

MINUTES OF THE VIRTUAL EXTRAORDINARY MEETING OF COUNCIL HELD ON MONDAY 10 JANUARY 2022 AT 7PM

PRESENT: The Mayor (Councillor Wiliam) together with Councillors Aviet, Bailey, Brooks, Charles, Clarke, Collins, Drake, Hawkins, N Hodges, S Hodges, Hooper, Johnson, Lloyd-Selby, Nugent-Finn, Payne, Perkes, Rowlands and Wilkinson

ALSO PRESENT:

Mark Sims	-	Deputy Chief Officer
Rebecca Blackwell	-	Office Team Leader
Anna Zibrin	-	Member of Public
Sally Evans	-	Member of Public
Sam Robinson-Davis		Member of Public
Darren Atkinson	-	Member of Public
Elizabeth Smith	-	Member of Public
Matthew Lock	-	Member of Public
Ken Watkins	-	Member of Public
Cheryl Ockerby	-	Member of Public
Matt Hutchinson	-	Member of Public
Barry Shaw	-	Member of Public
Max Wallis	-	Member of Public
Vix Socks	-	Member of Public

The Mayor welcomed the members of the Public who were in attendance and advised that the members of the public will have the opportunity to address members with their concerns before members then debate the agenda item.

1027. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Richardson

1028. **TO RECEIVE DECLARATIONS OF INTEREST UNDER THE COUNCIL'S CODE OF CONDUCT NOTING THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) ORDER 2008 AND THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) (AMENDMENT) ORDER 2016 ADOPTED BY COUNCIL ON 16 MAY 2017 (PAGE 16 PART 3)**

Councillors Aviet, Bailey, Brooks, Charles, Collins, Drake, N Hodges, Johnson, Nugent-Finn, Perkes, Rowlands, Wiliam, and Wilkinson noted that they were Councillors of the Vale of Glamorgan Council also and advised they had received dispensation to speak and vote on matters appertaining to Reshaping Services.

Councillor Johnson noted he had received dispensation to allow him to speak and vote on future matters appertaining to the Pioneer Hall and the Community Hall at Cemetery Approach, by virtue that he is a Vale of Glamorgan Council Trustee for the Alexandra Gardens Community Association.

Councillor Rowlands noted he has been granted dispensation to speak only at all meetings of Barry Town Council on matters relating to the Youth Forum and the impact of the Forum on restructuring of the Youth Service and financial arrangements.

Councillor Payne wished to make a declaration in the event of discussions relating to Youth services due to being the Vice Chair of the Vale of Glamorgan Youth Forum. Councillor Charles also wished to make the same declaration due to being a link Councillor on Barry Youth Council.

1029.

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

It was noted that this Act sets out the requirement for a public body to act in a manner which seeks to ensure **that the needs of the present are met without compromising the ability of future generations to meet their own needs.**

In order to act in that manner, a public body must take account of the following things:

- (a) the importance of balancing short term needs with the need to safeguard the ability to meet long term needs, especially where things done to meet short term needs may have detrimental long term effect;
- (b) the need to take an integrated approach, by considering how—
 - (i) the body's well-being objectives may impact upon each of the well-being goals;
 - (ii) the body's well-being objectives impact upon each other or upon other public bodies' objectives, in particular where steps taken by the body may contribute to meeting one objective but may be detrimental to meeting another;
- (c) the importance of involving other persons with an interest in achieving the well-being goals and of ensuring those persons reflect the diversity of the population of the part of Wales in relation to which the body exercises functions;
- (d) how acting in collaboration with any other person (or how different parts of the body acting together) could assist the body to meet its well-being objectives, or assist another body to meet its objectives;
- (e) how deploying resources to prevent problems occurring or getting worse may contribute to meeting the body's well-being objectives, or another body's objectives.

RESOLVED: That the Well-being of Future Generations (Wales) Act 2015 be noted.

The Mayor advised that the minutes would be moved to follow the next agenda item in order for members of the public to participate and for members to discuss an amendment to minute number 1024.

1030.

BIO MASS VOLUNTARY RETROSPECTIVE ENVIRONMENTAL STATEMENT

The Mayor advised that he had called the Extraordinary meeting in order to discuss the Voluntary Retrospective Environmental Statement in relation to the Bio Mass UK No.2 Ltd.

The Mayor then asked for members of the public to address members with their concerns.

