

Your ref: EN010110  
Our ref:  
Please ask for: Lorna Gilbert

Borough Council of  
**King's Lynn &  
West Norfolk**



**Geoff Hall**  
Executive Director

**Stuart Ashworth**  
Assistant Director Environment and Planning

FAO Tracey Williams  
The Planning Inspectorate  
National Infrastructure  
Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

21 July 2022

Dear Mrs Williams,

**Application by Medworth CHP Limited for an Order Granting Development Consent for the Medworth Energy from Waste Combined Heat and Power Facility Adequacy of Consultation request**

The Borough Council has considered the Adequacy of Consultation request for the above application, with regard to Sections 42, 47 and 48 of the Planning Act 2008.

Following on from Planning Committee on 20 July 2022, where this matter was considered, the Council's response is:

- (1) Notwithstanding the fact that the applicants have undertaken consultation in accordance with their own Statement of Consultation (SoC), the Committee is very concerned that the 5km consultation area is entirely inadequate given the size of the plant and therefore **OBJECT** as it is considered the whole of the Borough of King's Lynn and West Norfolk should have been subject to consultation.
- (2) Members note that the 'in principle' opposition to the proposal for an energy from waste facility in Wisbech remains as agreed by the notice of motion at the Council meeting on 25 February 2021 and was unaffected by this specific technical consultation response.

I have attached a copy of the officer report that went to Planning Committee on 20 July 2022, a summary of additional/late correspondence received following the publication of the agenda and errata, and Draft Committee Minutes from the Planning Committee.

Yours sincerely

  
Stuart Ashworth  
Assistant Director – Environment & Planning

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Chief Executive – Lorraine Gore



**Planning Committee**  
**Wednesday, 20th July, 2022 at 9.30 am**  
**in the Assembly Room, Town Hall, Saturday Market**  
**Place, King's Lynn PE30 5DQ**

**Reports marked to follow on the Agenda and/or Supplementary Documents**

1. **Receipt of Late Correspondence on Applications (Pages 2 - 10)**

To receive the Schedule of Late Correspondence received since the publication of the agenda.

**Contact**

Democratic Services  
Borough Council of King's Lynn and West Norfolk  
King's Court  
Chapel Street  
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Email: [democratic.services@west-norfolk.gov.uk](mailto:democratic.services@west-norfolk.gov.uk)

**PLANNING COMMITTEE**

**20 July 2022**

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE PUBLICATION OF THE AGENDA AND ERRATA**

**CORRECTION**

**Index page 6** – Items should read 9/1 through to 9/2(g) inclusive.

**Item 8 Supplementary Report - Medworth Adequacy of Consultation request**

**Third Party Comment:** One comment was received from KLWIN as summarised below:

The 5km radius selected by MVV to determine which parishes are appropriate for consultation is flawed. Infrastructure planning regs 2009 simply require that appropriate Parish Councils must be consulted. The choice by MVV of a 5km radius to define appropriateness is counter to the All Parliamentary Group on Air Pollution 2021 whose report cites dangerous levels of dioxins in eggs up to 10km downwind of incinerators. This finding doubles the radius that should be considered. We maintain that the radius should probably be much greater than 10km as plumes from tall stacks can carry for great distances. The Wissington Sugar Beet factory, some 20 km away, can be clearly smelt from King's Lynn on the occasional southerly wind. However, the MVV incinerator is the exact same distance away but precisely on the prevailing south-westerly wind. Our view is that all West Norfolk parishes should have been consulted.

**Cllr Blunt:** I was disappointed, the Medworth Committee report didn't say more about the extent of the consultation across the parishes north of the site up towards south King's Lynn.

I appreciate that the applicant consulted with certain Parishes e.g. Walsoken , West Walton but this was the minimum requirement. I think they could have done more.

This a very important application where the views of the public should have been widely sought.

The area I am concerned about north of the site heading towards Kings Lynn. This area is flat and emissions from the incinerator blown by southerly wind will travel because there is little to stop them.

I cannot understand why all Parishes in this area including the unparished West Lynn and South Lynn were not consulted.

This area has had to absorb a lot power infrastructure including Walpole Sub-station and all the associated pylons.

The desire to put solar farm in the area again because of the proximity to the substation.

Is the incinerator being sited here because of the nearby substation.

I believe the minimum consultation is not enough, the people deserve the right to be consulted.

**Assistant Director's Comments:** As stated in the committee report, at this stage PINs are only asking for comments on the consultation process undertaken, hence the limited 14 day consultation period. At this stage we are not considering the multiple issues associated with the case itself, and

PINs have made it clear that there would be plenty of opportunity to comment on the proposals during future stages.

The report provides an officer technical view, but it is structured in such a way so as well as confirming that this stage has no impact upon the in principle objection by the council to the energy from waste plant, it also allows the committee and other members the opportunity to provide their views, on whether they consider that the public consultation exercise undertaken was appropriate or not.

It is clear from the commentary above, that both Cllr Blunt and the third party (on behalf of KLWIN) consider that a much wider consultation area should have been undertaken, for the reasons set out above.

Members will no doubt consider these issues, and the points raised, when providing feedback to PINS on the adequacy of consultation, through this committee.

Additional information has come to light in response to the technical Holding Objection identified by officers within the Recommendation sections (p.3 and p.9) and under Paragraphs 3.4 – 3.6 (p.5), 5.2 (p.9).

The list of persons as may be prescribed (consultees) within the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 has been amended by The Infrastructure Planning (Prescribed Consultees and Interested Parties) (Amendment) Regulations 2013.

These more recent regulations removed the requirement to consult:

- the Commission for Architecture and the Built Environment; and
- the Commission for Sustainable Development.

They also remove the requirement to consult the following for applications in England:

- the Equality and Human Rights Commission; and
- the Gas and Electricity Markets Authority.

Consequently, the holding objection to the consultation process under Section 42 of the Planning Act 2008 should be removed, as it seems that the minimum legal requirements have been met.

