

**Stirling Council Planning Hearing
Waste to Energy Plant – Throsk
Lessons to be learnt.
By Walter Attwood, Friends of the Earth Stirling**

Introduction

For most of us taking part this was our first experience of a planning hearing. The system looks good and with the experience of Councillor Graham Reed, in the chair, carefully directing the proceedings we were taken through it stage by stage.

The Council's case

The first half of the Panel Hearing was taken up with the council officers going over the application in some detail and the panel members closely questioning the officers. The officers deferred to SEPA when matters under their control came up for discussion.

There was one legal question which the panel solicitor went to check the answer.

This experience was interesting as it let us into the minds of both the Stirling Council planners and SEPA and their approach to the planning applications in general and this one in particular. This application was for a Planning Permission in Principle, (PPP), and many of the detailed questions were met with a stonewall answer that the matters being questioned would be a part of the detailed planning application, and SEPA's Pollution Prevention and Control, (PPC), permit process.

The planners' attitude seems to be that if it does not appear to be against any policy or regulation they will support it. They do not take into consideration any aspect of the environmental regulation beyond upholding the position of SEPA. When SEPA withdrew their objection to the plant early this year the application has been speedily brought to a conclusion after two years stalemate.

SEPA takes no interest in the general planning procedures; if they think they can 'control' the processes for which they are responsible they will not object to the plan.

The adjournment

After an hour there was a short adjournment to allow the Planning Panel members and others to read the written submissions of the objectors. I handed a copy of the written submission of FOE – Stirling to SEPA as I would be referring to them and thought it good manners they should be informed beforehand. Stirling Council already had the papers as they were in control of submission applications. It was then that I learnt a very interesting fact, but more about this later.

The Applicant's case

The applicant was then called upon to make his case for the proposal. Much of it was a rehash of general statement made early on the planning application process. The applicant offered to provide a new children's playground at their own expense on other land they owned in the village, removing it away from the perimeter fence of the plant. The

bombshell that the applicant's representative dropped came in the last few sentences of his submission.

THE BOMBSHELL;

The applicant's representative informed the panel that the developer would not be using the technology that they had stated they would be using all along. This was the batched oxidation system similar to the Dargavel plant. It was to be dropped in favour of a continuous system developed in Europe. The applicant refused to say more than this on the grounds of commercial confidentiality.

(This was the information I had been given by SEPA who themselves had only received a letter informing them of this change at 9.00 a.m. of the day of the hearing. I had shared this information with the other objectors during the adjournment)

The response:

The panel members were obviously taken aback by this information and questioned the planners and SEPA at some depth.

The response of the planners was that the details of the plant that would be used for converting waste to energy were a matter that would be considered at the detailed planning application stage and this information made no difference to the application before the panel as it was only an application in principle.

(I do not think that the planners had been informed of the change at this stage as they would have had to admit it under questioning on their presentation at the beginning of the Panel Hearing.)

The response of SEPA was that it did not raise any objections in their minds and they would deal with matters under the PPC permitting process.

Panel members questioned the value of the pre-application consultation meetings with the community when what had been presented to those consultations was changed within a hearing and without previous notice.

The objectors:

Three people were called to make statements to the Panel. William Liddell, Throsk Community Council, Ian McCulloch, an individual, and Walter Attwood, FOE – Stirling.

William Liddell made comments about position of the Dargavel plant and the fears raised by the proposal in Throsk, indicating they had not been allayed by the change announced by the applicants. He also commented in some detail about the potential size and position of the plant.

Ian McCulloch, a solicitor, challenged a number of the assumptions made by the applicants and planners including the previous use of the site. He also challenged some of the interpretation of planning law and regulation referring back to a previous application for this site for light industrial and commercial use. This previous planning application is still valid. He also challenged the width of the buffer zones in the current application.

FOE – Stirling’s submission was radically altered from the written submission before the Panel. FOE - Stirling challenged the validity of the now revised proposal on the grounds that all the scientific evidence submitted by the applicants was invalid as it referred to a different technology. FOE - Stirling also pointed out that the applicant had throughout the planning process had attempted to cover up information relevant to objectors. FOE – Stirling also pointed out that no transport statement relevant to this application had been submitted.

Panel discussion:

The Planning Panel had a brief discussion and when the chair asked for someone to propose the planner’s recommendation to approve the application no panel member did so. When he asked for the contrary he got a very swift response and after further brief discussion the panel voted unanimously to reject the application.

The lessons to be learnt:

- 1) What is stated in any pre-application consultation should be taken with a pinch of salt.
- 2) A developer can announce, without any notice, a previously decided significant change to their submitted application during a hearing. (In this case after the hearing had been in session for an hour and a half.)
- 3) The applicant’s submissions in support to any PPP application, from environmental statement to scientific assessments, can be rendered meaningless if the applicant decides to make a significant material change that may affect the validity of those statements and reports. The now invalidity of these reports however does not affect the process nor invalidate the application. We must therefore question what value these statements and reports are in the planning process if they can be set aside in such a cavalier fashion.

Another significant change to the proposal:

The applicant made great play of the proximity proposals for the accessing of waste for this plant but it became clear that, although claiming under a Freedom of Information request to confining there waste accessing to the Forth Valley Waste Strategy Area, Falkirk, Stirlingshire and Clackmannanshire, there were to be no restrictions as to where waste could be accessed from, including from England. The applicant had all along claimed that no waste would be imported into the area even from surrounding areas of Scotland. SEPA stated they had no interest in where the waste came from, they only became involved when the waste entered into plant. The planners seem to have nothing to say on the matter.