

## **Relevant minutes from Mid and East Antrim Borough Council.**

### **Council meeting - Monday, 3<sup>rd</sup> August 2015**

Ms Donaghy advised that she had met with the organisation leading these projects. Given their significance, she felt it was important to provide Members with detailed and accurate information. She therefore sought permission to organise an information workshop during September at which the company jointly responsible for both projects would be in attendance to provide updates and answer Members' queries.

Cllr M McKinty proposed that this workshop be arranged as he felt it was important for elected Members to have accurate and up-to-date information in order to be able to answer any queries/concerns from members of the public.

Cllr D A Wilson concurred with Cllr McKinty and seconded his proposal. In relation to Woodburn, he asked if the Chief Executive could also obtain information from DETI for either the workshop or a relevant Committee on the condition of the salt mines, together with associated maps, as he was of the understanding that one of the mines was approximately 800m from the well site at Woodburn and was partially collapsed. Ms Donaghy agreed to obtain this information.

In response to Cllr R Logan's query, Ms Donaghy advised that the Head of Planning, Head of Regulatory Services, and Senior Environmental Health Officer with expertise in noise, would be in attendance at the workshop. Cllr P Sinclair supported the proposed workshop and looked forward to hearing details of both projects.

Ald G McKeen also welcomed the workshop and thanked the Chief Executive for organising. Cllr J Brown endorsed the comments made by Cllr D A Wilson regarding the salt mines in the proximity of the Woodburn area and believed the geology of the area required to be examined. He expressed concerns that residents in the Woodburn area were not receiving answers to their queries and he questioned if there would be an opportunity for concerned residents to voice their opinions. He stressed the importance of the health of the citizens of the Borough and welcomed the opportunity to have a workshop.

In response to Cllr A P Wilson's query, Ms Donaghy advised that this was an exploratory project at this stage, however, should a further application be submitted, she was of the understanding that it would most likely be an application of regional significance, thus would not be dealt with by Planners locally. She reiterated that this would be an information workshop only.

### **Council meeting – Monday, 2<sup>nd</sup> November 2015.**

#### **Tabled and previously circulated: Letter from Belfast City Council advising that it had passed a Motion in relation to above.**

The Mayor advised that Belfast City Council had urgently requested that Mid and East Antrim Borough Council should review the decision to grant permitted development for exploration at Woodburn Forest. He stated that the Chief Executive had already informed Belfast City Council and the Minister for the Environment that this decision had not been made by Mid and East Antrim Borough Council and that this item was on the Agenda for further discussion at this week's Planning Committee.

Cllr J Brown indicated that he wished to speak on this issue, however Cllr S Nicholl raised a point of order in that if there was to be discussion, then Members of the Planning Committee should either not participate in the discussion or leave the Chamber.

The Mayor asked for a show of hands in favour of having no discussion on this matter which resulted in 21 votes. In terms of those in favour of discussion, 10 votes were received. The Mayor therefore declared that there would be no discussion on this subject.

Cllr J Brown therefore advised that he wished to bring a Notice of Motion to the Full Council Meeting on 30 November on this subject.

Ms Donaghy pointed out that there already had been a Notice of Motion received for Full Council on 30 November. She agreed to advise Cllr J Brown if the proposed Motion fitted within Standing Orders.

### **Planning Committee 5<sup>th</sup> November 2015.**

#### **Tabled and previously circulated: (i) Report; (ii) Letter from DoE Minister; and (iii) Letter from Belfast City Council**

The Chair reported that the Department of Environment Minister had previously written to Mid and East Antrim Council in relation to permitted development for exploratory drilling at Woodburn Forest. He had asked Council to give careful consideration to reviewing the previous decisions of the Department on this matter.

Belfast City Council had also written to this Council, asking it to review the decision to grant permitted development for exploratory drilling in Woodburn Forest.

Ms Donaghy recapped that Members had been advised at the November Monthly Meeting that she had responded to both parties, informing that this Council could not make this decision.

Mr Duffy had been asked to review the matter and the Chair invited him to address Members.

