

Planning Committee

Update Sheet

26 July 2018

The information set out in this Update Sheet includes details relating to public speaking and any change in circumstances and/or additional information received after the agenda was published.

Item No	Ref No	Address	Recommendation
7	18/00703/FUL	Sparsholt College, Westley Lane, Sparsholt SO21 2NF	Permit

Officer Presenting: Stephen Cornwell

Speaking

Objector: Richard Gueterbock

Parish Council representative: Sue Wood-Sparsholt Parish Council

Parish Council representative: Peter Deehan – Crawley Parish Council

Ward Councillor: Cllr Caroline Horrill

Supporter: John Turvill & Marcus Beddoe – Applicant

Tim Jackson – Sparsholt College

Update

Further Representations

Two further letters from Sparsholt Parish Council (SPC) and a single letter of representation. Have been submitted since the report was closed. These are outlined below.

The first letter submitted by Sparsholt Parish Council (dated 17 July 2018) questions the interpretation of condition 24 that sets out the nature of the feedstock that can be used in the ADP. Specifically, the parish contests the view of both the applicant and the council that the use of straw falls within the terms set by the condition. The full text of the condition is set out in the report.

The parish council consider that straw is a “product residue” of an agricultural business and should be classified as commercial waste (which is a type of waste excluded under condition 24). They draw support for this view for the following reasons:

1. That condition 24 should be interpreted so as to give the words their natural meaning.
2. That straw is considered to be a waste product and defined as waste in Wikipedia.
3. That the EU Directive 2008/98/EC on waste expressly excludes straw from its ambit so it must be waste.
4. In the predecessor Waste Framework Directive 2006/12/EC straw was not expressly excluded. Had it not been expressly excluded from the 2008 Directive it would have been treated as a product residue which means it is waste unless it satisfies all four conditions for classification as a non waste by product. The first of these is that further use of the residue is certain. Clearly further use is by no means “certain”.
5. The draft EU Directive on Renewable Energy Sources places straw in a category as an agricultural waste or residue.

- It is clear from above that straw is widely regarded as a waste product as residue from production of agricultural businesses commercially producing and selling crops.
- Therefore it is commercial waste.
- Application not seeking change to condition 24 and so current application partly based on a mistake of law.
- Request this matter looked into urgently and drawn to member's attention at committee.
- Believe consideration of current application should be deferred until this matter resolved.

A second letter from Sparsholt Parish Council dated 19 July 2018 has been submitted questioning the ability of the local planning authority to consider a Section 73 application at all and the absence of any external advice . The letter raises the following points:

- Do not consider changes as minor and view of SPC is that changes to ASDP are fundamental, due to use of straw as one of feedstocks requiring a completely new type of plant.
- Also believe changes to Education Building having regard to footprint and design are equally fundamental.
- Furthermore, no consideration given as to whether change of feedstock is permitted by condition 24 (which applicant is not seeking to change). Nor has there been any consideration of the impact on the original transport plan.
- No independent expert has been asked to assess the impact of the proposed changes or challenge statements made by applicant. This in contrast to other applications when independent experts asked to assist planning department.
- Believe changes so fundamental that completely new application should be required when entire project can be considered.
- Believe allowing applicant to use S73 procedure enables them through series of separate S73 applications to completely and fundamentally change the nature of the original project without changes being considered in their totality.

One additional letter of representation has been received objecting to the proposal. This letter sets out 5 points of objection to the scheme. Points 1 to 3 refer to potential traffic congestion arising from transporting the feedstock to the site, whether the feedstock can be sourced from within the 15km supply area and

if feedstock might be stored beyond the 15km supply area. All of these points relate to matters outside the scope of the current application and members attention is drawn to the first section of the report that addresses this issue.

The remaining points in the letter raise the following issues:

- Application being rushed through and not enough time allowed for consideration of application. We were not notified of proposal.

Original application only granted with educational building as integral link to College. Proposals now will see this reduced by 62% and it is unacceptable

Planning Officer Response

Regarding the first letter from SPC on the interpretation of whether straw should be classified as waste, the question of whether the use of straw as part of the feedstock mix did or did not fall within the existing scope set by condition 24 was considered by officers when they first became aware of its potential use. It was reviewed again after questions were raised in some of the representations received as part of the current application and it has been reviewed again following the receipt of the 17 July 2018 letter from SPC. This has included drawing on research and background reading from sources including the following:

Guidance on the legal definition of waste and its application. Defra August 2012

Guidance: Decide if a material is waste or not general guidance (updated version of part 2 of original full document).

Waste Framework Directive 2008

Renewable Energy Directive 2016

Defra: Statistical Services survey of commercial and industrial waste arisings 2010.

