

Cornwall Council report

Cllr Dick Cole

Time period: 24th October – 23rd November 2014

1. Council meetings

I have attended a range of formal meetings over the last month. These included: Cabinet; Environment, Heritage and Planning Portfolio Advisory Committee (plus an associated informal PAC and two pre-agenda sessions); Constitution and Governance Committee, and a briefing on Cornwall Council's budget situation.

2. Council meetings

I have also attended a meeting of the Leader / Community-led Local Development working group, which I chair. This working group is devising the framework for the Local Action Groups (LAGs) for the new European funding programme. I also attended a meeting of the South and East Cornwall LAG, which covers an area stretching from the China Clay parishes in the west to the Tamar, and to which I have been appointed as a member.

Also attended was an Executive meeting of the Cornwall and Isles of Scilly Rural Partnership, and the project team for the St Austell Bay Economic Forum, which seeks to promote economic growth in St Austell and surrounding areas (including Clay Country).

I also supported an event at New County Hall, which was organised by the university at Penryn and sought to engage local people with decision-making in Cornwall. It was advertised as a "Citizens' Take-over of County Hall."

Locally, I have met with both the Indian Queens Under-5s and the Wesley Under-5s to discuss their plans for the future and to explore how I might be able to help.

3. Penare Pig Farm, Higher Fraddon and associated AD plant

The last month has been dominated by the development of the AD plant at Higher Fraddon, and the re-development of the pig farm.

I organised a public meeting, which took place on 30th October at Kingsley Village. Cllr Hopkins chaired the meeting in his role as the chairman of the Parish Council. Present at the meeting were: Head and Assistant Head of Planning at Cornwall Council Phil Mason and Nigel Doyle, Graeme Lochhead and John Deane (Greener for Life) from the biogas development, Russell Dodge (Business Location Services) and Dan Johns on behalf of the pig farm. There were over 120 local residents at the meeting and there was considerable anger at the failure of those present to address the concerns of local people.

Regular contact with local residents has been maintained through the Higher Fraddon Residents Action Group, which has included meetings on 30th October, 10th November and 13th November. Stephen Gilbert MP also attended the meeting on 10th November.

I also met with Phil Mason and Nigel Doyle on a number of occasions, who organised a meeting with Graeme Lochhead and David Manley from Greener for Life – also on 10th November. I had previously met with Graeme Lochhead on 31st October, immediately after the public meeting, and I have spoken to representatives of Greener for Life and the pig farm on numerous occasions over the telephone.

A number of Council officers have visited the site, including staff from the enforcement team and highways.

The key news to report is that the three tanks constructed by Greener for Life are not in compliance with the agreed plans, and the bund has also been constructed slightly out of position. Cornwall Council has therefore taken the view that the plant does not have a valid planning consent.

Greener for Life submitted a non-material amendment (NMA) earlier in the year, which stated that the tanks would be smaller than originally planned. For example, one of the original consented tanks would have been 9.13m high, the NMA stated that it would actually only be 6.0m high, but I understand that the height of the finished tanks is about 10m.

This was reported to Greener for Life prior to the meeting with Cornwall Council on 10th November. My notes from the meeting were as follows:

All in all, I found the meeting to be fractious.

Vehicle movements

The meeting commenced with a discussion about recent movements of large lorries. I complained that the number of such lorries that had been bringing in material to “seed” one of the tanks, since Thursday 6th November. I pointed out that this was not in compliance with either the construction management plan (for the construction period) or the traffic restrictions on the operational phase.

The response from Greener for Life was that this was a “commissioning” phase, which fell between the construction and operational phases. They acknowledged that they had not supplied information to the Council about the traffic movements at an early stage, but said they would restrict the movements to no more than 11 tankers each day (until Thursday this week).

Graeme Lochhead added that following the recent public meeting at Kingsley Village, Greener for Life had acknowledged the anger from many in the community and taken the decision

to reduce the amount of material they would bring in to “seed” the plant. He stated that instead of bringing in 3,800 tonnes of material, they were only bringing in 1,800 tonnes of material and commissioning just one of the tanks.

It was noted that Greener for Life, at Phil Mason’s request, had asked the Highways Agency if they could temporarily close one lane on the A30 to make these deliveries. We were told that it would be possible, but would take another seven days to arrange. Greener for Life stated that they intended to keep the deliveries coming until Thursday 13th November, and the closure therefore could not be actioned speedily enough for their timetable!

When it was suggested that Greener for Life stop deliveries, they said they were unwilling to do this because it would compromise the commencement of the AD process. Graeme Lochhead explained that the material was being delivered at 25 degrees and would be heated up to 40 degrees. If it fell below a certain temperature, the bacteria would die; and if the heat was 40 degrees but the tanks were not being fed with material, the bacteria would eat each other.