In response to the correction, it is recommended that the Holding Objection be removed and the overall recommendation altered as specified below:

## **AMENDMENT**

### **6.0 RECOMMENDATION:**

#### **1. Members consider the technical response by Officers as set out below:**

**A. No objection is raised to consultation carried out under sections 42, 47 and 48, which is considered to meet the legal requirement.**

#### **2. That the further views of Members are sought on the adequacy of consultation.**

#### **3. Members note that the ‘in principle’ opposition to the proposal for an energy from waste facility in Wisbech remains as agreed by the notice of motion at the Council meeting on 25 February 2021, and is unaffected by this specific technical consultation response.**

**Conservation Officer: NO OBJECTION** on the following grounds:

This current outline application follows several previous applications for the site, to which conservation have not objected to the principle of residential development on this site. This recent outline application seeks approval only for access, not appearance, landscaping, layout and scale.

A heritage statement has been provided which contains photographs which illustrates the building types previously located on the site, mainly large asbestos clad agricultural/industrial buildings. Whilst this report mainly concentrates on the below ground archaeology, brief mention is made of the setting of the nearby listed mill buildings. The report acknowledges that proposed development will be visible from the listed buildings and also the church. However, it also highlights that given the previous use and the buildings on site, a residential scheme may be considered an improvement.

Notwithstanding the heritage appraisal submitted with this application, I would suggest a condition is added to ensure any future application for reserved matters includes an updated Heritage Appraisal, which provides analysis of key views and vistas and looks closely at building heights and positions in addition to their design. This should reduce the potential to harm the heritage assets in the future.

**Additional condition:**

25 Condition The details required in accordance with Condition 1 shall include an updated Heritage Appraisal which includes analysis of key views and vistas and looks closely at building heights and positions in addition to their design and their associated impact on nearby listed buildings.

25 Reason To safeguard the interests of listed buildings in accordance with the principles of the NPPF, Policy CS12 of the Core Strategy and Policy DM15 of the SADMPP

**Housing Strategy:** The applicant is proposing 4 x 1 bed 2 person houses, 2 x 2 bed 3 person bungalows, 9 x 2 bed 4 person houses, 2 x 3 bed 5 person bungalows, 4 x 3 bed 5 person houses, 2 x 3 bed 4 person houses and 2 x 4 bed 6 person houses as affordable housing, this mix is acceptable.

I can confirm the proposed affordable units all meet our space standards and are dispersed well throughout the site.

**South Wootton Parish Council:** The Parish Council gives qualified support to the development but would wish to see the following issues addressed and where necessary corrected.

The Parish Council are pleased to see that clarification has been made regarding the access to Meadow Road, this now shows on the plans as a path, presumably for pedestrians and cyclists. The Parish Council are also pleased to see that the buff brick element has been removed from the scheme to create a red brick palette and that more carrstone has been added to corner plots at the most visual locations.

The Parish Council would still like confirmation of the other issues on our last correspondence.

- There are still only 4 Bungalows on the site, from the developers we understand these are all Affordable Homes with none on the open market for sale. As previously mentioned, South

Wootton has a high demographic of elderly residents who want ground floor living accommodation.

- The Parish Council still considers that the proposed density of 32dph is excessive and not compatible with the average density of 16dph for existing residential areas in the village.
- The Parish Council would like the developers to pay more attention to Environmental issues, such as the rainwater harvesting and the provision of renewable energy etc.
- The development must be serviced by a regular Bus Service.
- Contrary to paperwork, there are several wildlife species on the site, ie, Brown Hares, Bats etc.

Note: Planning Applications should conform to the Policies laid out in the South Wootton Neighbourhood Plan.

### **CORRECTIONS:**

Condition No. 1: To delete Drawing numbers A8-WD01 - A88C 2 House Type and BT-DET-R21-401 - Brampton

To include the following additional drawings:

Drg No. A8 – WD01 (received 13 July 2022)

Drg No. Bt\_Det\_R21-401 (received 13 July 2022)

JBA 21-083-SK01 A – Landscaping Masterplan

SW/CP/01 D – Charter Plan

### **Amended Condition**

As a result of the aforementioned corrections, Condition 1 is amended as follows:

1. Condition: The development hereby permitted shall be carried out in accordance with the following approved plans:

SW-PPL-100 – Planning Layout – Rev T

SW/CP/MP/01 – Materials Plan

SW/CP/EP/01 – Encloses Plan

SW-TP-100 – Tracking Plan – Rev B

Travel Plan - March 2022

Refuse Collection Scheme - March 2022

12-END-R21-410 - Wentwood House Type

A1-END-R21-410 - Alnmouth House Type

BW-DET-R21-410 - Barnwood House Type

CAS-WD-01 - Castor House Type

CH-DET-R21-410 - Charnwood House Type

DG-END-R21-410 - Dallington House Type

DP-END-R21-410 - Danbury House Type

DP-END-R21-410 - Deepdale House Type

GW-DET-R21-410 - Greenwood Cr House Type

GW-DET-R21-410 - Greenwood House Type

KI-DET-R21-410 - Kielder House Type

RE-END-R21-410 - Rendlesham House Type

RI-DET-R21-410 - Rivington House Type  
 SA-END-R21-410 - Saunton House Type  
 SH-DET-R21-410 - Sherwood House Type  
 WA-END-R21-410 - Wareham House Type  
 Ga 1.1 105 – Elevations Single Garage  
 Ga1.1 102 – Floor Plan Single Garage  
 Ga2.2 102 – Floor Plans double garage  
 Ga2.2 105 – Elevations Twin Garage  
 JBA 21-083-01 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 JBA 21-083-02 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 JBA 21-083-03 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 JBA 21-083-04 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 JBA 21-083-05 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 JBA 21-083-06 Detailed Hard and Soft Landscape Proposals for Plots and POS Rev D  
 Drg No. A8 – WD01 (received 13 July 2022)  
 Drg No. Bt\_Det\_R21-401 (received 13 July 2022)  
 JBA 21-083-SK01 A – Landscaping Masterplan  
 SW/CP/01 D – Charter Plan

1. Reason: For the avoidance of doubt and in the interests of proper planning.

**Assistant Director’s comments:** The corrections raise no additional issues and is for clarity to ensure the drawings are up to date with the revisions.

Taking into account the comments from Housing Strategy, it is considered the affordable provision within the site remains acceptable.

It is acknowledged the Parish Council have revised their comments following a review of the recent changes to the scheme. The outstanding matters which have been raised have been raised previously and are addressed in the main body of the report.