The following points have been drawn from these sources:

- Any substance or object is capable of being waste.
- Waste means any substance or object which the holder discards or intends or is required to discard.
- The decision on whether something is discarded must take account of the circumstances and have regard to the Waste Framework Directive.
- Every case must be assessed on its merits.
- In the Defra survey of commercial and industrial waste arisings 2010 it specifically excludes businesses involved in agriculture as falling under the definition of commercial or industrial waste.
- A Material is a by product and not waste if:

- i. it's a result of a production process
- ii. it's certain to be used, if there's a contract between the producer and supplier or user, if there's a definite market for it, if it fulfils the same specifications as other products on the market or if there's an economic benefit for the producer
- iii. it can be used directly, with no further processing before it's used – you can carry out normal industrial practices, for example mechanically modifying the size or shape, but you can't carry out a waste activity or operation on it
- iv. it's produced as an integral part of the production process – but it doesn't necessarily have to be made ready for use at the same place where the residue is produced
- v. it has a lawful use and meets relevant product and environmental and health protection requirements, for example it's free of contaminants and won't lead to overall adverse environmental or human health impacts

Conclusion

Straw is the name given to the stem and leaf section of a plant that supports the head. The stem is an integral part of the plant. Crops are primarily raised for the grain and this is separated from the stem during combining, when it is generally dropped back onto the ground. However, straw is often seen as a useful material. It can be collected and baled for use on or off the producing farm. Alternatively, it may be ploughed back into the land as a soil conditioner ready for the new crop to be planted. The choice on how to handle the straw is down to the individual farmer and will be influenced by a range of factors such as the need for it as feed or bedding on the farm and the demand for straw in the local or wider area. It would not be appropriate to apply one single classification to every arable farmer.

It is understood that the applicant will enter into contracts with arable farmers for them to supply straw to the ADP. The material will be gathered, baled and transported to the ADP. It will not undergo any processing. Having given due regard to the specific circumstances of the proposed use and taking note of the Waste Framework Directive, it remains the view of officers that under these circumstances the straw is not waste but better described as a by-product or co-product and certainly a "commodity". In these circumstances the use of straw as part of the feedstock mix continues to fall within the scope of condition 24. Accordingly, the further consent of the local planning authority is not required. There is therefore no reason why the current application should not proceed and be determined.

Considering the questions raised in the second letter on the use of S73 procedure and the decision not to see any external advice by officers, these issues have already been considered and addressed in the committee report. The Section 73 procedure is used by applicants to accomplish a wide range of revisions to approved schemes. The critical consideration is that any approval should not materially change the nature and scope of a proposal beyond that originally approved. What constitutes "material" is for the authority to decide in the specific

circumstances of each application. In this instance the site area is the same, the description of the development is unchanged and overall impacts on the surrounding area are unchanged. There may come a time, if repeat S73 applications are made that the cumulative effect is to materially change the nature of the development but that point has not been reached and will not be breached by the current proposal.

The value in utilising the services of an external consultant have also been considered and this point is also referred to in the report. The areas on which the LPA has been encouraged to seek external advice are aspects that are considered to fall outside the scope of this application. Consequently, there seems little merit in seeking advice (at a cost to the authority) on matters that will not feature in the determination of this application.

For the reason that SPC acknowledged in the letter (that this application does not relate to any change to the feedstock condition) it has been the view of officers that this application should focus on those matters of direct relevance to the determination of the application and not seek to re-visit or reopen issues that were subject of detailed consideration and debate leading to the decision in October 2016.

Finally, on the points raised by the member of the public, the application is not being rushed through having first been validated on 9 April 2018. On the matter of them not being consulted, they live over 2km from the site and outside the range of the consultation exercise that was undertaken.

For the above reasons and those set out in the report, it remains the view of officers that there are no procedural reasons why this application cannot be determined.

Recommendation:

No change.

Item No	Ref No	Address	Recommendation
8	17/03218/FUL	The Tiled House, Saffronland Nursing Home, Southdown Road, Shawford SO21 2BY	Permit

Officer Presenting: Katie Nethersole

Public Speaking

Objector: Anthony Lewis

Parish Council representative:
Ward Councillor:
Supporter: Alison Young - Agent

Update
No updates

Item No	Ref No	Address	Recommendation
9	18/00797/FUL	Overcross House, Cross Way, Shawford SO21 2BZ	Permit

Officer Presenting: Pat Aird

Public Speaking

Objector: Anthony Lewis
Parish Council representative:
Ward Councillor:
Supporter: Tony Boyle or Joanne Pritchard-Agent

Update

Add: Recommendation: 'Application Permitted'

Delete Policy MTRA2 in Policy Section and Informative 3 and replace with MTRA3

Condition 2 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Condition 3 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Condition 4 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Condition 5 change '1995' to 2015' and add ' to comply with Policy DM17 of the Winchester District Local Plan Part 2.'