They added that after Thursday, they intended to “ramp up” the commissioning with the addition of maize silage, but stated this was much less than originally planned.

Graeme Lochhead promised to provide me with detailed information on their traffic movements between now and Christmas.

Planning

Nigel Doyle reported back on the findings of the enforcement officers who visited the site on Tuesday 4th November. He stated that the embankment was closer to residents than on plans and the tanks were not in accordance with the second NMA which stated the height of the tanks would be reduced. It was reported that the diameter of the tanks were greater than stated and the height of the tanks were also much greater than agreed.

Given the present height of the tanks, the representatives from Greener for Life prompted a discussion about possibly increasing the height of the bund, with enhanced planting.

Nigel Doyle made it clear that, because the plant had not been built in accordance with plans, it therefore did not have planning permission. David Manley stated that he would need to seek legal advice on whether they could legally challenge the Council’s position, but was given short shrift by Nigel Doyle.

Phil Mason stated that there were two choices on the table for those involved: (i) enforcement or a (ii) retrospective planning application. He added that he felt the main impact and local concern was traffic, and requested to know how a new application would mitigate traffic impacts.

It seemed to me that Greener for Life did not appear too interested in reducing the number of large vehicles travelling to Higher Fraddon.

David Manley said that the initial NMA had already been agreed and that had allowed larger vehicles within the consented 51 two-way lorry movements. Nigel stated that the NMA was no longer valid, but the decision-makers could choose (or not) to give it weight when the new application was assessed.

I understood that Greener for Life were going to present their latest proposal for vehicle movements to the meeting. But no new information was presented and David Manley referred to paperwork (already circulated to the Action Group) which suggested 38 two-way movements of 40 or 44 tonne vehicles per week.

I made it clear to Greener for Life that I would oppose such an increase in large vehicles and I would push for the plant to have less feedstock, unless they could find another access (off the A30) or an alternative way to feed the plant.

Nigel Doyle asked Greener for Life to set out a timetable for a revised application and to guarantee that the materials would not be inaccurate or misleading. Whether there would need to a screening opinion was also discussed.

Graeme Lochhead stated that he would need to write a report for Greener for Life's directors and investors about how best to proceed.

Access off the A30

Phil Mason asked if Greener for Life would agree to work with Cornwall Council to argue for a new access road off the A30. They confirmed that they would.

Phil Mason then asked if Greener for Life would sign a legal agreement to use "best endeavours" to push for a new access road off the A30. They stated they would need to discuss this with their directors and investors, as well as other interested parties (the pig farm and owners of the land for the biogas plant, the Dymond family).

It was also noted that Greener for Life had been granted a temporary lane closure on the A30 on 24th November¹ for the delivery of some fitting, which it was agreed would be a precedent that could be argued in the future.

Pig slurry

Graeme Lochhead stated that the biogas plant has a commercial arrangement to take "3,000-5,000" tonnes of pig slurry from the farm, but would not necessarily take a greater amount if it was produced. The planners challenged this and I pointed that no-one had made account of such any removal of pig slurry from the pig farm in terms of vehicle movements.

Nigel Doyle expressed his concern at the lack of clarity as to how the pig farm and biogas plant would be working together and stated that the two expected planning applications would need to be consistent with each other.

Feed-in-tariff (FiT)

I asked about the FiT and the implication of gas not being produced by 18th December. Graeme Lochhead stated that the FiT was dropping from 15p to 12p, and if they had not produced gas by 18th December, could lose over £100,000 per annum.

I raised the point suggested by Stephen Gilbert MP that the feed-in-tariff would only be paid if all necessary consents were in place and that if the planning consent was no longer valid, would there be a problem? The Greener for Life representatives did not know the answer and stated they would look into this.

Graeme Lochhead also argued that the Council should not undermine the work of Greener for Life. He said that if the profitability of the plant was damaged, it would have a potential knock-on impact on their other projects in Cornwall because of a lack of "investor confidence." I stated that I had no confidence in Greener for Life and how they had been operating.

Graeme Lochhead added that if Greener for Life failed to achieve the present FiT amount, they would need to approach the operation of the plant in a different way to maximise income. In particular, he stated that they would need to source materials that would generate more gas in place of the maize silage, for example, which would generate less gas.

¹ This was later changed to 23rd November.

Sub-contactors

Graeme Lochhead also reported that two sub-contactors, working for FLI Energy, had been disrespectful to local residents. He added that they had been sacked as a result.

Plant on opposite side of A30

I stated that local residents had heard about a possible plan from Greener for Life's to build a tandem plant on the other side of the A30, but that there were great inconsistencies in what people had been told. David Manley stated that the landowner (Imerys) had concerns about mineral rights and the plan was on the "back burner."