**Item 9/2(c) Page No.86**

**Third Party Comments:** One additional third-party support has been received. The author writes: *Having reviewed the plans for High Barn, it would appear that the proposed design has been modified following consideration of the feedback received and as such I am supportive of the proposal.*

*I would hope the community would welcome a Norfolk family with children wishing to invest in a property, to create a family home in which they can reside permanently in the village.*

**Assistant Director’s comments:** These comments are akin to other third-party letters of support and raise no additional issues.

**Item 9/2(d) Page No.102**

**CORRECTION:**

**P.104** The Neighbourhood Plan box on the front of the report states ‘No’ in error. Terrington St John does have a neighbourhood plan which is mentioned in the report as well as the relevant policies.

**Third Party comments:** Nine additional third-party objections have been received which are summarised as follows:-

- *The shop is in the wrong location, in a dangerous place to have a shop because of the road. Additional risk and congestion will be caused by the shop application.*
- *Traffic has increased over the years due to new housing in the area i.e. Smeeth Road.*
- *There is a lorry park in the area that drives on the pavement because of restrictive road width and there are a number of blind spots with restricted sight lines (20-25m). There are too many lorries on the road, animals have been killed and next it could be a person.*
- *Parking issues as residents don't have private parking and manoeuvring into spaces on blind bend is dangerous.*
- *Delivery vans need to reverse in or out of a restricted space on a blind bend.*
- *Issues with the previous consent (15/00829/F) which subdivided the rear residential unit from the rest of 1 The Gambles as parking for both dwellings has not been provided (1 The Gambles parks on the road) which has compounded parking issues.*
- *Additional traffic could block the right of way to Gambles Row or no.5 Gambles Row's private driveway.*
- *The drainage (foul and surface water) is currently shared with 1 The Gambles but no easement is mentioned on the deeds.*
- *Installing a new septic tank could cause flooding as drainage is poor, this will be a health and safety risk if there is raw sewage.*
- *Plans show the boundary at no.5 Gambles Row stopping at the gate rather than the highway, people may park there.*
- *Deeds show the residents of Gambles Row should have access at all times, pedestrian and vehicular (legal document).*
- *Rights of Way, under the [Obstruction] Act 2006 to obstruct or hinder an emergency vehicle responding to calls is an offence.*
- *Applicant has no connection to the area and it's a commercial opportunity.*
- *Should look at why the previous shop failed, it was due to declining need by the local population. The Post Office bought out the contract, replacing with a mobile service which proves an insufficient need for a fixed PO. It is unlikely the business will be viable.*
- *Shop could cause antisocial behaviour and littering*
- *Numerous emails have been sent (to Council, Highways and Members) and there has been no response, do not feel listened to and that public comments have been ignored.*

**Assistant Director's comments:** The correction raises no additional issues.

The majority of the third party objections raise similar issues to those which were submitted during the application and have been addressed within the committee report, such as highway safety, right of access, drainage etc.

The application is for an extension to an existing shop; the viability of the proposed business use is a matter for the applicant to consider.

The plans do not have to show the land outside the application site in detail. The access to 5 Gambles Row is shown on the location plan.

The previous consent (15/00829/F) which subdivided the original house into two residential units (one of which forms part of this application) has been checked, and there are no conditions on the decision notice relating to the provision of parking spaces for 1 The Gambles, nor is the parking marked on the approved plans.

Officers are unable to respond to individual third party representations as a matter of course given the volume of applications received. This is made clear on the Borough Council's website and within the neighbour notification letters that are issued. Matters raised by third parties are therefore considered within the report which is written when an application is determined.



**Item 9/2(e)**

**Page No.118**

**CORRECTION:**

**p.120** The Neighbourhood Plan box on the front of the report states 'No' in error. Terrington St John does have a neighbourhood plan which is mentioned in the report as well as the relevant policies.

**Assistant Director's comments:** The correction raises no additional issues.

**Item 9/2(f)**

**Page No.130**

**CORRECTIONS:**

**p. 7 and p 132** The proposal description within the Index and report heading box should read 'Change of Use from E to F1 with associated alterations at The Pickling Shed and Change of use from Agricultural to E to The Forestry Building'.

**p.132** The fifth paragraph under section 'The Application' should read 'Retrospective change of use is sought for the Pickling Shed from E Paving Slab Workshop to F1 Cookery School / Workshop; and The Forestry Building from Agricultural Use to E, a printing and framing workshop'.

**p.138** The fifth paragraph under section 'Principle of Development' should read 'Given that the development involves the change of use of existing historic agricultural barns, which have more recently been used for business purposes (E (was B1)) to other small scale business units, the principle complies with the aforementioned Policies'.

**Assistant Director's comments:** The application was submitted prior to the amendments to the Town and Country Planning (Use Classes) Order 1997 (as amended) which changed Use Class B1 to Class E and therefore requires amendment. The corrections raise no additional issues.

**Item 9/2(g)**

**Page No.147**

**Agent:** Additional information provided via email setting out that the hedge has been planted and fence reduced in height to 1.2m

Amended plan submitted, ref 02 Rev F. Amended plan shows a more accurate representation of the hard and soft surfaces in the site, including the grass to the front.

**Parish Council:** Amending the description from 'dwelling unit' to 'residential mobile home' provides clarification but we request a condition that the unit must not be a permanent structure.

The Parish Council notes from the file that a residential use has been accepted on basis of a 'recent investigation' as mentioned in agent's email 21<sup>st</sup> March 2022 which mentions an attachment. No evidence was attached of this investigation and when asked by the officer for a copy, it cannot be seen from the file that a copy of this document was ever provided. The Parish Council requests sight of a copy for consideration and comment before any permissions are granted.

The Laundry/store room would presumably be provided with utilities including power, water and drainage. The plans do not indicate the size of the laundry room but looking at the drawings it appears to be just under half the size of the proposed mobile unit. This is not an insignificant size.

The Parish Council is concerned that laundry room is a permanent structure and would be supplied with requisite utilities to support residence. Accordingly, we require a condition to clarify the laundry room is not to be used for residential use. It should also be clarified the laundry/store would not grant the applicant with any permitted development rights.

If the Council fails to apply these clarifications, then implications could be serious as this would have the effect is giving tacit support for a permanent building for residential use, which has been consistently refused for this site.

**Assistant Director's comments:** Regarding the Parish Council comments, the site benefits from a lawful development certificate for use as a caravan site for 1 caravan and this lawful use extends in perpetuity. In addition, any further development of the land would require an application in its own right.