Mr Robson-Davis addressed members of Council raising the following points. The development will not produce zero emissions and NRW agrees, the amount of emissions will be on par with coal emissions, it will take over the next 100 years to decompose, it would set a precedent for other incinerators to be built, the incinerator is not sustainable. He also advised that the emissions would have a large impact on Barry and since the initial proposal there has been a number of developments including new schools which would not be recorded in the initial risk assessment. He also advised that the water levels in Barry are set to rise by 2050 and it would have a detrimental impact due to the plant being built in an area that will be prone to flooding, which would cause water to become toxic due to mixing with flood water from the plant.

The Mayor advised that he was aware that another member of the public wished to speak on the matter but have yet to arrive. Councillor Brooks suggested to continue with discussions until they arrive as there was no time indication of their arrival.

Councillor Brooks advised that it was a retrospective Environmental Impact Assessment (EIA) which should have been carried out at the beginning of the application process and it is only taking place now due to pressures from the public and Barry Town Council. Councillor Brooks added that the initial consultation period of 30 days was not long enough due to the amount of information to absorb and understand, therefor Barry Town Council requested the extension. She gave an overview of the history of the development advising that it had been 6 years since the initial application was approved even though there had been objections and refusals against the development, the Planning Inspectorate overturned the decision. Councillor Brooks also advised that the development has changed hands under various names and owners with the Council not getting answers to the questions that have been asked. Councillor Brooks felt that there is a breakdown in trust with the developers noting that they have flouted planning rules and are now being enforced to produce an EIA which should have been undertaken at the beginning. Councillor Brooks

ended by saying that the incinerator has been placed in the centre of the Town with no reassurance that the development is safe or good for Barry.

The Mayor advised that the member of the public who wished to speak had arrived and they would have the opportunity to address members.

Mr Shaw addressed members by stating that he was a member of Barry Friends of the Earth who have actively been against the development. Mr Shaw agreed with Councillor Brooks that there had not been enough consultation time and felt that the applications are dictating as to when the observations should be submitted. He advised that Barry Town Council has supported the cause since the beginning as custodians for Barry. He also advised that there was a demand for an EIA at the beginning and asked why an appropriate EIA is not being undertaken and suggested that the Council write to the Welsh Government advising that it is not an appropriate EIA and cannot endorse the EIA submitted.

Councillor S Hodges noted that original deadline of 30 days for this consultation period was inadequate and that there is an issue with trust. The Council requested an EIA in 2020 and was concerned with what a retrospective EIA was as she had contacted Natural Resources Wales (NRW) and they advised that there is no such thing. Councillor S Hodges advised that she had attended a site visit along with Councillor Drake where they were advised that the fuel would be wood from skips collected. Councillor S Hodges had great concerns with trust, adding that the incinerator was built differently to the proposed plans within the applications, originally there were fire tanks but they were removed and felt that they are doing things without permission and asked if trust should be placed in the document as the full appendix 4.1 has been removed from the Barry Biomass Voluntary Retrospective Environment Statement documentation, which outlines the methodology agreed by the Welsh Government and the owners. Councillor S Hodges advised that on that basis the Council or the Welsh Government should not accept the Retrospective Voluntary EIA.

Councillor Collins agreed with what had been said and stated that she had always been against the development.

Councillor Clarke also agreed with what has been said, adding that the consultation papers are lengthy and felt that if the owners of the incinerator wanted a response to the consultation it could have been made easier to do so. He also highlighted that health protections have been taken from the people of Barry which was confirmed by the Welsh Environmental Impact Assessment Regulations and that the First Minister for Wales should intervene. He continued that the consultation is based on the assumption that there is such a thing as a Voluntary Retrospective Environmental Impact Assessment which he had searched for and found that nothing suggests such a thing exists and

that Welsh Government agreed that the incinerator is EIA Schedule 1 meaning that an EIA is compulsory with clear regulations of what should be included.

Councillor Clarke also noted that Appendix 4.1 had been removed from the published papers, advising that they should have been made public as they form part of the submission by the owners explaining how the Welsh Government officers came to their agreement with the owners and is central to the whole consultation.

In addition, Councillor Clarke advised that the consultation hasn't dealt with climate change which is an important part of an EIA, and was requested by the Welsh Government, also there is no reference to possible flooding due to tidal surge over the lock gates within Barry Dock, when in 2018 the owners of the incinerator appear to have agreed that *Flooding and tidal surge pose considerable threat to the Plant and the repercussions are considerable in terms of fire risk and industrial spillage* but claim that the incinerator is designed to take that into account.

