

By reason of special circumstances, namely that the period for challenging the adoption of the Surrey Waste Plan expires before the next meeting of the Planning Committee, the Chairman is of the opinion that the item should be considered at this meeting as a matter of urgency.

THE ADOPTION OF THE SURREY WASTE PLAN

1. Purpose of Report

1.1 The purpose of this report is to inform Members of the advice which has been received from Counsel on a possible challenge to Surrey County Council's decision to adopt the Surrey Waste Plan.

2. Background Information

2.1 On 10 June 2003, Surrey's Executive agreed that the review of the Surrey Waste Local Plan be recommended in order to produce a new plan with sites suitable for providing necessary facilities. Outside consultants were to be used in order to expedite the plan's progress, and Environmental Resources Management (ERM) was appointed as the principal consultants.

2.2 After the new development plan system was introduced with the Planning and Compulsory Purchase Act in September 2004, an 'issues and options' consultation was undertaken from November 2004 to February 2005. The Executive approved a draft (Preferred) Waste Plan for consultation in September 2005, and various site assessments were consulted upon up to April 2006. The Plan was revised and approved by the County Council on 13 June 2006 for submission to the Secretary of State. Following consultation on alternative sites and minor changes in December 2006 and January 2007, the County Council proposed on 6 February 2007 the deletion of three sites from the thermal treatment policy in the Plan, as explained in paragraph 13, again subject to consultation. All the relevant documents and the consultation results are available on the Council's website at www.surreycc.gov.uk/wasteplan.

2.3 The submitted Waste Plan was subject to public examination by independent planning inspectors appointed by the Government. They took into account all the representations received and conducted public hearings which ran intermittently from 13 February through to 24 September 2007. Objectors were given the opportunity to give oral evidence and challenge the Plan and all its supporting documentation. The Inspectors' report was published on 20 December. It concluded that, with the changes recommended, the Plan as a whole is sound in terms of the 2004 Act.

2.4 Members of the Planning Committee were informed at the meeting on 26 February 2008 of the receipt of the Inspectors' report and its recommendations which, in relation to Runnymede, are to retain in the Plan, the land adjacent to Trumps Farm site and the former composting site at Lyne Lane.

2.5 Surrey's Executive considered an Officers' report on 22 April 2008 which recommended the adoption of the Surrey Waste Plan and Surrey County Council formally adopted the Plan on 6 May 2008.

3. Report

3.1 A preliminary conference with Counsel was held prior to adoption of the Surrey Waste Plan and subsequently a further conference was held which included the Chairman of the Planning Committee and representatives of the Wentworth Residents' Association.

3.2 Numerous legal and policy aspects were covered including all those raised by the Residents' Association. Counsel advised however, that despite some shortcomings in the process the Inspectors and Surrey County Council could recommend and adopt the Plan lawfully. There were insufficient grounds upon which a successful challenge could be mounted in his opinion.

3.3 Surrey Waste Management are preparing a planning application in respect of land adjacent to Trumps Farm and Officers will further consider whether any challenge is possible when the precise detail of what is being proposed is known.

4. Legal Considerations

- 4.1 In giving the advice, Counsel made it absolutely plain that the scope for challenge is very restricted and the bar set very high for success. In particular, the High Court will not accept challenges that simply seek to re-run arguments already put before Inspectors. Planning Inspectors and Planning Authorities have considerable scope for discretion and the courts will not seek to substitute their views for those of a decision maker unless they have fundamentally erred in law or been so unreasonable in their decisions that they cease to be seen as rational.
- 4.2 In this case, the Inspectors in their report and the County Council in adopting it, have made decisions with which this Council would strongly disagree. However, these objections were raised at the public examination and considered by the Inspectors and referred to in the report. The absence of their consideration might have been a ground for challenge, but their views on them as reported, are not.

OFFICERS' RECOMMENDATION that -

no High Court challenge be made in respect of the decision by Surrey County Council to adopt the Surrey Waste Plan

(TO RESOLVE)