The agent provided clarification in an email dated 6<sup>th</sup> April 2022 that the attachment and 'recent investigation' referenced by the Parish Council was the approved Lawful Development Certificate application 2/01/1570/LD. The decision notice for this application is available on the Council's website, however for the avoidance of doubt a copy has been added to this current application's Public Access online file.

The proposed laundry room / store is intended to be a permanent structure in association with the permanent lawful use of the land as a caravan site. The floor area of the building is approximately 7.3m x 3.65m with an overall height of approximately 3.32m. It is considered the footprint of approximately 26.6sqm is proportionate with the proposed use. It is recommended an additional condition is added requiring that the laundry/storage be used ancillary to the mobile home and not as a separate unit of residential accommodation.

As a result of amended plan, conditions are amended to refer to updated plan reference number. As a hedge has already been planted and fence reduced to 1.2m, conditions 2 and 3 regarding a landscaping scheme shall also be amended accordingly. Summary of the amended conditions below:

### **Amended Conditions**

1 Condition: The development is hereby permitted in accordance with dwg no. 02 Rev F (Location Plan and Proposed Plans).

1 Reason: For the avoidance of doubt and in the interests of proper planning.

2 Condition: Within 3 months of the date of this decision, full details of a scheme for the removal of the 1.2m timber fence to the front (west) boundary and the proposed replacement hedge shown on Dwg no. 02 Rev F shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include planting schedules, noting details of all plant species, plant sizes, proposed numbers and densities where appropriate.

2 Reason: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.

3 Condition: The planting of the hedgerow to the front boundary as shown on dwg no. 02 Rev F and required by condition 2, shall be carried out in accordance with the approved details. Any trees or plants that within a period of 5 years from planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.

3 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.

4 Condition: Within a period of 3 months from the date of this decision, the new 1.8m close boarded timber boundary fence shall be erected at the rear boundary (east) of the approved garden area hereby permitted as shown outlined in red on dwg no. 02 Rev F, and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

4 Reason: In order that the domestic garden can be clearly differentiated and remain separate from the agricultural land for the avoidance of doubt.

**Additional Condition:**

5 Condition: The Laundry room / domestic store hereby approved shall only be used for purposes incidental to the needs and personal enjoyment of the occupants of the mobile home shown within the red line on dwg no. 02 Rev F and shall not be used as an independent unit of residential accommodation.

5 Reason: For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.



**Planning Committee**  
**Wednesday, 20th July, 2022 at 9.30 am**  
**in the Assembly Room, Town Hall, Saturday Market**  
**Place, King's Lynn PE30 5DQ**

**Reports marked to follow on the Agenda and/or Supplementary Documents**

1. **Medworth Energy from Waste Combined Heat and Power Facility - Adequacy of consultation request - Report (Pages 2 - 10)**

**Contact**

Democratic Services  
Borough Council of King's Lynn and West Norfolk  
King's Court  
Chapel Street  
King's Lynn  
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Email: [democratic.services@west-norfolk.gov.uk](mailto:democratic.services@west-norfolk.gov.uk)

## Report to Planning Committee – 20 July 2022

**Consideration of a request for representation on the Adequacy of Consultation for the proposed Energy from Waste (EfW) Combined Heat and Power (CHP) facility generating electricity and steam, (and associated grid connections) on land at Algores Way, Wisbech;**

<b>Proposal:</b>	Plans to develop a new Energy from Waste (EfW) Combined Heat and Power (CHP) facility generating electricity and steam, (and associated grid connections) on land at Algores Way, Wisbech.
<b>Location:</b>	Wisbech, Cambridgeshire
<b>Applicant:</b>	Medworth CHP Ltd
<b>Case Officer:</b>	Lorna Gilbert

### **SUMMARY**

**Members will be aware that the Council meeting on 25 February 2021, passed a motion to object to the principle of the proposal for an energy from waste facility in Wisbech.**

**It is important to note that this remains in place and is unaffected by this very specific, and limited consultation response.**

The Planning Inspectorate (PINS) has invited the council to submit an Adequacy of Consultation (AoC) representation, in response to the submission of the Medworth EfW, CHP Facility and associated grid connections application. The council has 14 days to respond to this specific consultation. The deadline for comments to PINS is Thursday 21<sup>st</sup> July 2022. PINS will consider comments it receives from host and neighbouring authorities in deciding whether or not to accept the application as submitted.

This is a Nationally Significant Infrastructure Project (NSIP), so it is considered by PINS and ultimately determined by the Secretary of State.

At this stage PINS are only looking for comments on the consultation carried out pre-submission. PINS have made it clear that this is not the stage to consider the merits of the case, that will be later, and the council will have much longer to provide their response. The timetable will be set out by PINS in due course, if they decide to accept the application. A copy of the flow diagram showing the role of local authorities in this process, is attached to this report.

Comments are made on the AoC by officers in the specific terms of the request received.

## **Key Issues**

- Officers have commented in the report below on the Adequacy of Consultation (as appropriate to the Borough itself), and whether or not the applicant has met their legal duties.
- Whether members have any views on the adequacy of consultation
- Borough council's previous views on the matter.

### **Recommendation:**

1. **Members consider and note the technical response by Officers as set out below:**
  - A. **In the absence of firm evidence to demonstrate that all Section 42 prescribed consultations were carried out, raise a HOLDING OBJECTION.**
  - B. **NO OBJECTION is raised to consultation carried out under sections 47 and 48.**
2. **That the views of Members are sought on the adequacy of consultation.**
3. **Members note that the 'in principle' opposition to the proposal for an energy from waste facility in Wisbech remains as agreed by the notice of motion at the Council meeting on 25 February 2021, and is unaffected by this specific technical consultation response.**

## **1.0 BACKGROUND**

- 1.1 During a Council Meeting on the 25<sup>th</sup> February 2021, **a Motion was agreed to oppose the principle of the proposal for an energy from waste facility in Wisbech.** It is important that we are able to separate this particular technical response, from the wider objection to the proposal.
- 1.2 Notwithstanding the very clear stated position of the Borough Council (motion to oppose the proposal) the council should still engage meaningfully in the technical / legal stages, and it should be noted that we may be disadvantaged at later stages if we do not.