I asked for more details about the plan and it was confirmed that, if such a plant was built, a tunnel (for pipes) would be drilled under the A30 (which they said was quite easy to do and not too expensive). Material for the plant could then be fed through the pipe in a liquid form.

I suggested that they needed to do more work on this, as this could be an alternative way to reduce traffic movements, and asked for more information about exactly what might be done. It was suggested that Cornwall Council could take a pro-active approach to this issue.

Further information

Graeme Lochhead stated that he:

- Would arrange a meeting with the closest local residents – within two weeks – to discuss the extent of screening around the site.
- Wanted to organise a display about the biogas plant and how it would work, etc.
- Planned to explore the best way to travel to the site by attempting the various routes to Higher Fraddon, using those vehicles that they would wish to use in the future.
- Would provide me with detailed information about all the vehicles they wished to use, including dimensions.

The possibility of enforcement action

At the meeting itself, the planners made reference to the potential for stop notices or enforcement action that could be taken. Nigel Doyle made it clear to Greener for Life that the Council would need to consider all options.

I can also confirm that Nigel Doyle had discussions with officers from the enforcement section and I will report back when I have heard more from them.

I have been putting pressure on Council officials to be more robust in dealing with both the developers of the biogas plant and the owners of the pig farm, which has continued to redevelop the unit without any form of planning consent.

It is also the case that much of what I have been told in recent weeks is contradictory to other information which I have been supplied with.

Taking much of the above into account, I wrote to Phil Mason last week. The letter was as set out below:

First, may I thank you (and Nigel Doyle) for meeting with me on a number of occasions over the last two weeks to discuss the problems caused by the development of the biogas plant and the redevelopment of the pig farm at Penare Farm.

I fully appreciate that you are trying to liaise with the developers (Greener for Life) and representatives of the pig farm (Business Location Services) to ascertain the best way in which to address what is presently happening at Higher Fraddon.

However, it is ten days since we met with representatives of Greener for Life (Monday 10 November), when you informed them that they no longer had a valid planning consent because the application had not been constructed in accordance with agreed plans.

I find it unacceptable that we have heard little from Greener for Life over this period and that they have continued to construct / commission their plant. I know that, because their planning consent is longer valid, we cannot control certain aspects of their activities through the (now defunct) conditions. But the extent of some of the vehicle movements has been greater than those (i) stated by Greener for Life in their Construction Management Plan and (ii) specified in the conditions of the actual consent, which I consider unacceptable.

Likewise, the construction of the pig farm is continuing even though a planning application has not even been submitted.

The residents of Higher Fraddon have had to put up with a lot over the summer / early autumn, and they are still suffering significant ongoing harm in their daily lives. This has even caused the Police to have a presence in the area (see below).

It is also the case that Cornwall Council, the residents and I have all been seeking information from Greener for Life and pig farm about future plans and what is actually planned, etc, but the information we have received has been inconsistent and contradictory, and on occasions could even be described as misinformation.

I would wish to bring your attention to the following.

- The conflict between the vehicle movements (lorries) and local population is actually escalating. I would refer you to correspondence sent to the Council yesterday (18th November) about what happened earlier in the day, and led to Police being called to visit Higher Fraddon.
- The Police have confirmed to me that they do not have the capacity to be permanently on call to attempt to resolve issues near Penare Farm.
- Greener for Life have been told that they do not have a valid planning consent for their site and have failed to make any meaningful changes to their operations (ie. reductions in traffic movements). It concerns me that they have yet to accept this and may be looking to challenge the Council's position. It also concerns me that they have not come back to the Council with any proposals to address or mitigate the concerns of local people.
- Greener for Life also seem to me to be unwilling to look at significant reductions in the amount of feedstock that it would wish to see delivered to the site in the future.
- The pig farm is continuing to construct new buildings, etc, even though it has yet to submit a planning application, and the plan recently submitted to Cornwall Council for scoping does not reflect what residents had previously been told about the location of the attenuation tank.
- There is endless misinformation being provided to Cornwall Council and local residents, which could/should impact on what may or not be consented in the future. Please see below examples:

All statements about the extent of present vehicle movements have been challenged by local residents. For example, one resident received the following email about traffic movement from Greener for Life on the morning of 18 November about movements later that day: "Regarding vehicles, we will have the two tractors in today, they will have come in and off loaded by 16:00. I have also been dealt a surprise and have been informed a load which was meant to be broken up into small loads will now be arriving on two larger vehicles."

Various comments about the possible additional plant on the other side of the A30 have been extremely inconsistent. Some residents have been told it is "dead in the water"

while others have been told that the option is still being explored.

