

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

Ian Sleith
Head of Development Standards
Perth & Kinross Council
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FAO: Ian Sleith

If telephoning ask for:
Linda White

14 December 2006

15 DEC 2006

Dear Sir

**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 SEPA's recent representation dated 7 December and the meeting held on 12 December between Linda White, SEPA's Planning Manager (East Region), Nick Roberts (Axis) and your colleagues representing the Council's waste and planning functions: Bruce Reekie, Keith McNamara and Mark Williamson. Having considered the points raised by the Council representatives and Nick Roberts on behalf of the applicants and the provisions of the report to Development Control Committee, SEPA wishes to make the undernoted comments.

SEPA's Representation

Alternative Locations

SEPA's interpretation of Policy 77 of the draft Perth Area/Central Area Local Plan has been questioned. Notwithstanding debate as to whether a proposal for an EfW plant which accords with the local plan designation should be subject to assessment in relation to the criteria set out by Policy 77, SEPA is of the view that the proposal for an EfW plant at Binn Farm should be considered in relation to other potential development sites in accordance with the provisions of the Environmental Impact Assessment (Scotland) Regulations 1999 (Schedule 4 'Information for Inclusion in Environmental Statements') which state that it is expected that:

An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.

Environmental Regulation

The advice which SEPA provided as an environmental regulator has also been questioned. As you are aware, SEPA has sought to clarify whether, based on the information available at the time, the proposed development is potentially capable of being consented under the licensing regime. Accordingly, SEPA has sought to fulfil this duty and advised 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)**. It is therefore inappropriate to deduce from this statement that SEPA has prejudged the merits of a future PPC application by the prospective operators (SITA).

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Chairman
Sir Ken Collins

Chief Executive
Dr Campbell Gemmell

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SEPA emphasises that any future PPC application, submitted by SITA or its agents, would be determined on its individual merits in accordance with relevant regulation and technical guidance.

Tayside Area Waste Plan

In SEPA's response dated 7 December it was stated that the Strategic Outline Case (SOC) does not accord with Area Waste Plan, the Agency considers that it is appropriate to reiterate that the Tayside Waste Strategy Area Group concluded that the SOC is compliant with the BPEO of the Area Waste Plan

Report to Development Control Committee

General

With reference to the SOC submission, the report to Committee (Page 5, point 1), states that "*SEPA now appears to be distancing itself from a decision it was a part of, only a year ago*". SEPA is concerned that the wording of this section of the report implies that the Agency sanctioned the identification of Binn Farm as the preferred location for development of an EfW plant. This is misleading. SEPA draws your attention to the note of meeting held on 4 November 2005 relative to the Tayside Feasibility Study when SEPA expressed concerns relative to the Agency's engagement and the inclusion of privately owned sites within the selection process.

Under point 2), the report states that SEPA welcomes the identification of a strategic waste management site at Binn Farm but "*the latest position from SEPA appears at variance with its previous views*". SEPA is of the view that this is also misleading. While SEPA is supportive of the principal of allocating Binn Farm as the Council's preferred location for an EfW plant, the Agency brought the Council's attention to the need to be explicit in framing the policy provisions and supporting text of the Perth Area/Central Area Local Plan (4 March 2005). Furthermore, SEPA's response to the Consultative Draft recommended that the Local Plan is reworded to clarify that development of waste management facilities at Binn Farm should accord with the AWP and NWP. This position was clearly expressed in SEPA's earlier representation dated 15 September.

The report also states that "*If SEPA previously appeared supportive of the Binn site (as the sections above demonstrate), it could be considered unreasonable for SEPA now to expect an applicant with a long history of occupying its existing site, to undertake extensive studies of alternative sites ... when the applicant is located on a site which, by all previous indications from SEPA, was the most suitable site available*". Again, SEPA contends that this is misleading. In addition to the recommendations made to the Council during the plan preparation process, SEPA is of the view that an assessment of alternative locations should be undertaken in accordance with the provisions of the Draft Local Plan and the EIA Regulations as expressed in the Agency's earlier representations.

SEPA acknowledges the Council's intention to notify an intention to approve the application to the Scottish Ministers in terms of requirements of the Notification of Applications Procedure, 1997.

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Conditions

With reference to the suggested conditions, SEPA recommends that the wording of conditions 5, 14 and 15 be amended as described below. In addition, SEPA recommends that an additional condition is attached which requires that ash is recycled in light of SEPA's earlier representations in the interests of sustainable waste management.

- Condition 5 SEPA is concerned that there is no requirement for waste to be pre-treated or sorted before treatment. SEPA understands that this draft condition would be reworded to ensure that the EfW plant processes pre-treated waste, wherever practicable. Notwithstanding SEPA's objections, such a change would be welcomed.
- Condition 14 SEPA is concerned that the term "facility" is not defined. SEPA understands that this draft condition would be reworded to provide clarity. Notwithstanding SEPA's objections, such a change would be welcomed.
- Condition 15 SEPA is concerned that the current wording of this condition infers that the Feasibility Study, irrespective of its findings, would be approved. This is prejudicial to full consideration of the planning application.

SEPA would recommend that a different approach is taken in which the recommendation to the Development Control Committee advises that final determination of the application should be delegated to the Director of Planning *in the event* that a **satisfactory** feasibility study to determine the practicability of maximising energy recovered from the proposed EfW plant, through electrical energy and low grade heat, for the benefit of the local community being submitted to the Council, where upon the Director would have the delegated authority to approve the proposal. If, however, the feasibility study does not demonstrate this, then the application would be referred back to the Committee again for a decision.

Notwithstanding SEPA's preference to adopt a different approach as outlined above, the Agency considers that this condition should be reworded to require that the energy recovery proposals be implemented within a specific timescale in accordance with the approved plans.

I understand that this planning application will be considered by the Development Control Committee on 19 December. I therefore request that the SEPA's comments expressed in this letter are brought to the attention of the Committee. Should you wish to discuss these comments in more detail, please do not hesitate to contact Linda White, Planning Unit Manager (0131 273 7260 / linda.white@sepa.org.uk).

Yours faithfully



Brian Healey
Head of Environmental Protection and Improvement
SE Region

cc: Nick Roberts, AXIS, Director, Camellia House, 76 Water Lane, Wilmslow,
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