## **2.0 DESCRIPTION OF THE PROPOSAL AND THE CURRENT CONSULTATION**

- 2.1 Medworth CHP Ltd (the Applicant) is applying to the Secretary of State for a Development Consent Order to construct, operate and maintain an Energy from Waste (EfW) Combined Heat and Power (CHP) Facility on the industrial estate, Algores Way, Wisbech, Cambridgeshire, together with associated grid connection, CHP connection, access improvements, water connections and a

temporary construction compound.

- 2.2 The EfW CHP Facility site area is approximately 5.3 hectares, and is located within Wisbech, in the administrative areas of Fenland District Council and Cambridgeshire County Council. It is located predominantly on land currently occupied by a waste and aggregates recycling facility and waste transfer station. However, the south-east section of the site (1.3 hectares) is undeveloped scrubland allocated for development.
- 2.3 The EfW CHP Facility would be designed to allow the export of steam and electricity to surrounding businesses via dedicated pipelines and wire cables located along the disused March to Wisbech railway.
- 2.4 A grid connection route comprises a 132KV electrical connection using underground cables. It would run from the EfW CHP Facility underneath New Bridge Lane, before heading north within the verge of the A47 to the Walsoken Substation on Broadend Road. Much of the cable route and the substation is within the Borough of King's Lynn and West Norfolk.
- 2.5 The composition of residual waste received by the EfW CHP Facility and consequently, the energy generated will vary. However, there is a design limit on the amount of waste that could be processed; this is 625,600 tonnes per year.
- 2.6 Once operational, the facility would be capable of processing waste 24 hours a day, up to 365 days a year. Operational hours for the delivery of waste would be limited to 7a.m. to 8p.m. each day.
- 2.7 The proposal is a Nationally Significant Infrastructure Project as it would have capacity of over 50 megawatts. It therefore requires an application for a Development Consent Order to be submitted to the Planning Inspectorate (PINS). PINS will consider the application and make a recommendation to grant or refuse consent. The Secretary of State will then make the final decision on whether to grant the proposal.
- 2.8 The Planning Inspectorate has notified the Borough Council of King's Lynn and West Norfolk (BCKLWN) that the submitted Consultation Report cannot be shared with third parties. This is a decision for the applicant, and is part of the process that the council has no control over. However, previous consultation material is available to view on the Applicant's website: [REDACTED]

### **3.0 PURPOSE OF THE ADEQUACY OF CONSULTATION REPRESENTATION (AoC)**

- 3.1 Under Section 55 of the Planning Act 2008 (as amended) (PA), certain local authorities must be consulted about whether an applicant has complied with their duties under sections 42, 47 and 48 of the Act. These duties are as follows:
  - A) Duty to consult – Section 42
  - B) Duty to consult the local community – Section 47

C) Duty to publicise – Section 48

- 3.2 The Planning Inspectorate's (PIN's) letter dated 8<sup>th</sup> July 2022 notified the Council of the submission of the application for an Order granting development consent on 7<sup>th</sup> July 2022 for the EfW and CHP Facility. The letter invites the Council to submit a representation by Thursday 21<sup>st</sup> July 2022 relating to the adequacy of the Applicant's pre-application consultation.
- 3.3 The Applicant has undertaken three main stages of pre-application consultation. Two of these are non-statutory consultation, followed by a statutory consultation.

**A) Duty to consult – Section 42 – HOLDING OBJECTION**

- 3.4 So far as is relevant to this application, the Applicant must consult the following:
- Such persons as may be prescribed.
  - Each local authority that is within section 43, and
  - Each person who is within one or more of the categories set out in section 44.
- 3.5 Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 provides a list of prescribed consultees required under Section 42 (1) (a). The applicant has considered this list and consulted a selection of prescribed consultees. However, it is noted that the following bodies/organisations on the prescribed list do not appear to have been consulted:
- Design Council (previously The Commission for Architecture and the Built Environment) – they should be consulted for all proposed applications likely to affect land in England.
  - The Equality and Human Rights Commission – they should be consulted for all proposed applications likely to affect land in England.
  - The Commission for Sustainable Development – they should be consulted for all cases.
  - The Gas and Electricity Markets Authority – they should be consulted for all proposed applications likely to affect gas and electricity markets.
  - The relevant local resilience forum – they should be consulted for all cases.
- 3.6 It is unclear why these prescribed bodies do not appear to have been consulted within the document. It therefore appears that the Applicant may not have adequately consulted all relevant persons as may be prescribed and in the absence of firm evidence to the contrary, a holding objection is therefore recommended.
- 3.7 The following parish councils were included in the prescribed consultees list: Elm Parish Council, Emneth Parish Council, Marshland St James Parish Council, Walpole Parish Council, Walsoken Parish Council, West Walton Parish Council and also Wisbech Town Council. The applicant is therefore considered to have carried out its duty in this regard.
- 3.8 It should be noted that additional Parish Council's were included within the wider consultee list, such as Outwell Parish Council and Wisbech St Mary Parish Council.



- 3.9 In terms of consulting Local Authorities, the Applicant has provided a consultation list of the Local Authorities where the proposed development would be located, along with a list of the Local Authorities adjoining these. The compiled list therefore includes Local Authorities falling within Groups A to D as identified under Section 43 (2) of the PA.
- 3.10 In relation to Section 44, the Applicant has identified how they have sought to identify persons with an interest in land, which includes an owner, lessee or occupier of the land, a person interested in the land or has power to sell and convey the land or to release the land. There are not considered to be any issues in this regard.