Condition 6 add 'to comply with Policy DM17 of the Winchester District Local Plan Part 2.'

Condition 7 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Condition 11 add 'to comply with Policy DM18 of the Winchester District Local Plan Part 2.'

Condition 12 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Condition 13 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan Part 2.'

Item No	Ref No	Address	Recommendation
10	18/01198/FUL	50 Willis Way, Kings Worthy SO23 7QT	Permit

Officer Presenting: Katie Nethersole

Public Speaking

Objector:

Parish Council representative: Ian Gordon-Kingsworthy Parish Council

Ward Councillor:

Supporter: Louise Cutts

Update

Page 3 of the report should under section headed 'Consultations'; Southern Water comments should read 'no objection'

Item No	Ref No	Address	Recommendation
12	18/01229/AVC	Hampshire Constabulary HQ, Romsey Road, Winchester, Hampshire	Permit
<p>Officer Presenting: Catherine Watson</p> <p>Public Speaking Objector: John Burley Parish Council representative: Ward Councillor: Cllr Lucille Thompson Supporter:</p> <p><u>Update</u> Amended plans received 25.07.2018 showing that Proposed sign 3 (at the entrance to West End Terrace) has been removed from the proposal due to an objection raised by the Historic Environment officer regarding the lack of information pertaining to the structural condition of the flint wall and its suitability to hold the sign.</p>			

Item No	Ref No	Address	Recommendation
13	18/00829/FUL	78 Alresford Road, Winchester SO23 0JX	Permit
<p>Officer Presenting: Pat Aird</p> <p>Public Speaking Objector: Dr H Patel & Mr Matthew Okane Parish Council representative: Ward Councillor: Supporter: Mr Jeremy Tyrell-Agent</p> <p><u>Update</u></p> <p>Condition 2 add 'to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester Local Plan Part 2.'</p> <p>Condition 5 add 'to comply with Policy CP13 of the Winchester District Local Plan part 1 and Policies DM15 and DM16 of the Winchester Local Plan Part 2.'</p> <p>Condition 6 add ' to comply with Policy CP13 of the Winchester District Local Plan Part 1 and Policies DM15, DM16 and DM18 of the Winchester Local Plan Part 2'</p> <p>Condition 7 add 'to comply with Policy CP13 of the Winchester District Local</p>			

Plan Part 1 and Policies DM15, DM16 and DM17 of the Winchester Local Plan Part 2. '

Condition 9 change '1995' to '2015' add 'to comply with Policy DM17 of the Winchester Local Plan Part 2. '

Informative 3 add 'CP20 of the Winchester District Local Plan part 1 and DM26 of the Winchester Local Plan Part 2. '

Item No	Ref No	Address	Recommendation
14	17/03193/FUL	St Clements Partnership, Tanner Street, Winchester SO23 8AD	Refuse

Officer Presenting: Liz Marsden

Public Speaking

Objector:

Parish Council representative:

Ward Councillor:

Supporter:

Update

Remove Informative 1

Item No	Ref No	Address	Recommendation
15	17/03194/FUL	St Clements Partnership, Tanner Street, Winchester SO23 8AD	Refuse

Officer Presenting: Liz Marsden

Public Speaking

Objector:

Parish Council representative:

Ward Councillor:

Supporter:

Update

Remove Informative 1

Withdrawn by agent 25/07/18

Item No	Ref No	Address	Recommendation
16	18/00646/OUT	Land Adjacent to Stanmore Primary School, Stanmore Lane, Winchester	Permit

Officer Presenting: Liz Marsden

Public Speaking

Objector:

Parish Council representative:

Ward Councillor:
Supporter: Steve Lawrence-Agent
Update

In the consultations section WCC Engineers – Highways, the highways officer confirms that there are no objections to the proposals as amended.

Item No	Ref No	Address	Recommendation
17	18/00896/OUT	43 Woodfield Drive, Winchester SO22 5PY	Permit

Officer Presenting: Liz Marsden

Public Speaking
Objector: Sarah McGowan
Parish Council representative:
Ward Councillor: Cllr Liz Hutchinson
Supporter: Katie Whiles
Update

Item No	Ref No	Address	Recommendation
18	TPO 2221	Land Adjacent Water Close, Colebrook Street, Winchester	That the TPO be confirmed

Officer Presenting: Ivan Gurdler

Public Speaking
Objector:
Parish Council representative:
Ward Councillor: Cllr Murphy
Supporter: Alison Davidson
Update

End of Updates