

From: REDACTED : NCC OFFICIAL

Sent: 27 May 2011 09:14

To: REDACTED: SHARPE PRITCHARD OFFICIALS; ENVALUE OFFICIAL; DEFRA OFFICIAL

Subject: Rufford ERF Decision

Morning,

We have just received the decision on the Rufford ERF, which states that planing permission for the Rufford ERF should be **refused**.

I've attached a copy of the decision letter for your information.

There is no more detail at this stage.

NCC OFFICIAL

Team Manager - Waste Strategy and Development

Environment and Resources Department

Nottinghamshire County Council

REDACTED: TELEPHONE NUMBER



To: all interested parties

Our Ref: APP/L3055/N/09/2102006

26 May 2011

Dear Sir or Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77.
APPLICATION BY VEOLIA ES NOTTINGHAMSHIRE LIMITED
LAND AT FORMER RUFFORD COLLIERY, RAINWORTH, NOTTINGHAMSHIRE
NG21 0ET.**

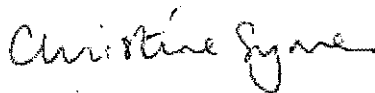
I am writing to advise you that following the public inquiry which closed on 26 October 2010, the Secretary of State has now made a decision on the above planning case. He has decided that planning permission should be refused.

The Inspector's Report and the Secretary of State's decision letter will be available to view in the next few days at:-

<http://www.communities.gov.uk/planningandbuilding/decisions/planning/secretaryofstate/recentsecretary/>

In the meantime, should you require an electronic version or a paper copy, please e-mail the address at the foot of this letter.

Yours faithfully,



Christine Symes



6C Ergon House
Horseferry Road
London SW1P 2AL



Telephone: 0845 77 77 88

Web: www.defra.gov.uk

Mick Burrows
Chief Executive
Nottinghamshire County Council
County Hall
West Bridgeford
NG2 7QP
(Via email)

Your ref:

Our ref: Notts/Waste PFI

Date: 9th August 2011

Dear Mick,

Re: Waste Infrastructure Projects - Informal consultation on future payment of grant to projects that have not yet delivered all project infrastructure

I am writing as your authority is managing a contract which is supported through the WIDP programme and has been partly funded by PFI Grant.

With effect from 1st April 2011, budgetary responsibility for PFI grants to waste projects now falls to this Department, where previously this rested with the Department for Communities and Local Government (DCLG), although DCLG continues to make the payment of grant to eligible authorities on Defra's behalf.

Defra is also taking this opportunity to bring the name of the credits and the grant into line with Departmental terminology. As a result, henceforth, PFI credits/grant will be referred to as **Waste Infrastructure Credits/Grant**. Please note that this is a change of terminology and has no impact on the Authority's legal or financial position.

As a result of these changes WIDP also has a renewed focus on those projects which have been receiving grant payments but have so far failed to deliver the substantive residual waste treatment infrastructure for which the grant was intended. With this in mind we have sought and obtained approval from Ministers for a strategy for future support to such projects and the range of options Defra might wish to pursue.

We recognise that this is a potentially sensitive issue for authorities and we therefore want to give you the opportunity to consider and comment upon these plans. You will find attached a paper setting out our proposed approach and I would request that if the authority has any comments to make in relation to this, that you kindly submit them to WIDP.ProgrammeOffice@defra.gsi.gov.uk by **14th October 2011**. If there are no comments, please provide a nil return.



If you have any queries about this informal consultation please e-mail WIDP.ProgrammeOffice@defra.gsi.gov.uk.

Yours sincerely,

John Burns
Programme Director
Waste Infrastructure Delivery Programme (WIDP)
Direct line: REDACTED

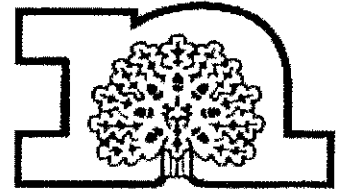
Cc: Mick Allen – Group Manager, Waste & Energy
REDACTED – WIDP Project Transactor

Your ref
Our ref
Tel
e-mail
Date

MJA/CAN
Mick Allen

Telephone Number &
email address redacted.

29 September 2011



Nottinghamshire
County Council

John Burns
Programme Director
Waste Infrastructure Delivery Programme
Department of Environment, Food & Rural Affairs
Ashdown House
Victoria Street
LONDON
SW1E 6DE

Dear Mr Burns

WASTE INFRASTRUCTURE PROJECTS - INFORMAL CONSULTATION ON FUTURE PAYMENT OF CAPITAL INFRASTRUCTURE CREDITS/GRANT

I refer to your letter and enclosures dated 9 August 2011 in respect of the above and apologise for the delay in responding

Firstly I would like to thank DEFRA for the opportunity to take part in the informal consultation process on the future payment of capital infrastructure credits, and would also like to thank the WIDP team for all their help and support throughout the ongoing development and operational phase of the PFI waste contract and the wider pathfinder project procurement dating all the way back to 2002

Clearly it is essential that DEFRA continue to consider the value for money offered by any PFI funded waste contracts, and it is reassuring that through WIDP this continual review process translates into positive support for the development of waste treatment solutions where projects have been delayed by planning and permitting issues.

