

EMAIL No 1

From: Niall Blackie [mailto:N.Blackie@fbcmb.co.uk]

Sent: 14 October 2008 17:09

To: Banwell, Sarah; Jake Berriman

Subject: RE: Appeal at: Land to the South East of Bishops Castle, Shropshire - 2086011

Dear Sarah

Thank you for sending this to me; I have not yet seen the questionnaire. I note the comment about an inquiry: I would like to see any comment from the council before I comment further, but would value the opportunity to comment since as I understood matters the only issue in this appeal is the question of the form of conditions. (The council officers have made clear in their reports that the principle of the development is not in issue). That being the case, I find it hard to understand why written representations would not be sufficient to dispose of the case.

Indeed, I should add that before launching the appeal I wrote to Jake Berriman, on 28 July, asking for clarification of the council's position in the event of an appeal. He responded by letter of 4 August to say that "I would have to say that the SSDC does not have a position in respect of this application or subsequent appeal as they are yet to give consideration to it. I on the other hand as head of planning and building control am responsible for both of the committee reports prepared but not discussed and as such the views expressed are mine. In this context I would agree that the central issue to me is one of conditions as I have recommended the application for approval." In a subsequent letter, the council has written to deal with the terms of the conditions for the plant. Mr Berriman says "[our lawyer] does still have concerns with this condition as there are going to be issues regarding enforceability". A concern about that is surely one that can be dealt with through written submissions rather than a formal inquiry.

yours sincerely

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From: Banwell, Sarah [mailto:sarah.banwell@pins.gsi.gov.uk]

Sent: 14 October 2008 14:52

To: jake.berriman@southshropshire.gov.uk

Cc: Niall Blackie

Subject: Appeal at: Land to the South East of Bishops Castle, Shropshire - 2086011

Importance: High

Hello Jake

I refer to the above appeal and acknowledge receipt of the questionnaire (although I have not yet received the accompanying documents as yet).

Also I note from the questionnaire that you have indicated that a local inquiry. Please can you give me your reasons as to why you think that an inquiry is needed as soon as possible.

Regards

Sarah Banwell
Case Officer - Environment & Special Casework
The Planning Inspectorate
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EMAIL No2

From: Jake Berriman
Sent: 14 October 2008 15:45
To: 'Banwell, Sarah'
Subject: RE: Appeal at: Land to the South East of Bishops Castle, Shropshire - 2086011
Yes, simply due the the volume of public interest in the matter (there are hundreds of letters with some individual statements running to over 30 pages). When we were arranging our Committee meeting we were suggesting a suspension of our Practice Note on public speaking to allow multiple speakers to cover a range of areas important to local people, both individuals and interest groups. The issues themselves are, from my perspective, quite narrow and of a technical nature. Hope this assists. jake

-----Original Message-----

From: Banwell, Sarah [mailto:sarah.banwell@pins.gsi.gov.uk]
Sent: 14 October 2008 14:52
To: Jake Berriman
Cc: n.blackie@fbcmb.co.uk
Subject: Appeal at: Land to the South East of Bishops Castle, Shropshire - 2086011
Importance: High

Hello Jake

I refer to the above appeal and acknowledge receipt of the questionnaire (although I have not yet received the accompanying documents as yet).

Also I note from the questionnaire that you have indicated that a local inquiry. Please can you give me your reasons as to why you think that an inquiry is needed as soon as possible.

Regards

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EMAIL No3

From: Niall Blackie [mailto:N.Blackie@fbcmb.co.uk]
Sent: 14 October 2008 17:22
To: Jake Berriman
Subject: Biomass Appeal

Dear Jake

I have copied you in on my response to the inspectorate. There is a further point that I should raise, and I would ask that you give urgent consideration to a possibly unforeseen aspect of your request for an inquiry. Given the indication which you have given concerning the scope of the appeal, we have sought that the appeal be determined by written representations. I understand anecdotally that local residents have asked the council to seek an inquiry. I would urge that the council divorce itself from the possible views of residents, and focus on whether the council's case needs to be presented at inquiry, or can be dealt with through written representations.

I was concerned from the outset about the failure to determine the application in the first place by cancelling the meeting at which the matter was to be considered. I must put the Council on notice that in the event that the Inspectorate decide for whatever reason, to convene a hearing or public inquiry, it is only fair to warn that the Council's failure to determine the appeal will be regarded by the appellant as having been unreasonable and as having given rise to the wastage of the costs on the appeal. This is on the basis that if the Council accepts that conditions could have been imposed then it should have determined the application on that basis, drafting the conditions with adequate precision so as to ensure enforceability. We have corresponded about the question of the form of the conditions, and I had taken your letter of 23 September to be an indication that the only issue now was as to enforceability. Why cannot that be dealt with by written submission? (I would add that the plant is capable of being shut down automatically so that condition 3 can be relied on as drawn).

A submission for an award of costs would only arise if the matter is dealt with at a hearing or inquiry; it would be based not on the fact that you have asked for the inquiry, but on the fact that one had been convened in an appeal that should not have had to have been made at all.

This appeal is likely to attract local interest from residents. If the council actively seeks an inquiry, then the inquiry will be lengthy. The council is thus exposing itself to the risk of a costs award of a lengthy inquiry.

You will know that the council has the right to demand to be heard, and that therefore your request for a hearing or inquiry is different from a request by any third party. You can withdraw that request and leave others to try to justify the need for a hearing if they will. The purpose of this email to you is to suggest that you write to the inspectorate and indicate that you are content for the appeal to be dealt with through the written process. If others ask for an inquiry, so be it, but there is no reason for the council to lead the way!

If, on reflection, the Council wishes to indicate that it is willing to receive a resubmission of the application and would proceed to put the matter to a Committee for a determination, then the costs could be saved; so a second purpose is to invite your thought to that point. However, that may take longer to consider than the first, and very urgent point.

yours sincerely

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