Councillor Clarke continued adding concerns of emissions from the Incinerator stating that the owners have never admitted any figure for actual emission of greenhouse gasses, also raising concerns of the height of the stack as it is important to make sure that the poisonous emissions do not land on the town until they have dispersed sufficiently in the atmosphere, however the stack height was calculated with the wrong dimensions and it is likely that emissions will land on the town much too early. He added that this had been highlighted by the Welsh Government's Experts, WSP who rated the need for a new assessment at the highest on their scale, however the owners have chosen not to deal with the subject.

Councillor Clarke then proposed a motion, in which the Council should respond by stating:

This Council urges Welsh Ministers to reject and condemn the commissioning of the biomass incinerator on Barry Docks without a full EIA process being followed and to explain the logical basis for following a Voluntary Retrospective EIA process that is outside the EIA legislation, and therefore outside the law.

This Council asks Welsh Ministers to make public the full Appendix 4.1 which was removed from the Barry Biomass Voluntary Retrospective Environment Statement documentation and contains the full exchange of correspondence between Welsh Government and the owners of the incinerator. This Council is concerned of a possible perception that decisions regarding this matter are not being dealt with in an open and transparent manner.

This Council recommends Welsh Government reject the voluntary Retrospective Environmental Statement due to the following **major** concerns:

- a. that the document is produced outside of the current legislative framework and has questionable, if any, legitimacy;

b. that the possible impact of climate change and tidal surge that might flood the incinerator site has not been considered. The owners agreed in 2018 that flooding and tidal surge pose considerable threat to the plant and the repercussions are considerable in terms of fire risk and industrial spillage;

c. that the stack height calculation is inaccurate as advised by the Welsh Government experts (WSP). The information relating to emissions is therefore inaccurate and cannot be relied on.

Councillor Bailey seconded the motion.

Councillor Drake also agreed with what had already been discussed advising that she had objected to the original proposals in 2008 noting that the development had changed hands over the years and with a lot of change does not install any confidence. Councillor Drake noted that the report commissioned by Barry Town Council from Capita raised a number of issues, which NRW were written to with a number of questions and a request to not permit the licence for operation, which was later granted and to date no answers have been received. Councillor Drake said that she does not trust the Voluntary EIA.

Councillor Bailey advised that he had been demanding an EIA for a number of years, finally one had been produced but it is not what was requested. He was advised that it was normal for owners to undertake their own EIA, however he felt that it is not transparent and is concerned about the claims of zero emissions as it is not clean wood that will be incinerated. Councillor Bailey added that it weakens the Wellbeing and Future Generations Act 2015 as it is built in a densely populated town with the Vale of Glamorgan Council aiming to create a marina at Barry Docks, with the incinerator as a backdrop.

Councillor Payne advised that The All Parliamentary Group have published a document to decrease not increase the number of incinerators. She advised that this was published after hearing evidence from a range of experts who heard how heavy metals linked with acute childhood leukaemia had been discovered in the toenails of children living near incinerators and another study which found dioxins in chicken eggs up to 10km from incinerators that emit them.

Councillor Perkes said that an independent EIA should be undertaken and advised that incinerators are three times more likely to be built in areas of high deprivation and it is down to the Council to say no. She said that Barry Town Council have worked hard to improve the Town.

Councillor Payne also noted that incinerators are not in the Paris Agreement on Climate Change and it should not be in the town, the Council have been objecting since 2008, the people of Barry do not want it and the Council and the public should know what it is capable of.

Councillor Lloyd-Selby supports what had been said advising that the public are at a point where anything that is said would not reassure them, even if an independent EIA was undertaken should the Council trust it. Councillor Lloyd-Selby said that there had been no

reassurance that it can function without risk to health and requested that the owners meet with the Council to discuss the concerns, noting that there will be anxiety over the incinerator for generations.

Councillor Wilkinson said that the Town has lost faith in the development and that there was no public consultation or meetings.

Councillor Charles wanted to thank all of those who have worked hard to oppose to the development.