## **B) Duty to consult the local community – Section 47 – NO OBJECTION**

- 3.11 The Applicant must in summary prepare a statement:
- Setting out how the applicant proposes to consult, people living in the vicinity of the land.
  - Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.
  - The deadline for local authority's consultation response is the end of the 28 period.
  - In preparing the statement, the applicant must have regard to any response to consultation (above) received before the deadline.
  - Once the statement has been prepared, the applicant must:
    - Make it available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,
    - Publish, in a newspaper circulating in the vicinity of the land, a notice stating where and when the statement can be inspected, and
    - Publish the statement in such manner as may be prescribed.
  - The applicant must carry out consultation in accordance with the proposals set out in the statement.
- 3.12 The applicant is therefore required to prepare and publish a statement with regard to how it would consult local people. A Statement of Community Consultation (SoCC) was prepared by the applicant. This was published on 24<sup>th</sup> June 2021. The statutory consultation took place between 28 June 2021 and 13 August 2021.
- 3.13 The preliminary results of the Environmental Impact Assessment (EIA) were also published and consulted on as part of the Stage 2 Statutory Consultation. The Preliminary Environmental Information Report (PEIR) and supporting documents set out the environmental assessments undertaken and explained what is proposed. Views were sought on the information contained in the PEIR and its supporting documents. The council responded to the PEIR following input from its planning committee on the 13<sup>th</sup> August 2021.
- 3.14 Prior to preparing the SoCC, the Applicant undertook non-statutory consultations with the relevant local authorities within section 43(1) i.e. Borough Council of King's Lynn and West Norfolk, Fenland District Council, Cambridgeshire County Council, Norfolk County Council as well as authorities that bordered these. Stage 1 non-statutory Consultation took place between 16 March to 4 May 2020 and

Stage 1B non-statutory Consultation was between 18 September to 29 October 2020.

3.15 The authorities were given at least 28 days to respond to the consultations. The applicant considered the feedback given at the consultation stages, which helped inform subsequent stages. On behalf of the council, officers asked for a rural location for the document inspection. The Applicant clarified that an event was proposed in Walton Highway Village Club. Additionally, BCKLWN asked for a briefing with Councillors. In response the Applicant confirmed a meeting took place on 11<sup>th</sup> March 2020. BCKLWN also requested that press notices were published in Your Local Paper, which the Applicant proceeded to do.

### Public consultations

3.16 The Applicant has consulted in a variety of ways as detailed below:

3.17 Two consultation zones were set up through the non-statutory and statutory consultation stages. During the non-statutory stages Zone B included a two kilometre buffer around the potential Grid Connection options. For the Statutory Consultations they were defined as:

- Zone A – includes all properties within a two kilometre radius of the main site boundary and grid connection, plus the full extent of residential areas in Wisbech and Elm. At the start of Stage 2 statutory consultation, invitation flyers notified consultees about the consultation and provided a summary of information about the Project and details of the consultation, including how to get involved and where more information can be found.
- Zone B – This covered a five kilometre radius of the main site boundary and grid connection. These did not receive direct mail but were notified of the consultation through a combination of online and printed advertisements.

3.18 Press release and newspaper adverts were undertaken. These included newspaper advertisements detailing consultation dates, exhibition event dates and Document Inspection Locations. Consultation details were published in the Lynn News, Cambs Times, Eastern Daily Press, Fenland Citizen and Your Local Paper. Two advertisements were displayed in each paper in either/and June/July 2021 for the statutory consultation. Additionally, a press release was issued to various publications and organisations including television and radio operators, and MPs.

3.19 A project website contains the consultation documents. Hard copies of the documents were located at exhibition venues and document inspection locations. The document inspection locations were in Wisbech, Wisbech St Mary, Marshland St James and Walton Highway. A project email address, phone line and freepost address were set up as part of the consultation process. Posters/banners were used to publicise public exhibition events and document inspection locations, and consultation booklets were produced.

3.20 Due to the Covid-19 pandemic and associated social restrictions, the public exhibitions proposed as part of Stage 1 non-statutory consultation were postponed. Therefore, an additional stage of non-statutory consultation took place prior to Stage 2 statutory consultation (known as Stage 1b non-statutory consultation). This gave a further opportunity for consultees to comment on the proposals.

- 3.21 Public exhibitions took place during the final statutory consultation in Wisbech, Wisbech St Mary, Walton Highway, Marshland St James, and Friday Bridge. Covid-19 restrictions were in place e.g. social distancing and use of masks. The Applicant's project website also included an interactive exhibition webpage.
- 3.22 The Applicant made consultation documents available in large copy print, audio, or Braille on request. Upon request, a translation service made documents available in alternative languages. The exhibition locations used were Disability Discrimination Act (DDA) compliant. Members of the applicants project team were in attendance to facilitate access and assist the public.
- 3.23 The Applicant has explained how they complied with the consultation methods set out in the SoCC. It also highlights where alterations occurred. For instance, the venue times for the exhibition event at Walpole Community Centre had to be altered to enable cleaning at the venue required by Covid 19 health and safety guidelines. The Applicant notified the host local authorities of the change, updated the project website and displayed updated posters at the event. Additionally, due to Covid 19 restrictions and the consequent reduction in customers attending the club, Walton Highway Village Club advised that the opening hours advertised did not match current arrangements. The Applicant notified the host authorities and displayed a poster at the club. The opening hours were also updated on the project website. Although a few amendments took place as set out above, it has been demonstrated there was overall compliance with the consultation methods set out in the SoCC.

#### **Duty to publicise – Section 48 – NO OBJECTION**

- The applicant must publicise the proposed application in the prescribed manner.
  - Must make provision for a deadline for receipt of responses to the publicity.
- 3.24 Details of publications containing the Section 48 notice have been provided. They were published in June 2021 in the:
- Cambs Times
  - Daily Mail (England & Wales and Scotland editions)
  - Eastern Daily Press
  - Fenland Citizen
  - Lynn News
  - London Gazette
  - Metro
  - Your Local Paper
- 3.25 The Applicant is therefore considered to have satisfied their Section 48 duties by including a deadline for responses to the consultation.

#### **4.0 THE NEXT STEPS**

- 4.1 As noted above the Planning Inspectorate (PINS) is currently seeking consultees' comments on the Adequacy of Consultation for the Medworth EfW and CHP Facility. PINS will have regard to the comments received during the statutory consultation, in their determination over whether to accept the application for

Examination.

- 4.2 A diagram outlining the role of Local Authorities in the DCO process is attached to this report for information.

