

Mrs Ann Charlton
Head of Legal Services
Surrey County Council

27 July 2011

Our ref:
JP/NG

DX 31509 KINGSTON

**& BY E-MAIL: ann.charlton@surreycc.gov.uk
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Dear Madam

**Lower Sunbury Residents' Association
Application for Charlton Lane Waste Management Facility
Planning Application: 10/00947**

1. We write, again, on behalf of Mr John Hirsh (Chairman), the Committee and members of the Lower Sunbury Residents' Association ("LOSRA"), and note that the County Council's committee has taken a decision in principle to grant permission for the Charlton Lane waste management facility, subject to referral to the Secretary of State.
2. We have written, separately, to the Secretary of State urging him to issue a direction under Art. 25 of the DMPO that planning permission should not be given, or otherwise to call the application in for his own determination. We enclose a copy of our letter of today's date to him for your information.
3. You will see that we have raised with the Secretary of State the fact that the officers' report upon which the Committee reached its decision entails a number of clear errors of fact and/or law, relating to Green Belt harm, very special circumstances, and the erroneous contention that the gasification plant satisfies criterion (ii) of Policy WD5 of the Surrey Waste Plan 2008 (which makes clear that planning permission will only be given "if provision is made for energy recovery").
4. Mr Hirsh and LOSRA are particularly concerned that officers and committee have persisted in their clearly erroneous belief that criterion (ii) of Policy WD5 is satisfied, given that we made the point in considerable detail in our submission to the committee and the County Council's legal department dated 7 March 2011, a submission which officers have failed to grapple with adequately or at all in their latest report to committee. On a proper

application of policy WD5, as interpreted by the High Court, planning permission for the proposed development plainly ought to be refused.

5. Should the Secretary of State decide for any reason *not* to issue a direction under Article 25, and not to call the application in for his own determination, we urge the County Council nevertheless to take the following steps before any decision on this application is finalised:

(1) planning officers should issue a further report to committee, squarely addressing and correcting the errors we have identified in our letter to the Secretary of State, and revising their recommendation to committee accordingly; and

(2) the planning committee itself should then reconvene in order to reconsider this application afresh in light of the further officer's report and the errors we have identified.

6. Taking those steps, we will contend that the planning committee ought to refuse permission for this development.

7. We place you on notice that, should the Secretary of State refuse to call the application in or issue an Article 25 direction, and should the County Council, nevertheless, refuse to take the steps we have outlined above, our clients reserve the right to issue judicial review proceedings in the High Court challenging the County Council's approach.

8. Please respond to this letter within 14 days, and (should the Secretary of State refuse to issue an Article 25 direction or call in the application) in any event in good time before the County Council takes any final or further decision on this application.

Yours faithfully