



ABERMULE WITH LLANDYSSIL COMMUNITY COUNCIL
CYNGOR CYMUNED ABERMIWL GYDA LLANDYSSIL

Gwilym Rippon
Clerk to the Council / Clerc i'r Cyngor
12, Agincourt Drive
Welshpool / Y Trallwng
Powys
SY21 9NA
Tel No.01938554065
Email llandyssilcommunitycouncil@yahoo.co.uk
Website www.abermulewithllandyssilcommunitycouncil.org.uk

Chair / Cadair
Eurwyn Jones

Your Ref:
Our Ref: GJR01/08/18

Mr. Nick Bennett
1 Fforddyr Hen Gae,
Pencoed,
CF35 5LJ

30th August 2018

P/2018/0587 Abermule Business Park Abermule Montgomery Powys
Hybrid application comprising of a full application for a proposed recycling bulking facility and associated works and an outline application for the erection of business units (B1/B2/B8) and all associated works

It is requested that the planning process be reviewed.

Dear Mr. Bennett

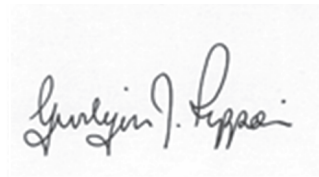
I refer to the above planning application submitted by Powys County Council. The Community Council is very aggrieved by the decision narrowly reached (8 votes to 7 votes) by the Planning Committee of Powys County Council on 2nd August 2018.

The Community Council believes that Planning Policy / Process was not adhered to when determining this application; the Council base this on the following points:

- This application is a major development as evidenced by the need for a pre-application consultation. Therefore, this application required an EIA (*Environmental Impact Assessment*); but it is the understanding of the Community Council that this was not undertaken.
- The Community Council responded to both the pre-application consultation and the application process; however the concerns (objections) raised by the Council were not included on Powys CC's Planning Portal.
- The Community Council were not informed of the date of the Planning Committee; neither were they invited to attend, for a representative to be allowed to speak as a statutory consultee. It is understood that at least one resident who had responded to the application had not been contacted; it was only by personal knowledge that he was able to rectify this and voice his opinion on this application at the Planning Committee itself.

It is requested that consideration be given to the process of how this application was determined, to establish if correct processes were followed.

Yours faithfully

A handwritten signature in black ink, reading "Gwilym J. Rippon". The signature is written in a cursive style with a large initial 'G'.

Gwilym J. Rippon
Clerk

To Abermule (with Llandyssil) Community Council

Our ref: 201803342

Ask for: Rhian Williams

 01656 641150

Date: 26 September 2018

 Rhian.Williams@
ombudsman-wales.org.uk

PERSONAL & CONFIDENTIAL

Mr Gwilym Rippon
12 Agincourt Drive
GUILSFIELD
SY21 9NA

By email only

Dear Mr Rippon

Complaint against Powys County Council

Thank you for your complaint against Powys County Council (“the Council”). This letter is only being sent electronically. A hard copy will not be sent unless you ask for one.

You complained that the Council failed to adhere to the planning policy/process when considering a planning application for the proposal of a recycling bulking facility and associated works.

You are aware from our recent email exchange that before considering a complaint, the Ombudsman must normally be satisfied that the matter referred to has been raised with the body concerned and that it has had a reasonable opportunity to investigate and respond to you. The Ombudsman would normally expect you to exhaust its complaints procedure before you consider bringing your complaint to him. It is reasonable to expect it to take 12 weeks to investigate and respond to you.

In your email to me on 19 September 2018 you confirmed that no complaint has been formally made to the Council as it was believed to be appropriate to bring straight to the Ombudsman as it was one of procedure. Whilst I appreciate you would prefer the Ombudsman’s immediate intervention, I am sorry to tell you that we must allow the Council the opportunity to consider the concerns you have raised and respond to them.

Page 1 of 2

I am therefore sending a copy of your complaint to the Council and I will ask it to look into it and respond to you directly.

If you are not satisfied with the way in which the Council deals with your complaint, or its response to it, you will then be able to complain to the Ombudsman. If you decide to approach the Ombudsman at a later stage, you will need to enclose all the documents in support of your complaint, including any more recent correspondence with the body concerned.

In accordance with the Public Service Ombudsman (Wales) Act 2005, an anonymised version of this letter, which constitutes a formal statement of reasons for the decision not to investigate your complaint, has been sent to the Chief Executive at the Council.

We will destroy personal and case information held on electronic records after ten years following the date on which the complaint is closed.

If you have not already done so, I would be grateful if you could complete customer satisfaction and equality questionnaires. These can be accessed at www.ombudsman.wales/customersatisfaction If you would prefer paper copies please contact us.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rhian Williams', written over a circular stamp or watermark.

Rhian Williams
Casework Officer

tamsin.law@powys.gov.uk

To:

llandyssilcommunitycouncil@yahoo.co.uk

28 Sep at 16:11

Powys County Council

Dear Gwilym Rippon ,

Your reference: 6871-5438-8121-2062

I refer to your complaint dated 26th Sep 2018 concerning issues relating to P/2018/0587 - planning policy/process not adhered to when determining this application.

I have considered your complaint in accordance with Stage 1 of the Council's Corporate Complaints Policy and my findings are set out below.