Councillor Johnson advised that he agreed with the motion made by Councillor Clarke and the amendment suggested by Councillor Lloyd-Selby. He also advised that the application was first placed in 2008 with consistent opposition and concerns from the Town Council, however the Vale of Glamorgan Council granted planning permission and did not request an EIA. He added that the Welsh Government did not enforce the need for an EIA at that time but they now accept there is a need for one. He questioned if the Welsh Government were covering their tracks. Councillor Johnson also added that it is up to the Welsh Government to make the situation right, they need to be open and transparent as currently they are abating faith and trust within the Town, noting that the development will produce poor air quality for Central and Eastern parts of the Town. Councillor Johnson ended by saying that it has gone on for too long with no reassurance.

Councillor Clarke noted that he was happy with the amendment suggested by Councillor Lloyd-Selby but questioned to what extent should certain parties be invited to a meeting, advising that it would be helpful to have Welsh Government Officers or the First Minister, the owners Aviva and Wardle Armstrong present.

Councillor Perkes suggested that more than one meeting could take place suggesting that a meeting with Welsh Government solely might prove useful.

Councillor Bailey advised that he was happy with the amendment suggested by Councillor Lloyd Selby

Councillor Brooks advised that she was happy to meet with all parties mentioned above but was concerned that it is an election year and PURDAH will begin at the end of March, therefore arrangements need to be made soon and agreed to two separate meetings.

Councillor Clarke advised that meeting with Welsh Government alone will not achieve anything without the BioMass owners being invited, he advised to meet with Wardle Armstrong to get the objections of Barry Town Council across.

The Mayor asked Councillor Perkes if she was happy with the suggestion of meeting with all parties together rather than separate meetings to which she advised that she was not happy with the suggestion and the Council should not be put off to meet with Welsh Government Officers alone but would agree with the majority.

The Mayor put it to a vote whereby the result was unanimous that the motion put forward by Councillor Clarke was carried with the addition suggested by Councillor Lloyd-Selby.

This Council urges Welsh Ministers to reject and condemn the commissioning of the biomass incinerator on Barry Docks without a full EIA process being followed and to explain the logical basis for following a voluntary retrospective EIA process that is outside the EIA legislation, and therefore outside the law.

This Council asks Welsh Ministers to make public the full Appendix 4.1 which was removed from the Barry Biomass Voluntary Retrospective Environment Statement documentation and contains the full exchange of correspondence between Welsh Government and the owners of the incinerator. This Council is concerned of a possible perception that decisions regarding this matter are not being dealt with in an open and transparent manner.

This Council recommends Welsh Government reject the voluntary Retrospective Environmental Statement due to the following **major** concerns:

- a) that the document is produced outside of the current legislative framework and has questionable, if any, legitimacy;
- b) that the possible impact of climate change and tidal surge that might flood the incinerator site has not been considered. The owners agreed in 2018 that flooding and tidal surge pose considerable threat to the plant and the repercussions are considerable in terms of fire risk and industrial spillage;
- c) that the stack height calculation is inaccurate as advised by the Welsh Government experts (WSP). The information relating to emissions is therefore inaccurate and cannot be relied on.

RESOLVED:

- 1. That Welsh Government, Aviva and Wardle Armstrong are invited to meetings in order to discuss the BioMass development and to discuss the objections and concerns that Barry Town Council and the Public have raised.**
- 2. That the above motion forms the response in relation to the Bio Mass Voluntary Retrospective Environmental Statement Consultation**

1031.

DATE OF NEXT MEETING

RESOLVED that the next meeting of Council is scheduled to be held on Monday 7 February 2022 at 7pm.

1032. **EXCLUSION OF THE PRESS & PUBLIC**

RESOLVED that in accordance with section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960, in view of the confidential nature of the business about to be transacted, it is advisable in the public interest that the press and public are excluded from the remainder of the meeting.

1033. **TO APPROVE AND SIGN THE MINUTES OF FULL COUNCIL HELD ON MONDAY 13 DECEMBER 2021**

Members were provided with the minutes of the Full Council meeting held on Monday 13 December 2021.

Councillor Brooks raised that a suggestion was made at the last meeting where members request that Memorial Hall and Theatre are written to advising them that the current Grant Agreement will come to a natural end on 31 March 2022 and encourage them to apply for an annual grant with a full proposal, noting that there would be no guarantee of funding.

RESOLVED: That the minutes of Full Council held on Monday 13 December 2021 are approved and signed as a correct record, subject to the above amendment being made.

The meeting closed at 8.28pm

Signed Dated
(Town Mayor)