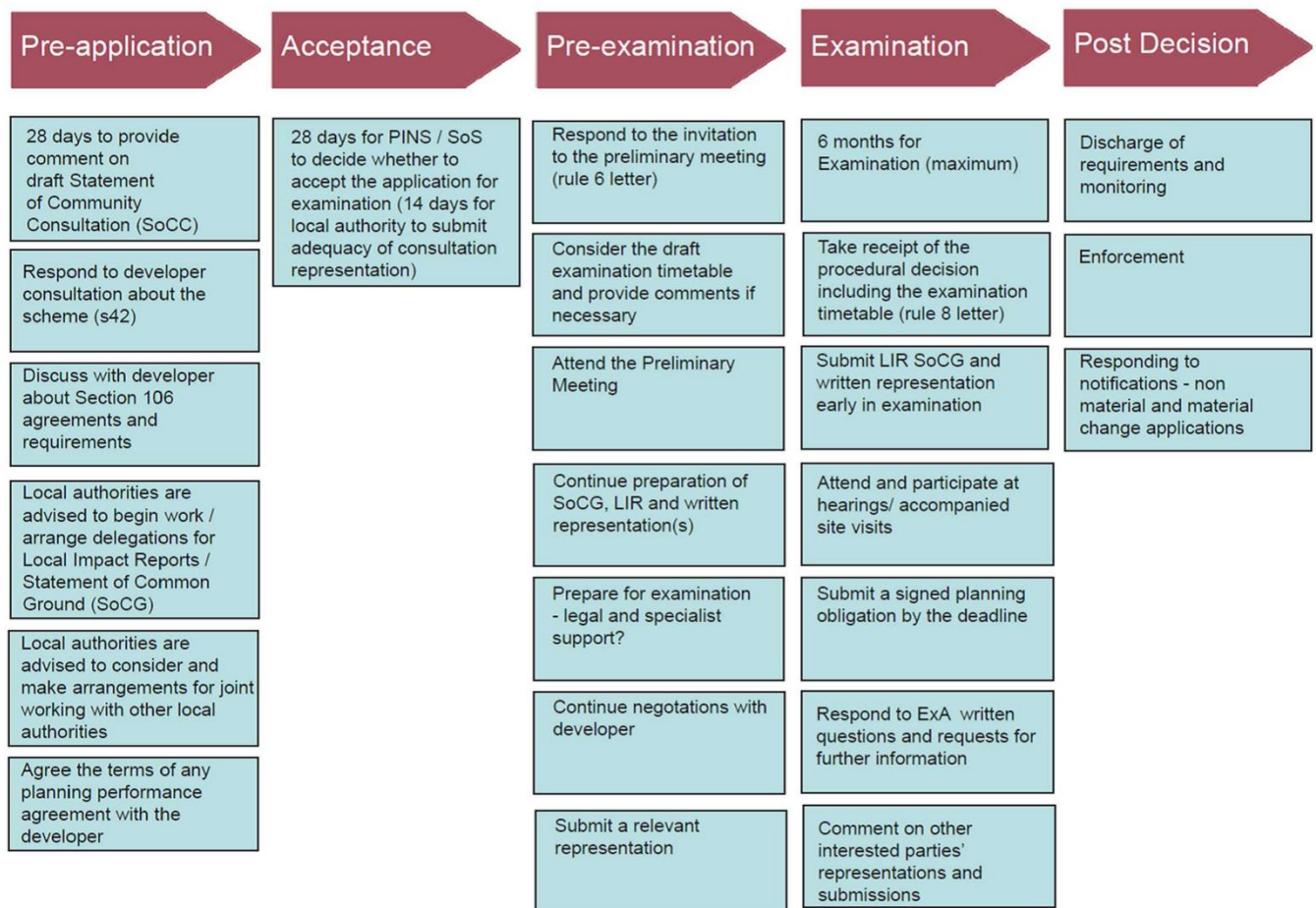
## **5 CONCLUSION OF THE ADEQUACY OF CONSULTATION REPRESENTATION**

- 5.1 PINS is seeking the council's opinion as to whether the Adequacy of Consultation representation is acceptable. The council has 14 days to respond to this request.
- 5.2 Officers consider that a holding objection should be raised to the S.42 aspect of the consultation, given that some of the prescribed bodies appear not to have been consulted. Officers do not raise objection to the section 47 and 48 elements, which it is considered have been complied with.
- 5.3 In the light of Members consideration of the above information they are requested to express any additional views on the adequacy of consultation, particularly as they are likely to have had feedback from local communities and parish councils.
- 5.4 Finally it is important to note the views expressed about compliance with these statutory duties will not prejudice the council's objection in principle to the application, or any future views. Local authorities are not being asked for views on the merits of the application at this stage

## **6.0 RECOMMENDATION:**

- 1. Members consider and note the technical response by Officers as set out below:**
  - A. In the absence of firm evidence to demonstrate that all Section 42 prescribed consultations were carried out, raise a HOLDING OBJECTION.**
  - B. NO OBJECTION is raised to consultation carried out under sections 47 and 48.**
- 2. That the further views of Members are sought on the adequacy of consultation.**
- 3. Members note that the 'in principle' opposition to the proposal for an energy from waste facility in Wisbech remains as agreed by the notice of motion at the Council meeting on 25 February 2021, and is unaffected by this specific technical consultation response.**

# The role of local authorities



## **Medworth Energy from Waste Combined Heat and Power Facility – Adequacy of consultation request**

[Click here to view a recording of this item on You Tube.](#)

Councillor de Whalley left the meeting and addressed the Committee in accordance with Standing Order 34.

Members were reminded that at the Council meeting on 25 February 2021, Council passed a motion to object to the principle of the proposal for an energy from waste facility in Wisbech.

It is important to note that this remains in place and is unaffected by this very specific, and limited consultation response.

The Planning Inspectorate (PINS) had invited the Council to submit an Adequacy of Consultation (AoC) representation, in response to the submission of the Medworth EfW, CHP facility and associated grid connections application. The Council had 14 days to respond to this specific consultation. The deadline for comments to PINS was Thursday 21 July 2022. PINS would consider comments it received from host and neighbouring authorities in deciding whether or not to accept the application as submitted.

As this was a Nationally Significant Infrastructure Project (NSIP) it was considered by PINS and ultimately determined by the Secretary of State.

At this stage PINS are only looking for comments on the consultation carried out pre-submission. PINS have made it clear that this is not the stage to consider the merits of the case, that will be later, and the council will have much longer to provide their response. The timetable will be set out by PINS in due course, if they decide to accept the application. A copy of the flow diagram showing the role of local authorities in this process, was attached to this report.

Comments were made on the AoC by officers in the specific terms of the request received.

The report detailed the consultation carried out by the applicant.

The Committee noted the key issues for consideration as set out in the report.

