

NA/PAK/006 Notified Application Development of Energy from Waste Plant	Perth and Kinross Council Binn Farm, Glenelg
--	---

Proposal

1. The proposal is for the development of an Energy from Waste Plant together with Materials Reclamation Facility, associated infrastructure and landscape works.

Site

2. The site is located at Binn Farm, approximately 8km south east of Perth. It extends to 3 hectares and is accessed from the M90 via the A912.

Procedures

3. The application has been notified as a development in which the Planning Authority has an indirect interest, it is contrary to the development plan and there has been a significant body of objection.

Development Plan

4. The development plan for the area comprises the Perth and Kinross Structure Plan 2003 and the Perth Area Local Plan 1995. The policy framework supports self sufficiency for waste management within the Tayside Area Waste Plan. It also provides policy support for the protection of species, habitats and landscape character, identifying the proposal site within the landward area where development is restricted to agriculture, forestry or recreational and tourism projects.

Material Considerations

5. The Perth Area/Central Area Draft Local Plan was published in December 2004 and is the most up-to-date statement of Council policy. The Draft Plan shows the proposal site within an area identified for waste management operations under Proposal LA1, where recycling and transfer station, renewable energy plant, recycling park, education centre and landfill uses would be acceptable. Policy 78: Waste Disposal, supports the provision of local facilities to collect and recycle waste in accordance with the Council's Environment Policy, subject to criteria regarding need; minimisation of environmental impact; and operation and satisfactory maintenance arrangements.
6. NPPG10: Planning and Waste Management, PAN51: Planning, Environmental Protection and Regulation and PAN63: Waste Management Planning are applicable. Draft SPP10: Planning for Waste Management supports a planned approach to the identification of sites for installations using a range of technologies and notes that the planning implications of new energy from waste plant will normally be restricted to land use and locational factors.

Consultations

Organisation	Opinion	Comment
Scottish Water	No objection	WTW has sufficient capacity. Developer must ensure that proposal will not have adverse impact on water services.
SEPA	Objection	Objection on grounds that applicant has not demonstrated that proposal has been rigorously assessed against alternatives and does not maximise potential energy recovery. No objection to environmental impacts.
Head of Environmental and Consumer Services	No objection	No objection in principle and no adverse comments provided SEPA confirms that will not adversely affect local air quality. Responds to SEPA comments re consideration of alternatives and energy recovery.
Glenfarg CC	Objection	On grounds of failure to prove that air pollution will be within

		acceptable limits; model used to predict wind movements and fallout levels not appropriate.
Abernethy CC	Objection	Does not comply with Area or National Waste Plan, the development plan or national policy. BPEO is flawed and no public consultation has taken place. No justifiable need for the plant.
Earn CC	Objection	Prior approval has already been granted for a facility in Perth.
PKC Archaeologist	No objection	No archaeological implications.
David Tyldesley Associates	No objection	(Council's landscape consultants) Location suitable and provides screening; will not be a dominant feature in the landscape. Suggests amendments to cladding and door colours.
SNH	No objection	No likelihood of adverse impacts to important natural heritage interests.

7. There was some delay and confusion with regard to consultation with Fife Council as an adjoining authority and with community councils in Fife who would be affected by the development. This position has since been remedied and Fife Council considers that on the balance of information provided, the granting of planning permission is premature and Scottish Ministers should await the further detailed submitted evidence from SEPA in relation to their submitted grounds of objection - that the applicant has not demonstrated that the proposal has been assessed rigorously against alternatives and the proposal does not maximise potential energy recovery.

Representations

8. Letters of representation were received from 268 residents, almost all objecting to the proposal. A petition of 465 signatories was received, objecting to the proposed development. Main issues raised include environmental impact; consideration of alternative sites; contrary to Area Waste Plan and development plan; not in accordance with EU Directives.

The Council's Consideration

9. The Binn Farm site currently deals with a significant amount of waste through a combination of landfill, composting and recovery of recyclable materials. The proposal would divert 60,000 tonnes per annum of waste from landfill to the new facility which would provide an energy from waste plant and materials reclamation.
10. The report considers that the principle of development is acceptable and that the proposal is in accordance with national policy; that the need for the scheme has been demonstrated; and assesses potential impacts on landscape, visual amenity, cultural heritage, air quality, hydrology, traffic and road safety, public health, ecology and nature conservation interests.
11. The proposal is located within the landward area of the adopted local plan, but in an area designated for a wider variety of recycling and waste operations within Policy 31 of the Draft Perth Area Local Plan. This designation reflects existing development at Binn Farm for refuse disposal and reclamation. Further related development proposals at the site are considered acceptable in principle provided any environmental impacts can be mitigated satisfactorily.
12. The Council considers that the proposal complies with the Area Waste Plan and Best Practicable Environmental Option (BPEO), which was endorsed by SEPA in the submission of the Tayside Strategic Outline Case to the Scottish Executive in January 2006 (for funding under the Strategic Waste Fund), a review by Perth and Kinross, Angus and Dundee Councils to determine the requirement for waste management facilities over the next 25 years. This, it is argued, identified a requirement for Perth and Kinross Council to access Energy from Waste facilities for 60,000 tonnes of waste to enable it to meet landfill diversion targets. The Outline Case identified more accurate and up-to-date waste tonnage projections compared to the Area Waste Plan, prepared in 2001.
13. Landscape and visual impact have been considered and it is concluded that impacts at this location are less than would be expected of a development of this type and scale. There is some concern

about the impact of the condensation plume, which is not constant and will therefore have a limited impact on landscape character and visual amenity.

