

**ANGUS COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**5 DECEMBER 1996**

**SUBJECT: ENFORCEMENT ACTION  
ELLIOT INDUSTRIAL ESTATE, ARBROATH**

**REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT**

**Abstract: This report presents the circumstances relative to a recommendation not to take enforcement action in respect of the non-compliance of a condition attached to a planning consent to operate a clinical waste facility at Elliot Industrial Estate, Arbroath.**

**1 RECOMMENDATION**

It is recommended that the Committee -

- (a) agrees not take enforcement action in respect of the technical breach of planning consent; and
- (b) to inform the operator, Scotsafe, that the Council will accept the processing of Category A clinical waste excluding human anatomical parts, animal carcasses, radio-active and chemical waste.

**2 INTRODUCTION**

- 2.1 In the summer of 1996, Scotsafe, the clinical waste treatment operator based at the Elliot Industrial Estate, applied to SEPA for a variation of their waste management licence. The main variation requested was the inclusion of certain elements of Category A waste previously excluded. As this would also be contrary to the planning consent granted in November 1994, SEPA referred the matter to the Planning Department as the licence must not contradict the planning consent.

**3 PLANNING CONSIDERATIONS**

- 3.1 Following receipt of the letter from SEPA, a dialogue was entered into with Scotsafe which resulted in a request by officials, that Scotsafe make an application for a variation of condition number 4 attached to the planning consent. This condition excluded the treatment of any waste classified as Category A. Scotsafe considered the request and reluctantly declined. Accordingly the Committee must now decide whether or not enforcement action is called for.

- 3.2 Scotsafe offer a number of arguments in their defence:-
- (a) Group E waste, permitted by the consent, is more contaminated than Group A.
  - (b) Both Group A and Group E waste, at hospital ward level, are discarded into the same container. Separation would therefore require the NHS to reconsider its entire clinical waste segregation strategy.
  - (c) 80% of clinical waste falls under Group A.
  - (d) All discussions on the run-up to the determination of the planning application (with Planning and Environmental Health officials, Scottish Office, etc.) were on the basis of Group A waste (excluding body parts, etc.) being processed.
  - (e) The planning application supporting information clearly stated the intention to process Category A.
  - (f) At no time did Environmental Health or Planning Officials indicate any foreseen problems with including Group A waste.
  - (g) The facility has processed Group A waste since commencing operations without complaint or problems.
- 3.3 The recollection of Environmental Health and Planning officials involved at the time, is that Group A waste was acceptable and it was due to an oversight or administrative error that the whole of Group A was excluded by the condition imposed when only certain types of waste included in that category were to be excluded, namely human parts, animal carcasses and radio-active or chemical waste.
- 3.4 The major part of Group A comprises soiled surgical dressings and swabs, probably the layman's initial idea of what comprises clinical waste. It is the opinion of the officials that the members of the District Council's Planning Committee never intended to exclude these very basic items.
- 3.5 The indications from SEPA are that licensing for Group A (minus the specified items) will be a formality. Should a planning application be made to vary condition 4, it would certainly be recommended for approval by the Director.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications involved in adopting the recommendations but there would be a cost (in staff time) in pursuing an enforcement action simply to achieve the submission of an application.

**5 CONSULTATION**

- 5.1 The Chief Executive, Director of Finance, Director of Law and Administration and Director of Environmental and Consumer Protection Services have been consulted in the preparation of this report.

**6 CONCLUSION**

As the operator has refused to submit an application to vary the condition, the only way an application can be secured is by means of an enforcement action. From the information above, it should be clear to members that the proposed variation would be recommended for approval. As Government guidance to Planning Authority's is not to pursue an enforcement action to secure a planning application which is likely to be approved, it is recommended that no such action be initiated.

**NOTE**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/KW  
25 November 1996

Alex Anderson  
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