At a meeting at Circuit House, Truro, on 17 October, I was told that the pig farm would produce 3,000 tonnes of pig slurry which would all go to the biogas plant. This was much less than the 7,800 tonnes recorded in the original planning application, with the explanation being that the new buildings would ensure there was less dilution with rain water. But more recently, Greener for Life informed me that they have an agreement in place to take 3,000-5,000 tonnes, but would not necessarily take all the slurry if more was produced. I have also spoken to Business Location Services for the pig farm who are saying the amount of pig slurry could still be as high as 7,000 tonnes.

With reference to the discrepancies shown above in terms of the pig slurry, it is clear that there is a lack of communication between Greener for Life and pig farm, which need to be addressed.

Local people are demanding to know why formal enforcement action is not being undertaken, and I have to say that I share the concerns of my residents.

I am extremely disappointed by the lack of meaningful dialogue from both Greener for Life and the owner of the pig farm, and request that you look to undertake enforcement action as a matter of urgency.

I have also twice complained to Greener for Life for their failure to keep me, as divisional member, and St Enoder Parish Council informed about changes to their vehicle movements, etc.

4. St Enoder Neighbourhood Plan

I have been liaising with the Cornwall Rural Community Council, who have been inputting the data from the returned questionnaires for the St Enoder Neighbourhood Plan.

A total of 402 questionnaires were returned and I have been told that the draft report on the feedback should be available this week. I have also requested a further breakdown for the component parts of St Enoder Parish, namely (i) Fraddon, (ii) Indian Queens / St Columb Road and (iii) Summercourt.

Meetings of the working group will be convened for December to plan the next stage of the work programme.

5. Cornwall Local Plan

At the 14th November meeting of the Environment, Heritage and Planning Portfolio Advisory Committee (which I chair), the final draft of the Cornwall Local Plan was considered. It will be presented to a special meeting of Full Council on 16th December and agreement sought to submit the document to the Secretary of State, prior to examination by an Inspector.

It has taken a significant amount of time and there are many elements of the Local Plan which I did not support (for example, the total number of houses for the 2010-2030 period and the eco-town), but lost the relevant arguments some months, or even years ago. Likewise, many aspects of the process has been dictated from central government, leaving little room for manoeuvre.

Earlier in the year, I wrote to central government on behalf of a cross-party group of councillors, seeking a meeting with the Planning Minister to express a range of concerns about the process to produce a local plan. This was granted but the meeting was only attended by the Cabinet Member for the Environment, Heritage and Planning. The attendance of myself and other councillors was vetoed by the Leader of the Council.

6. Unauthorised development on land adjacent to the Kelliers

At the last two meetings, I reported how land immediately to the east of the Kelliers was being developed without planning permission and that the landowner had put three caravans into the site, and that I had been in regular contact with the Council's enforcement officer.

I can confirm that a total of six caravans have been moved onto the site and a number of them are being lived in. I understand from one of the enforcement officers that the occupants of the caravans are migrant labourers.

I have repeatedly challenged the Council to take enforcement action, but this has not happened because the owner of the land has stated that he is in the process of putting in a planning application.

7. Budget cuts

The unitary authority will be holding its Full Council meeting on 25th November, when cuts totalling £196 million put forward by the ruling Liberal Democrat and Independent Cabinet will be considered.

The situation is grim and many of the cuts are extremely unpalatable. The figure of £196 million would be spread over four years and is based on assumptions about the ongoing level of central government cuts. The impact of such cuts on its shrunken financial base will be to further undermine the ability of Cornwall Council to provide basic services that local people should have a right to expect.

I will report back at tonight's meeting.

8. Mobile library

I have previously reported that in the near future, Cornwall Council's mobile library service will be restricted to a single library van that will visit locations once a month.

The present list of potential stops include Indian Queens, Pedna Carne and Summercourt. I have also requested that there is an additional stop at Fraddon and will report back when I have more information.

9. Property Level Protection schemes

As noted in previous monthly reports, eight properties in St Enoder Parish, which were flooded during the last two winters, are benefiting from the Property Level Protection scheme. The works have been completed at four of the properties. However, there have been delays at some of the remaining homes and I am actively chasing the contractors to seek assurances that the works will be completed soon.

10. Works on the local road network

I am continuing to liaise with Cornwall Council in relation to improvement works on local roads. A number of further problems have been brought to my attention (eg. need for patching in Harvenna Close, Fraddon) and I will report back more fully in my next monthly report.

11. Inquiries

Throughout the last month, I have also helped numerous people and local organisations with advice and guidance on a wide range of issues. These included problems relating to traffic, housing, drainage and vegetation.