14. Air quality is assessed in the accompanying EIA and it is concluded that the proposed facilities will operate well within acceptable limits. While this issue is raised as a key factor by objectors, there is no objection from SEPA in terms of air quality.
15. SEPA has objected to the proposal on the grounds that the applicant has not demonstrated that proposal has been rigorously assessed against alternatives and does not maximise potential energy recovery. PKC argues that through the development plan process and the Strategic Outline Case submission (to which SEPA was a participant), a site search and selection process was adopted to identify the best site for the proposed facility and that the site search carried out was in accordance with national planning guidance.
16. In relation to heat recovery, PKC is content that the applicant has demonstrated a strong commitment to harness as much energy as possible, in accordance with national waste guidance. Conditions to the consent will require the applicant to undertake a feasibility study to determine the practicability for the use of steam and hot water to harness energy.
17. The Council is minded to approve planning permission subject to conditions which address concerns raised in consultation. These include matters of external finishing materials; a feasibility study determining the practicability of use of excess steam/hot water generated by the facility; and submission of a Noise Impact Assessment.

PL Assessment

Procedures

18. Before discussing the merits of the planning proposal, the procedures for processing the application must be considered. Article 15 of the GDPO imposes a duty on planning authorities to consult any adjoining planning authority before granting planning permission for development where it appears that the development proposed is likely to affect land in the area of the adjoining authority. There are similar requirements in relation to the EIA Regulations. Fife Council was not initially consulted on the application, despite the application being close to the boundary between the two authorities.
19. A considerable number of representations were received to the application, many from individuals and community councils (CCs) in Fife which had not been consulted. There is an obligation on the planning authority to consult with a CC for the area in which the development is proposed, but the consultation duties outlined in the paragraph above do not extend to CCs in an adjoining authority's area. Many of the issues raised in representations by CCs and others in relation to PAN81 refer to the pre-application process which will be implemented in 2008 under the new planning system - enhanced scrutiny such as pre-application discussions and pre-determination hearings are not part of the current system.

Assessment

20. The need for the Energy from Waste facility is set out by PKC in its report and is not challenged. The proposal complies with the Area Waste Plan/BPEO in respect of reducing the quantity of waste which is land filled.
21. While the proposal is contrary to the adopted Local Plan, it is supported by the draft Local Plan which is the most recent statement of Council policy and a material consideration. The adopted Local Plan is more than 10 years old and does not reflect interim changes in national policy relating to management of waste.
22. The objection from SEPA remains on the grounds that applicant has not demonstrated that the proposal has been rigorously assessed against alternatives and that the proposal does not maximise potential energy recovery.

23. There is a difference of opinion between SEPA and the planning authority in relation to energy recovery and the requirements of national guidance. SEPA argues that the plant as proposed does not maximise energy recovery, while the planning authority believes that SEPA is demanding higher levels of acceptability for this site than is contained in guidance. This is supported in comments received from Waste and Pollution Reduction Division (WPRD), which confirm that SEPA guidelines say that "SEPA would encourage the energy recovery systems to be capable of recovering both heat and power", however this is not a requirement.
24. I am content that the issue of energy recovery is dealt with through conditions attached to the granting of planning permission, requiring that prior to the commencement of development a feasibility study shall be undertaken in respect of determining the potential for energy recovery.
25. With regard to the matter of consideration of alternatives, while the SOC has not been verified by the Scottish Executive, it was prepared in consultation with SEPA and the other Tayside local authorities. Alternative locations are also considered in the EIA which accompanies the planning application. Further to this point, WPRD and Draft SPP10 consider that the planning implications of new energy from waste plant will normally be restricted to land use and locational factors. While a site closer to the source of waste and to an end user would be preferable for an energy from waste plant, the application is not without merit given existing uses at Binn Farm.
26. Air quality remains an issue for Fife Council, however SEPA is satisfied with the information provided for assessing the potential impact on the environment relative to protection of air quality. This matter is primarily an issue for SEPA to consider under pollution prevention and control regulations when assessing the relevant application for consent.
27. Many of the issues raised in representations relate to concerns about light pollution, noise and odour, the first two being addressed through proposed planning conditions. The issue of odour is mentioned by SEPA in relation to current operations and would benefit from further consideration.
28. I would draw your attention to the lack of clarity on the issue of regulatory regimes and the responsibility for local air quality management, but acknowledge that many of the issues raised are not within the remit of land use planning and are most appropriately dealt with through environmental protection procedures.

Conclusions and Recommendations

29. There are clear procedural shortcomings in relation to this application and it is unfortunate that the consultation on this application was protracted due to the omission of a neighbouring authority from the initial process (particularly where the development falls within Schedule 2 of the EIA Regulations).
30. This does not, however, alter my view that the proposal does not raise issues of national significance which would warrant the intervention of Scottish Ministers. **I therefore recommend that the application be cleared back to Perth and Kinross Council.**