

Introduction

British Waterways will not attend the hearing session on 8 February to discuss the Inspector's Issue 5, Agenda Item 7.

BW had hoped to agree a statement of common ground in response to the Inspector's questions, but in the event NES submitted a statement on its own account only.

BW therefore also responds on its own account. In practice, BW and NES are in agreement:

- i. Changes to the nature or scale of the NES operation at Sharpness would require all of a new lease; new planning permission; and new environmental permit.
- ii. BW has been consistent: it does not anticipate leasing further land for waste management operations to NES or any other waste operator at Sharpness.
- iii. NES's 'sustainability appraisal' does not satisfy the requirements of the SEA Directive 1001/42/EC or the guidance on it in PPS12, paras 4.39-4.44.

Inspector's Questions – Agenda Item 7:

1. *While the planning permission is not time-limited (CD13.42.1, Appendix 1), the landowner (BWB) says that there is an unexpired lease of 25 years and that any change of use cannot take place without BWB approval. Is that New Earth Solutions' understanding too or is their use of the building less fettered?*
 - 1.1 British Waterways confirms that New Earth Solutions' lease is confined to the use which has planning permission (i.e., in-vessel composting, CD13.42.1 Appendix 1). The lease expires in June 2032; and provides for a tenant's break option in June 2022.
 - 1.2 British Waterways confirms that a change in waste management process or other alteration to the terms of the lease would require both a new lease and a new planning permission.
 - 1.3 The consequence is that NES's use of its building and site is fettered by the terms of its lease.
2. *If that is correct, the position presented by BWB to the examination is that any further or different waste management development of the type envisaged by policy WCS4 would not be allowed by the landowner. There must therefore be a deliverability issue as the Council says. Furthermore, it seems to be common ground that although NES has submitted a sustainability appraisal now (CD13.45.4) this has not been subject to consultation and this process has not been undertaken by the Council. In all these circumstances, would this proposal itself be sound?*
 - 2.1 British Waterways has been consistent in its views on the use and prospective expansion of the NES operation across the whole period of the preparation of the

WCS. BW's position has not been, nor is, affected in anyway by its impending status as a charitable trust. NES has therefore not been prejudiced, or in any other way, affected by uncertainties from BW's change of status.

- 2.2 British Waterways has stated from the outset that it did not expect, nor does it expect now or for the foreseeable future, to lease further land to NES for waste management at Sharpness.
- 2.3 As BW has explained (CD13.42.1, paragraphs 6-8), neither the land around the NES site, nor any part of the northern area of the estate, has attracted commercial propositions. This is so, despite the long-standing allocations for waste and B Class uses in the Waste Local Plan and the Stroud District Local Plan. British Waterways is therefore now promoting an alternative strategy that realises the heritage and tourism potential of the northern part of the estate in the wider public interest. That approach has the support of Stroud District Council. Further development for waste management would conflict with this emerging strategy.

The Sustainability Assessment

- 2.4 SEA Directive 2001/42/EC sets out the requirements for the sustainability assessment of plans. The SEA Directive explains that the task of the assessment is to assess all reasonable alternatives, taking into account the objectives and geographical scope of the plan, so that the most appropriate strategy is promoted by the plan. The final report of the SA/SEA must show clearly the decision-making process that led to the choice of the options and strategy selected. Nothing must have changed in respect of the NES option that would alter the decisions made by the SA/SEA process.
- 2.5 British Waterways considers that the Council has taken fully into account the NES site at Sharpness, and has set out clearly in the final report of the SA/SEA why the NES site was not taken forward and why the plan promotes the approach it does. Moreover, nothing has changed in respect of the NES option that would alter the SA/SEA assessment.
- 2.6 The NES site was not a reasonable alternative then, or now, because of the likelihood that it would not be deliverable (in addition to other shortcomings, relative to reasonable alternatives, like the distance from arisings and infeasibility of water and rail transport as a mitigating consideration). That was the case when the option was assessed by the SA/SEA, and nothing has changed in that respect.
- 2.7 A greater throughput than the size of the leased area would not be possible without further land for NES; and British Waterways has consistently said that further land for waste management would not be released. A larger throughput for the IVC operation than that which has planning permission and an EA permit would also trigger the requirement for a new planning permission and a new permit.
- 2.8 NES cannot be confident of securing either, most particularly given the history of NES's operations on the site, the distance from sensitive receptors and the many objections from neighbouring uses within 150, 250 and 500 metres of the site.
- 2.9 British Waterways, therefore, does not consider there to be any basis for considering NES's sustainability appraisal as meeting the requirements of the SA/SEA.

