

Cardiff Against the Incinerator



High Court judge rules for CATI

We won our long delayed application for an emergency hearing!

Judge Curran agreed that Ms Pauline Ellaway is a 'standard bearer' for many other members of the public who are deeply concerned about the incinerator development.

He ordered an emergency full hearing of Ms Ellaway's case at which all issues will be considered. The legal firm *Richard Buxton Environmental and Public Law* who are acting for Ms Ellaway are proposing a December dates for the hearing in Cardiff High Court.

The Judge said "the actions of Viridor in the first place in proceeding to begin works prematurely, as they did, and of the council in protesting only after being prompted by CATI, and then effectively condoning such conduct" raise issues of "procedural propriety".

<http://www.walesonline.co.uk/news/wales-news/cardiff-incinerator-high-court-opens-6114519>

CATI is pleased that the Judge ruled in favour of most of our points, accepting the Hearing would cover

- An order quashing the grant of the subsequent applications approval;

- A declaration that the decisions of the Council on 13 February to treat the proposed subsequent applications approval as retroactively permitting the unlawful works and rendering enforcement action inexpedient was unlawful;

- An order requiring the Council to reconsider enforcement action against the unlawful works.

Dave Prosser of CATI said: "the judge slapped down the Council's assertion that our objections were 'unarguable'. Their planning committee had the legal case before them at their meeting in February, but led by their chair Cllr Michael Michael, failed to seek proper advice before they dismissed it, deciding then to risk public money on a court case".

Max Wallis of CATI added:

"The judge has knocked another hole in Cardiff Council's plan to sign a contract with Viridor, with the High Court judge finding the company acted unlawfully in starting building works last July, action that Cardiff Council condoned by refusing to stop it. It's a further reason for the five Councils in Prosiect Gwyrdd to question the £600million 25-year contract to incinerate excessive tonnages of waste."

Cardiff's Cllr Govier stated* that 80% of Cardiff's black-bag wastes is recyclable, yet the recycling plans would take out only 30% of it (increase the current 50% recycling to 65% only) and send the remainder of which half is 'recyclable' to the incinerator. It follows the proposed contract figures should be halved. As the other Councils' proposed guaranteed waste tonnages are similarly over-high, they should all be demanding a review of the proposed contract.**

At the emergency hearing of the case in Cardiff High Court, Dave Prosser of CATI will testify to the extent of the unlawful building works, which Cardiff did nothing to check and stop. Max Wallis will testify

how CATI has found the Council ignoring and misrepresenting criticisms, disregarding their duties to protect the environment and health from Viridor's incinerator.

The Community is required to raise £3000 towards the costs of the legally-aided case spearheaded by Pauline Ellaway; CATI is appealing for further donations [4].

CONTACTS

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/ FURTHER INFORMATION

* www.walesonline.co.uk/news/wales-news/monthly-black-bag-collections-charging-6101151

** The Councils' claims of "savings" from the £600million year incineration contract are completely fictitious, as the greatest savings come from avoiding incineration costs by sorting the waste and selling it for recycling.

The High Court decision, if it goes in favour of CATI, will be ground-breaking in ensuring Councils follow the law rather than political motivations. It will set back the Viridor project to square 1, when the Councillors can turn it down as entirely unsuitable for the Splott and Cardiff Bay site [3].

It will also extricate Cardiff from the 25-year contract to incinerate large tonnages of waste rather than reduce and recycle waste in accord with policy. No-one can justify long contracts when waste processing is changing rapidly towards recycling. While other councils try to re-negotiate such contracts, Cardiff's current leaders rush to sign one. They may well be caught because the subsidy offered by the Welsh government is unapproved by Europe so could be "illegal State Aid" under the European Treaty.

Support our Community Legal Action <cardiffagainsttheincinerator@gmail.com>

[1] The request to Cardiff High Court, lodged on Tuesday 26th March, was for the following:

- a. An order quashing the grant of subsequent applications approval dated 25 February 2013;
- b. A declaration that the decision of the Council to treat the subsequent applications approval as retroactively permitting the unlawful works and rendering enforcement action inexpedient was unlawful;
- c. An order requiring the Council to reconsider enforcement action against the unlawful works;
- d. An order directing the Council to issue an enforcement notice and/or stop notice prohibiting further continuation of unlawful development;

[2] 25-year contract for £600million between the 5 Local Authorities, of which Cardiff will pay ~£250 million.

[3] Entirely unsuitable for the Splott and Cardiff Bay site on grounds of lorry traffic, flood risk, hazard to health and processing hazardous ash. It's also unsuitable for use of the huge quantities of waste heat, because the claims for a city-wide pipe network are unviable fantasy, not part of a full district heating scheme meeting the big seasonal variations in demand.

[4] *Appeal for our Community Legal Action fund*

Please contribute to our *£3,000 legal action fund*. You can do this by:

Making a *donation by cash or cheque* (made payable to 'CATI') and sending it to CATI, 58 Janet St., Splott, Cardiff CF24 2BE.

Donation to an accredited CATI representative (who will have proper ID).

Phoning David Prosser on 029 20791993 (h), 07504 323422 (m) or emailing us at cardiffagainsttheincinerator@gmail.com to arrange a visit.

Paying online into our account (The Cooperative Bank, Sort Code 08-92-99 Account No. 65423583) or at the Bank in High Street, central Cardiff.

Paying online via PayPal at www.ukwin.org.uk (add "for CATI/Cardiff" in the *comment box* on second page, called 'Review Donation').