Mr Duffy acknowledged that Members had received correspondence that evening from a Planning Consultant the previous evening. He advised that he was not going to comment on this latest correspondence, but would reply once fully considered.

He guided Members through the circulated Report and explained that the Planning (General Development) Order 1992 set out a range of development which did not require planning permission, however, with the transfer of most planning functions on 1 April 2015 to the new Councils, that piece of legislation had been replaced with the Planning (General Permitted Development) Order 2015, which set out permitted development rights.

With regard to reviewing the negative Environmental Impact Assessment determination, it was his considered opinion that "If Council carried out a further EIA Screening exercise at this stage, it would have no statutory basis, and therefore would be liable to legal challenge".

Cllr B Henry was of the opinion that, as Council had no legal right to do anything, it should remain

Ms Donaghy felt that, as there had been concerns raised by the public, Council should issue a Public Statement through the media, advising that Council had written back to the Minister of the Environment and Belfast City Council, clarifying any misconception that this was Council's decision. It should also direct anyone feeling disgruntled to speak directly to the Department.

Cllr S Nicholl referred to the number of lost jobs over the past two years in the area and pointed out that energy costs would be factor in attracting new business. He therefore felt it

may be important to find out whether there were gas and oil resources in the Carrickfergus area. If this proved positive, it could change the entire economy and he stressed the need to balance those proposals against the risks. He reported that the Department had said the risks would be properly managed and felt this may provide an opportunity for new investment.

Cllr S Ald T Nicholl concurred with Cllr S Nicholl's comment. Cllr S Nicholl proposed and Ald T Nicholl seconded that **"Council had no objections to progressing the exploratory drilling at this stage"**.

### **Agreed**

That (i) Council issues a Public Statement through the media advising that Council had written back to the Minister of the Environment and Belfast City Council, clarifying any misconception that this was Council's decision and directing anyone feeling disgruntled to speak directly to the Department; and (ii) Council had no objections to progressing the exploratory drilling at this stage.

## **Planning Committee - 4<sup>th</sup> February, 2016**

### **Woodburn Forest**

**Tabled and previously circulated: (i) Letter dated 22 January 2016 from RPS Consulting Engineers, Belfast; and (ii) Letter dated 2 February 2016 from Department of the Environment re Woodburn Forest Exploration Well Permitted Development**

Mr Duffy informed that the letters referred to the intention of InfraStrata PLC to commence exploratory drilling at Woodburn Forest in the week commencing 15 February 2016. He advised that the DoE had written to Mid East Antrim Borough Council and RPS to advise that the Waste Management Plan should be approved by the Council prior to drilling commencing on site.

Referring to the two letters, Mr Duffy recapped that InfraStrata PLC had submitted its Waste Management Plan to the Department in March 2015 and that jurisdiction for consideration of the Waste Management Plan now rested with Council. He advised that, following the transfer of planning functions to Council on 1 April 2015 the Department did not transfer over the Waste Management Plan for Council consideration.

Referring to the letter dated 2 February 2016 from DoE, Mr Duffy informed that he had written to the Department to request that all information relating to the Plan be transferred to Mid and East Antrim Council for consideration.

He explained that the process for considering a Waste Management Plan was set out in Planning Management of Waste from Extractive Industries Regulations 2015. Consideration of the Waste Management Plan would involve a similar process to that used to allow planning applications. There was a requirement to advertise and allow a consultation period before a decision could be made to approve or refuse the Plan. Mr Duffy pointed out that, unlike assessing planning applications, there was no mechanism within the Planning Portal to manage the process, and as such, consideration required to be given as to how this process would be undertaken. The obvious implications for Infrastrata were to meet legislative requirements to have a Waste Management Plan approved prior to commencement of work on site in order to prevent delays.

He advised that the online position against drilling at Woodburn had been reactivated. Mr Duffy referred to legal advice received by Council in relation to issues raised in the letter

received from Michael Burroughs Associates, Planning Consultants, and stated that this would be considered in due course.