In accordance with the adopted public speaking protocol, Dr Little (objecting) addressed the Committee in relation to the item.

In accordance with Standing Order 34, Councillor Dark addressed the Committee. Councillor Dark, Leader of the Council and Administration stated that he wished to make it clear that this was a technical matter that was being considered, and the Council had taken a decision some time ago that the Council was in principle opposed to this incinerator at this location citing reasons that it was too large, too near and sufficient in the supply chain to actually need more. That was the position of the administration and was a similar position taken by every other Council in the

area around this matter including Norfolk County Council. That position would remain.

In terms of the matter being considered, Members were being asked about the adequacy of consultation and as had been explained what needed to be considered was whether the applicant had done what they said they were going to do which was the minimum legal requirement or in the prevailing circumstances that we know in West Norfolk, given the history of concern around incineration and given the actual issues around where the plume might go, the size of the site, drawing in the consultation of 3.5 miles (5 km) was that adequate consultation as there were numerous groups and Parish Councils that had said that they would want to get involved with this and would want to be consulted but the reality was that they were outside the framework of this. From a technical point of view, officers were right – had Medworth done what they said they were going to do and did that meet the legal requirement? The reality was yes but the additional question the Committee needed to answer was given all the local concern over incineration, given all of the people who were interested in this including the other parish councils and the wider impact, was 5km wide enough on a site of that size and the concerns that had been raised. He hoped that the Committee would agree that they could have done more.

Councillor de Whalley addressed the Committee in accordance with Standing Order 34. He outlined his concerns to add to those of Councillor Dark and Dr Martin Little, which included when the Council had its own battle with the proposed incinerator at the Willows, which was half the size, it was deemed appropriate by this Council to run a poll across the whole district. The developer left some papers which showed that they were unhappy with the poll and results. This begged the question of whether the consultation should be left with the developer of 5km. Waste would be pulled in from a 2-hour radius along roads which were not adequate. There was Cambridgeshire County Council, Fenland District Council, Wisbech Town Council, Norfolk County Council and this Council all lodging 'in principle' objections. The Willows Incinerator took into account objections from 9 MPs across Norfolk and neighbouring counties, therefore, to restrict to 5 km for a site twice the size seemed inappropriate. A number of Parish Councils had written to Cambridgeshire County Council stating that they felt that the consultation was inadequate.

In accordance with Standing Order 34, Councillor Kemp addressed the Committee and explained that as a local Councillor, she was asking the Planning Inspectorate to refuse MVV's application for an incinerator in Wisbech on the West Norfolk border. She would ask the Planning Committee to send a letter to the Planning Inspectorate regarding the inadequacy of consultation with residents of West Norfolk.

- She explained that she had asked MVV both, before and during, the Pre-Application Consultation last July to August, to consult with residents, including in the community centres, but MVV refused. MVV held no consultation in South and West Lynn or in the parishes of West Winch or Clenchwarton.
- When MVV's hired consultants spoke to the Borough's Environment Committee about the incinerator, shortly before the pandemic, I told them they should consult with Lynn and surrounding villages. They refused.

- MVV didn't consult properly with West Norfolk residents, and they set too narrow a circle for the area of consultation, of up to 5 km.
- But 15 km area was still too narrow an area, as it extends only to the Pullover Roundabout in West Lynn and stops short of King's Lynn and surrounding villages and took no proper account of the velocity of the winds around the Wash as a carrier of particulates, or of the impact on the tourist area of the North Norfolk Coast.
- There is an open and flat Fen landscape between Wisbech and King's Lynn, across which particulate matter and secondary particulate matter could easily travel.
- All Parliamentary Group on Air Pollution in December called for an immediate moratorium on all new incinerators, as research shows that eggs, 10 km away from incinerators, have been found to contain dioxins from incinerators. Incinerator matter has been found in children's toenails and associated with childhood leukemia.
- South and West Lynn are deprived areas, living in the indices of deprivation and suffered from a long battle against an incinerator 8 years ago that Cory Wheelabrator wanted to build in the ward. The prospect of another incinerator is causing anxiety. Public Health, and Mental Health, is a material planning consideration.

The Assistant Director advised that this is about the adequacy of the consultation. If it was accepted by the Planning Inspector, there would be the opportunity to talk about the merits in more detail at the pre-examination and examination stages.

Councillor Bone stated that he was disappointed at the lack of consultation. He added that there would be transportation of other authority's waste to the site. He felt that it would be of detriment to the town. He felt that residents should have had the opportunity to do this.

Councillor Rust added that this was a Major National Infrastructure Project and would not be determined by a local Planning Committee but by the Secretary of State. It was clear that a 5 km radius was not adequate. She stated that the Committee must add its weight to the fact that the consultation was not adequate.

Several other members of the Committee agreed with Councillor Rust.

Councillor Parish added that West Norfolk's rubbish went to Suffolk for burning and there were two proposed nuclear power stations in Suffolk and should all of England have been consulted, it was a question of balance. He asked whether people of Suffolk had been consulted to see if they wanted West Norfolk's rubbish.

Councillor Storey added that as elected Members they were there to look after the residents within their wards. With regards to the distance of consultation, 5km was not very far and not adequate. He could not see why the people of King's Lynn and West Norfolk had not been consulted on the project and felt that they should have been. He added that this was the wrong project, in the wrong place at the wrong time.



The Chairman, Councillor Mrs Spikings expressed her concerns and added that 5km was nothing especially with prevailing winds. This was a local issue, and everyone should rally together and be counted. It was noted that the Council still opposed the project.

It was proposed by Councillor Storey and seconded by the Chairman, Councillor Mrs Spikings that the whole of West Norfolk should have been consulted and that the following recommendation be sent to the Planning Inspectorate.

The Democratic Services Officer carried out a roll call on the recommendation, and after having been put to the vote was carried unanimously:

**Recommendation:**

- (1) Notwithstanding the fact that the applicants have undertaken consultation in accordance with their own Statement of Consultation (SoC), the Committee is very concerned that the 5km consultation area is entirely inadequate given the size of the plant and therefore OBJECT as it is considered that the whole of the Borough should have been subject to consultation.
- (2) Members note that the 'in principle' opposition to the proposal for an energy from waste facility in Wisbech remains as agreed by the notice of motion at the Council meeting on 25 February 2021 and was unaffected by this specific technical consultation response.