Findings:

I have reviewed the submitted complaint and note that it relates to three issues with regards to the determination of planning application P/2018/0587. I will deal with each of these matters in turn;

1. This application is a major development as evidenced by the need for a pre-application consultation. Therefore, this application required an EIA (Environmental Impact Assessment); but it is the understanding of the Community Council that this was not undertaken.

The fact that an application is a major development does not mean that an application is automatically EIA development.

In determining whether an application is EIA development or not Officers review the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (hereinafter called the 'EIA Regulations') to assess whether a development would constitute Schedule 1 or Schedule 2 development. If an application is defined as Schedule 1 development then it automatically constitutes EIA development. However if an application is Schedule 2 development then specific criterion are reviewed to ascertain whether the development would constitute EIA development. Other proposals do not fall into either Schedule 1 or Schedule 2 development and as such would not constitute EIA development.

The application P/2018/0587 was submitted with part of the application being dealt with in outline (hereinafter called the 'Business Park development') and part in full (hereinafter called the 'Recycling Bulking Facility'). Both elements of the application were screened under the EIA Regulations to ascertain whether any part of the development constituted EIA development.

Schedule 2 of the EIA Regulations prescribes the descriptions of development and applicable threshold and criteria. With regards to the proposed development parts 10 and 11 of Schedule 2 are relevant. With regards to part 10 the following applies to the Business Park development.

Description of development

10 Infrastructure projects

(a) Industrial estate development projects;

Applicable thresholds and criteria

The area of development exceeds 5 hectares

The entire site is approximately 4.1 hectares and as such, whilst this part of the development would fall under Schedule 2, does not exceed the applicable threshold and as such would not constitute EIA development.

With regards to the Recycling Bulking Facility consideration was given to part 11.

Description of development

11 Other projects

(b) Installations for the disposal of waste (unless included within Schedule 1);

Applicable thresholds and criteria

(i) The disposal is by incineration; or

(ii) The area of the development exceeds 0.5 hectare; or

(iii) The installation is to be sited within 100 metres of any controlled waters

Key in the consideration of determining whether or not the development falls under part 11 is the wording of this section, which states the disposal of waste. The Recycling Bulking Facility will collect recycling material and deposit at the site to then be collected by larger vehicles. In determining the EIA Screening it was considered that the proposed the collection and transfer of waste prior to disposal elsewhere. As such it is considered that the Recycling Bulking Facility did not fall under Schedule 1 or Schedule 2 as Schedule 2 deals with the disposal of waste and the application was for the transfer of waste. As such, the applicable threshold identified above are irrelevant. Whilst the site does exceed 0.5 hectares as the proposed development is not for the disposal of waste then the proposal does not constitute EIA development.

As such no Environmental Statement was requested as the development did not constitute EIA development. As such I do not uphold your complaint on this ground.

2. The Community Council responded to both the preapplication consultation and the application process; however the concerns (objections) raised by the Council were not included on Powys CC's Planning Portal.

Comments from the Community Council were received on the 22nd June 2018 and was forwarded by the case officer to be uploaded to the portal. Unfortunately this was not uploaded until the 5th September 2018. At the time the Planning Department were dealing with a back log of consultation responses due to a new IT system which could have delayed its uploading.

However the Community Council response was provided in full in the Officer's report to Committee for all Members to review.

Whilst there is no requirement for consultation responses or third party correspondence to be displayed on the portal I will uphold your complaint on this ground as it is currently normal practice for this to be displayed.

I would advise that this did not mean that the comments were not considered as the case officer and Committee had the full correspondence from the Community Council to review as part of the determination process.

3. The Community Council were not informed of the date of the Planning Committee; neither were they invited to attend, for a representative to be allowed to speak as a statutory consultee. It is understood that at least one resident who had responded to the application had not been contacted; it was only by personal knowledge that he was able to rectify this and voice his opinion on this application at the Planning Committee itself.

Whilst there is no requirement to notify Community Councils of Committee a Committee Notification letter was sent at 11:35am on Monday the 23rd July 2018 to llandyssilcommunitycouncil@yahoo.co.uk . This included details of the Committee date along with details on requesting to speak at Committee. I checked that this email address was correct as it matched the one on our database and also the address that the comments made by the Community Council were submitted.

A screenshot demonstrating that this email was sent is attached to this response.

As such I do not uphold your complaint on this ground.

Outcome: PARTIALLY UPHELD

Resolutions/actions:

In light of the above, whilst not a requirement to upload, as the Community Council response was delayed in being uploaded to the portal I partially uphold your complaint.

If you are unhappy with the outcome of my investigation you can ask for your complaint to be considered under Stage 2 of the Council's Corporate Complaints Policy.

Login to accept our findings or escalate to Stage 2 here.

Alternatively, please email/telephone the Corporate Complaints Department on complaints@powys.gov.uk or 01597 827472.

Please take a few minutes to give us some feedback. We promise to use your feedback to improve our online services.

Give your feedback here

Thank you for making your request online.

This email was sent from a notification-only address that can't accept incoming email. Please do not reply to this message.

Regards

Powys County Council

www.powys.gov.uk

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Regards

Powys County Council

www.powys.gov.uk