); and
- there are no other alternative sites available such as designated industrial sites which would be appropriate in terms of environmental criteria and potential energy recovery.

**(2) SEPA withdraws its second objection which was based on the grounds that the applicant had not provided sufficient information to assess the potential impact upon the environment relative to protection of air quality and the water environment.**

SEPA confirms that additional information has been provided on behalf of the applicant relative to the protection of air quality and the water environment. In the event that the Council approves this proposal, SEPA wishes to emphasise that a number of detailed technical matters will be required to be assessed through PPC permitting including foul drainage, blowdown effluent, SUDs and firewater.

**(3) SEPA sustains its third objection to the proposal on the grounds that the proposal does not maximise potential energy recovery in accordance with national planning policy and advice with particular regard to PAN 63: Waste Management Planning, SEPA’s Thermal Treatment Guidelines and the Scottish Executive’s SPP10: Planning for Waste Management (Draft).**

SEPA’s earlier representations relative to this issue remain valid. In particular, SEPA wishes to reiterate that the Scottish Ministers expect EfW plant proposals to provide maximum efficient capture of energy including heat, support waste minimisation and respect SEPA’s EfW Guidelines (Reference: PAN 63 Paragraphs 40-44). This is complemented by Draft SPP10 which states that “*The benefits of combined heat and power from thermal treatment may be captured if plant is located close to energy grids or potential users that they may in future serve*”. Draft SPP10 also recognises the importance of SEPA’s guidelines and states that “*SEPA’s guidelines on thermal treatment of municipal waste should be used by planning authorities in ... assessing development proposals*”.

Cont....

---

<sup>2</sup> Report Three: Options Appraisal (Pg 13)

<sup>3</sup> Pages 74-75 of the Environmental Statement

## 5.

SEPA is not satisfied that all efforts have been made to maximise energy recovery. While the Environmental Statement makes reference to an opportunity to achieve a 'symbiosis relative to small business and research and development relative to the exportation of steam or hot water', there are no prescriptive proposals and timescales for long term heat recovery. This is reinforced by the indicative nature of the concept masterplan for the development of a Resource Recovery Park (Reference: Environmental Statement). In addition, the applicant has not submitted a Heat Plan which sets out a clear framework and timeline for recovering energy. Furthermore, the applicant has not explored the potential for providing district heating schemes for any planned or existing new development in neighbouring villages.

This issue of energy recovery is a crucial one in terms of delivering the central objective of the National Waste Strategy to achieve sustainable waste management and promote "recovery". It also calls into question the suitability of a site for energy from waste if it cannot maximise energy recovery in terms of proximity to users of heat and power. Accordingly, SEPA considers this to be a fundamental land use planning issue.

SEPA is of the view that consideration should be given to the expected rate of thermal efficiency in support of SEPA's guidelines on thermal treatment of municipal waste as required by PAN 63 and Draft SPP10. In this respect, SEPA acknowledges that the applicant proposes that 4.65MW of electricity will be generated at plant for distribution to the national grid and steam could be extracted when required, suggesting a low efficiency rate (c22%). However, SEPA considers that this efficiency rate is not the best that could be achieved. SEPA expects applicants to seek to maximise energy recovery, encompassing combined heat and power. There are examples in Britain and Europe where energy from waste plants operating at efficiencies in excess of 60%. This is described in more detail below in relation to the heading, Environmental Regulation and Best Practice.

### **Environmental Regulation and Best Practice**

#### (i) Energy Recovery

Notwithstanding that the applicant has submitted information to support a planning application, SEPA is of the view that the level of detail provided on energy efficiency is such that it is not clear whether the applicant would be using the Best Available Techniques (BAT). Based upon the information submitted to date, it is unlikely that SEPA would grant a permit under the Pollution Prevention and Control (Scotland) Regulations (as amended).

Sector Technical Guidance Note IPPC S5.01 "*Guidance for the Incineration of Waste and Fuel Manufactured from Waste*" sets out indicative BAT requirements for development of an EfW plant. This describes the amount of energy which may be recovered as electrical energy. SEPA considers that the current proposal would be placed at the upper end of the range given in the Guidance. However, the Guidance goes on to prompt that effort should be made to recover energy over and above this through the use of low grade heat. Importantly, the current proposal does not seek to recover this heat.

Cont....

6.