Having reviewed the WIDP Strategy for future support to waste infrastructure projects that have failed to deliver planned residual waste treatment infrastructure, I would confirm that the detailed processes within the strategy appear generally sound. Particularly the need to develop a Variance Business Case to assess the suitability of any Revised Project Plan is welcome as it provides a standard mechanism to measure cost and outcomes against previous proposals.

My biggest concern with the strategy is however the basic principle that the failure to deliver a particular capital asset, which is often delayed or defeated by the vagaries of the UK planning system (whereby major developments can be frustrated by minority local interest groups and local political issues) will potentially be used as the sole measure of success for a project containing many overall strands and objectives. Removal or reduction of funding crucial to the ongoing viability of the overall project as a result of planning failure on one specific asset does not seem to represent a proportionate response, particularly where the project partners have taken all reasonable steps to deliver the wider objectives of the project

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West Bridgford, Nottingham NG2 6BJ

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Specifically for Nottinghamshire County Council it is extremely unfortunate that the critical residual waste treatment infrastructure proposed under the Nottinghamshire PFI waste project, the Rufford ERF, has not yet secured planning permission despite strong national policy support, and a positive stance from the Councils Planning and Licensing Committee who voted to raise no objection to the proposal when they considered the planning application in January 2009. The planning application was however subsequently called in by the Secretary of State for Communities and Local Government, and following a much delayed public inquiry, planning permission for the facility was refused in May of this year. I am sure you are aware that Veolia is however currently seeking to quash this SoS decision in the high court

In parallel with this high court action, the council is working positively with Veolia to develop a Revised Project Plan in order to ensure the outputs proposed in both the outline and final business case for the project continue to be met, or if possible bettered, within an acceptable timeframe. To this end I have already met with Ben Prynne and Duncan Powell and discussed the development of a Variance Business Case, and am in the process of seeking agreement to the completion of the Memorandum of Understanding covering the ongoing involvement of WIDP in the RPP process

I am sure you will appreciate that the timescale for the RPP is a challenging one, and will be taking up considerable resources within my group over the next few months. Your full and timely engagement in this process will be essential if the RPP is to meet the aspirations of all the project partners and deliver the desired outcomes

In respect of the wider Nottinghamshire PFI waste project you will no doubt be aware that overall recycling and landfill diversion performance has so far been better than envisaged, and that the other main contract asset, the Material Recovery Facility in Mansfield is fully operational, and has been since January 2009. In addition within the next three months the entire network of Household Waste Recycling Centres within the county will have either been renewed or improved as part of the project. Two transfer stations are also in the planning/pre construction phase

The PFI credits allocated to the project, £38.31m, were increased by 20% from the original approved level of £31.93m in recognition of a significant increase in the capital cost of the project (from £68.7m at OBC to £134.7m at FBC), and the increased landfill diversion performance that was to be delivered (from 259,624tpa to 345,091tpa) as a result of the changes.

As you will no doubt appreciate the PFI credit allocation was relatively small compared to later PFI projects with a similar capital spend profile. Indeed the £38.31m is less than the likely overall project lifetime capital spend on the contract even without the Rufford ERF, or any new infrastructure proposed through the RPP mechanism.

The affordability models produced as part of the FBC process also included a significant revenue stream associated with the sale of Landfill Allowance Trading Scheme permits, amounting to around £20m over the life of the project. Although the delay to the ERF has impacted on the number of LATS available to the council to sell to market, their value is currently negligible anyway, and with the ending of the LATS regime from the 2012/13 target year this potential revenue stream has been removed from the overall affordability envelope, creating a large funding gap.

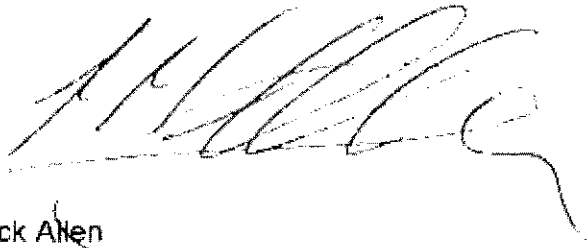
Finally, and probably uniquely to Nottinghamshire, the twin contract structure used in our project, with the separation of the ERF construction and operation into an independent and conditional contract "B", poses an interesting issue as to how any previous PFI credit allocation could be set against the ERF, when its operation was not actually part of the live contract from day one. This is also an area I feel may need some more detailed discussion regarding the structure and suitability of any RPP.

From the very outset of the PFI waste project procurement in 2002 Nottinghamshire County Council has sought to work proactively and positively with DEFRA to deliver a project which supports national policy aspirations as well as local service needs. This includes working with PUK and the 4P's to build PFI waste market confidence and acting as a pathfinder project for the development of waste specific guidance to the Office of Government Commerce standard PFI contract terms

Rest assured that the Council will continue to work proactively with DEFRA and WIDP throughout the development of the Revised Project Plan by Veolia in order to deliver a project which continues to meet the necessary criteria for capital infrastructure grant funding, and achieves high level recycling and landfill diversion performance in an affordable and sustainable manner

To that end I have a meeting scheduled with Ben Pryn and Duncan Powell on the 10th October to discuss how the RPP development will be taken forward.

Yours sincerely



Mick Allen
Group Manager
Waste and Energy Management