Cllr Nicholl raised concerns regarding DoE not informing Council of the current state of deliberations taking place when powers for planning had been handed over to Council. There was significant international interest in whether the development would go ahead and he feared that Council's reputation may be wrongly damaged.

He pointed out that the Regulations determined a timescale to be adhered to in relation to the process being carried forward and suggested that Council should engage with InfraStrata and its Agents to meet that timescale and ensure that all the legal requirements were met.

He highlighted the need for public consultation and for those who had been lobbying the Planning Committee to be advised to raise their concerns directly with Planners. He urged expediency in progressing this matter and stressed the importance of instilling confidence in industry, business and international investors.

Cllr Reid concurred with Cllr Nicholl and felt that Elected Members needed to determine this matter as soon as possible. There were fears that the blame would rest with Council and this should be avoided.

Agreed: That Council engages with InfraStrata and its Agents to meet the set timescale and ensure all legal requirements were met.

#### **Council meeting - Monday, 7<sup>th</sup> March, 2016**

#### **InfraStrata Proposed Exploratory Drilling – Woodburn Forest Project – Waste Management Plan**

#### **Tabled and previously circulated: Report, Waste Management Plan and Waste Management Plan Consideration**

Following the transfer of planning functions on 1 April 2015, Council had the jurisdiction for consideration of the Waste Management Plan (WMP) and approval was sought for a WMP for the drilling of a borehole at Woodburn Forest, Carrickfergus, which had been confirmed as Permitted Development by the Department of the Environment in 2013.

The Waste Management Plan set out InfraStrata's objectives with regard to Waste Prevention and Minimisation. Drilling was restricted to 4 months and limited to a test borehole only with no extraction of oil or gas permitted and the site did not contain waste classified as hazardous or contain substances classified as dangerous.

The principle of the proposed drilling was not under consideration. Council's only role was to consider the Waste Management Plan under the relevant legislation. Council needed to be satisfied that:

- i. The objectives of the WMP will be met, taking account of the extent to which compliance will be secured through other national or community legislation;
- ii. The conditions of the planning permission set out in these regulations can be expected to be complied with, as appropriate;
- iii. The WMP was appropriate to the category in which it considers the site or facility come within.

These matters had been assessed in the Waste Management Plan Consideration and it was recommended that Council approve the Waste Management Plan, as it fully complied with

the legislation requirements set out in Regulation 7 of The Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.

**Council meeting – Monday, 4<sup>th</sup> April, 2016.**

**Proposed Judicial Review – Woodburn Forest**

Tabled and previously circulated – (i) Report (ii) Pre-Action Letter dated 21 March 2016 and (iii) Letter to Council from Infrastrata dated 16 March 2016.

The Chief Executive referred to receipt of a Pre-Action Protocol letter advising of proposed judicial review of Council's decision on the Waste Management Plan at Woodburn Forest. Officers would meet with Queen's Counsel to take advice on Council's response and Ms Donaghy undertook to keep Members updated accordingly.

With regard to a separate but related issue, the Chief Executive outlined her concerns within the context of the new Ethical Standards Framework, which included the Councillors' Code of Conduct. At this stage, she was seeking legal advice.

**Council meeting – Monday, 3<sup>rd</sup> May 2016.**

**Proposed Judicial Review re: Woodburn Forest**

**Tabled and previously circulated: Report.**

Ms Donaghy reminded Members of the judicial review in relation to the exploratory drilling operations at Woodburn Forest, summarising the three grounds for the review. She sought permission to meet with Senior Counsel with regard to taking legal advice, and agreed to keep Members updated of progress as appropriate.

On the proposal of Cllr S Nicholl, seconded by Ald G McKeen it was Agreed: That Council defends the Judicial Review and that, due to the tight timeframe involved, Council delegates authority to the Chief Executive to meet with the Council's legal team to direct them on behalf of the Council on this matter.

In response to Cllr Dr M McKinty's request, it was agreed to keep all elected Members updated with regard to the facts around the Judicial Review.