The Guidance does not prescribe a minimum figure of 60% thermal efficiency. This figure was quoted by SEPA in an effort to guide the Council in reaching a view as to the level of thermal efficiencies which the applicant should seek to achieve in relation to indicative BAT requirements. However, this figure of 60% has been challenged by the applicants. SEPA therefore wishes to clarify that the minimum overall energy efficiency figure of 60% quoted in SEPA's initial response was not derived from the equation cited by SITA in their letter dated 19 October 2006.

The equation SITA cite has been extracted from the 'Proposal for a Directive of the European Parliament and of the Council on Waste' and is primarily used to determine if an incinerator can be deemed to be a recovery operation rather than a disposal operation. Factors are included in the equation to enable a comparison of the energy efficiency of waste incinerators with fossil fuel power stations.

SEPA's position is based on the principle that thermal efficiencies in excess of 60% are achievable if energy is recovered by the generation of electricity and the use of low grade heat. It is understood that Onyx operate an Energy from Waste Plant in Sheffield that achieves 60% efficiency due to its connection to a district heating system.

Notwithstanding questions concerning the legitimacy of the quoted figure of 60%, ***it is unlikely that SEPA would grant a PPC Permit for the proposed operation based upon the information submitted to date on the grounds that BAT has not been demonstrated with regard to energy utilisation.*** The aforementioned Sector Technical Guidance Note IPPC S5.01 provides indicative BAT prompts in terms of energy efficiency in general and energy efficiency with specific regard to the incineration of municipal waste. Some of these prompts are highlighted below:

General points:

- a) Use of heat generated for electricity generation for on-site or off-site use is expected for the majority of new installations.
- b) Use of higher efficiency electrical generation technology e.g. gas turbines or engines.
- c) Use of steam from boilers in on-site or off-site applications.
- d) Use of waste heat for CHP or district heating (potential to increase overall thermal efficiencies from approx 20 to 75%)
- e) Use of waste heat for preheating combustion air, boiler feed water or plume reheat.

Points relating specifically to the Incineration of Municipal Waste:

- f) Steam should be generated for either direct use or electricity generation.
- g) Where electricity only is generated 5 – 8 MW of electricity should be recoverable per 100,000 tonnes of annual waste throughput depending on waste composition.
- h) Waste heat should be recovered unless to do so can be demonstrated not to represent BAT (this would require cost justification). All opportunities for CHP and district heating should be explored.
- i) The siting of plant near to potential or actual energy users will aid the maximising of energy recovery potential. Consideration should be given to joint venture projects wherever possible.
- j) If waste heat is not recovered, provision should be made for future installation e.g. provision of tie-ins.

Cont....

## 7.

The BAT prompts provide clear guidance that waste heat should be used for CHP or district heating. They also highlight that the potential exists, in terms of BAT, for thermal efficiencies of up to 75% to be reached.

Indicative BAT prompt h) highlights that: “*waste heat should be recovered unless to do so can be demonstrated not to represent BAT*”. SEPA would expect a detailed demonstration that all opportunities for CHP, district heating or industrial tie-ins have been explored.

In terms of energy efficiency the information included in the Environmental Statement is insufficient at present for SEPA to conclude that BAT will be demonstrated by the operator. Preference ...Had an application for a Permit to operate the activity under the relevant subsection of Schedule 1, Chapter 5, Section 5.1, Part A of the PPC Regulations been submitted concurrently such an assessment would have been possible.

### (ii) Pre-sorting of waste

SEPA's earlier representations relative to this issue remain valid. It is important to note that SEPA does not wish to see the replacement of mass landfill with mass burn. SEPA expects non-renewable and non-combustible materials to be segregated prior to thermal treatment in accordance with PAN 63 (paragraph 41), Draft SPP10 (paragraph 34) and SEPA's Thermal Treatment Guidelines. Although the Environmental Statement states that crane operators will identify unsuitable or unauthorised wastes, the operator will be required to demonstrate that these assessment procedures represent BAT. SEPA's wishes to stress that an effective assessment of incoming waste is essential to: maintain homogenous feedstock; minimise the potential for wastes with no calorific value to be incinerated; minimise the potential for damage the incinerator to occur and potential impact on emissions and maximise efficient use of resources.

SEPA would remind the Council that examples of how other planning authorities have approached this issue from a landuse planning perspective were provided by email on 27 November 2006.

