

PROPOSED HOLT LANE HWRC DISMISSAL OF PLANNING APPEAL
WDA/48/08

Recommendation

That:

1. Members note the Decision of the Planning Inspectorate and agree to Option Three as outlined in this report

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Report of the Director

1. Purpose of the Report

- 1.1 To inform members of the decision of the Planning Inspectorate to dismiss the Authority's appeal lodged against Liverpool City Council's Planning Committee for the proposed Household Waste Recycling Centre (HWRC) at Holt Lane, Netherley, Liverpool.
- 1.2 To provide Members with a summary of the potential actions the Authority could pursue in order to gain planning permission for the site.
- 1.3 To recommend to Members that the Authority accept the decision of the Planning Inspectorate and to pursue another site suitable for an additional HWRC for Liverpool

2. Background

- 2.1 Members are requested to note Report WDA/32/07 that provides a history of the Holt Lane site, planning application process and subsequent appeal to The Planning Inspectorate.

3. Current Situation

- 3.1 Members are requested to review the Appeal Decision notice of the Planning Inspectorate attached at Appendix One of this report. The appeal was dismissed on the grounds that increased traffic movements and congestion would adversely affect the businesses on the neighbouring Wheathills Industrial Estate and businesses located on Holt Lane.
- 3.2 Even though the appeal was dismissed Members are particularly requested to note Paragraph 7 of the report, which provides the Inspectors view on the impact of the proposed site on the neighbouring residential properties. The Inspector highlights that despite claims from local residents, he considers that the site would not have a detrimental effect on the living conditions of those residents.

- 3.3 In addition Paragraph 12 of the report provides the Inspectors response to the issue of the potential detrimental effect the property values and discouraging future inward investment in the area. The Inspector concludes that it would not have a significant or serious harmful effect on the general perception of the area, and certainly not to the point where it would discourage further inward investment in the housing areas.
- 3.4 Officers of the Authority have noted that there are certain inaccuracies in the report, and are in the process of writing a formal complaint to the Inspectorate. Whilst this complaint will raise issue with certain comments and factual inaccuracies in the report, it will not have any influence on the decision by the Planning Inspectorate.
- 3.5 Had the Appeal taken been successful, the Authority was still required to enter into a lease agreement with The City of Liverpool over the land at Holt Lane. There were no guarantees that The City of Liverpool, as freeholders, would agree to a lease on the land as a result of the opposition to the scheme in the area. As a result, should planning permission have been forthcoming, the Authority may have been required to seek legal advice and implement Compulsory Purchase proceedings to acquire the land.
- 3.6 The options for the Holt Lane proposal are now as follows:-
- 3.6.1 Option One - Seek Counsel/Legal Advice on the Appeal Decision Notice, this course of action would assist MWDA in clarifying its position and establish whether or not it has a case in appealing the Planning Inspectors decision. However, should the Counsel advice come back against the Authority (i.e. there is no case for appeal) then there will be unnecessary expenditure with no progress of the project.
- 3.6.2 Option Two - Lodge an Appeal against the Decision to the High Court, this would be a two stage judicial review (i.e. the feasibility of a case) followed by a Hearing. Whilst this option would provide a clearer view than 3.5.1 above, it may still have the same outcome and leave the Authority in the position it is in at present with regards to the Holt Lane site.
- 3.6.3 Option Three - Accept the Decision of the Planning Inspectorate and look for an alternative site, this will mean that the Authority will be left with no potential sites in Liverpool and must recommence searching for suitable sites.

3.6.4 Option Four - Look critically at the Decision and revise the project proposals (to accord with all Planning Committee and Inspectorate) and resubmit a planning application for Holt Lane to The City of Liverpool. It is likely that following a critical review of all documentation a planning permission could be obtained. However, due to the reasons given in 3.4 above the Authority may need to enter into costly and prolonged dialogue over potential Compulsory Purchase of the land.

4. Risk Implications

4.1 There are several risks identified with the options given in this report

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Protracted and costly legal proceedings in overturning the Decision	2	5	10	Locate and develop an alternate site
Additional sites are not forthcoming	1	4	4	A robust site selection process would locate a suitable site
Resubmission of the application	2	5	10	Locate and develop an alternative site

5. Environmental Implications

5.1 There are no environmental implications associated with this report.

6. Financial Implications

6.1 Estimated costs associated with the options highlighted above are as follows:-

6.1.1 Option One - Seek Counsel/Legal Advice on the Appeal Decision Notice - £15,000

6.1.2 Option Two - Lodge an Appeal against the Decision to the High Court - £150,000

- 6.1.3 Option Three - Accept the Decision of the Planning Inspectorate and look for an alternative site – no cost to the Holt Lane project as cost has been allocated for an additional HWRC in the Authority's Capital Programme.
- 6.1.4 Option Four - Resubmit a planning application to The City of Liverpool - £40,000
- 6.2 Members must note that the costs are only estimates obtained from the experience of the Authority's planning advisors.

7. Conclusion

- 7.1 Based on the associated costs of taking the appeal further, the Director recommends that Members agree to Option Three (at paragraph 3.5.3 above). The difficulties in securing an option or lease on the land at the Holt Lane site and the associated costs with Appealing the Decision of the Planning Inspector being the main factors in looking for an alternative site and not pursuing the Holt Lane site further.

The contact officer for this report is: Graeme Bell
Merseyside Waste Disposal Authority
6th Floor North House
17 North John Street
Liverpool
L2 5QY

Email: graeme.bell@merseysidewda.gov.uk
Tel: 0151 255 2543
Fax: 0151 227 1848

The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972:
Appeal Decision Notice