### (iii) Ash Recycling

SEPA's earlier representations relative to this issue remain valid. It is critical that appropriate mechanisms are put in place to secure ash recycling. However, the applicant states that ash recycling will be achieved if 'economically viable'. SEPA would draw the Council's attention to the fact that the SOC upon which the applicant's justification for development of the EfW plant is based counts ash recycling towards the overall recycling targets.

### (iv) Other Environmental Impacts

The comments SEPA expressed in its letter dated 15 September relative to odour, noise, landscaping and construction and biodiversity are still valid.

Cont....

8.

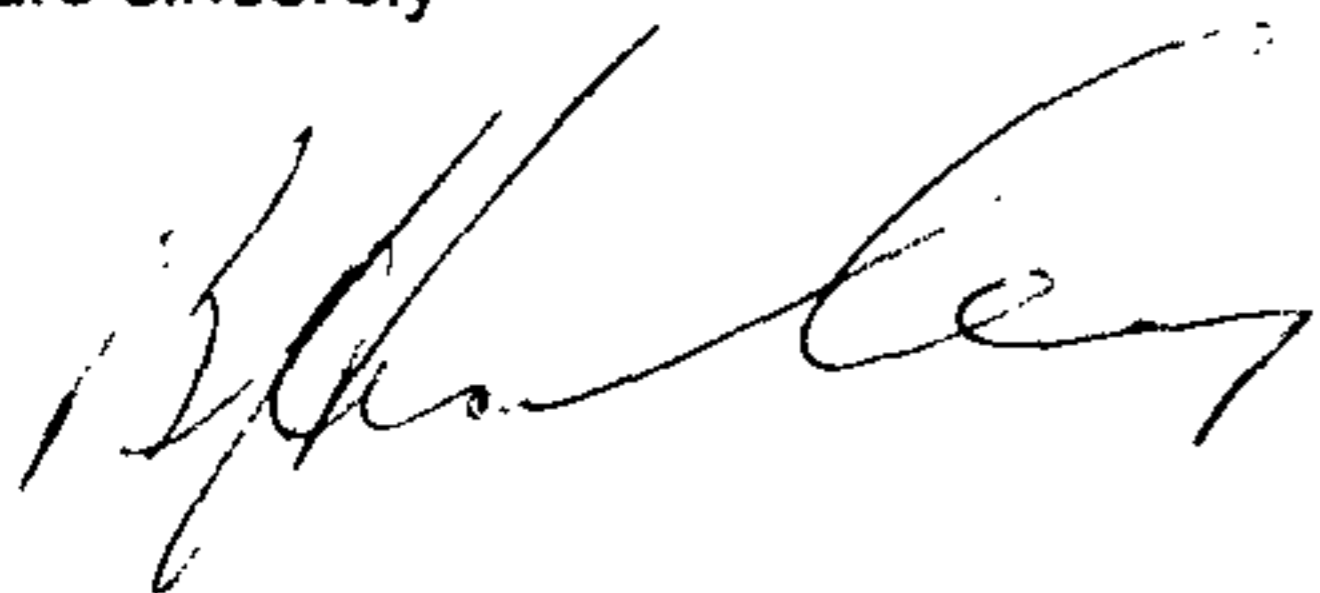
Notification to Scottish Ministers

SEPA would remind the Council of the requirements of Circular 4/1997 which states that if a local authority has a financial interest in a development which is contrary to the Development Plan or has attracted a significant body of objection, then the application should be notified to the Scottish Ministers. SEPA considers that an objection from the Agency may constitute a significant body of objection.

SEPA would be prepared to review its position in relation to each objection following receipt of additional, relevant information.

Should you wish to discuss these representations in more detail, please do not hesitate to contact Linda White, Planning Unit Manager (0131 273 7260 / [linda.white@sepa.org.uk](mailto:linda.white@sepa.org.uk)). In the event that Linda is unavailable, you may contact Ian Buchanan, Fife Unit Manager, EPI (01592 776910 / [ian.buchanan@sepa.org.uk](mailto:ian.buchanan@sepa.org.uk)).

Yours sincerely



Brian Healey  
Head of Environmental Protection and Improvement  
South East Region

cc: Nick Roberts  
AXIS, Director  
Camellia House  
76 Water Lane  
Wilmslow  
Cheshire  
SK9 5BB