

Campaigners' legal challenge to Environment Agency's decision to grant permit for one of Europe's biggest waste incinerators proceeds to hearing

On Tuesday, 13 October 2020, the high court will consider whether to grant a campaign group, representing seven villages in Essex, permission for a judicial review of an Environment Agency decision about a waste incinerator to proceed to a full hearing.

Represented by Leigh Day solicitors, No Essex Incinerator Limited (also known as Parishes Against Incinerator: PAIN) previously issued a legal challenge against the Environment Agency over concerns that residents will be exposed to the potentially hazardous effects of the development of one of Europe's biggest waste incinerators.

The group sought to challenge the Environment Agency's decision (made in early June this year) to vary a key element of an environmental permit granted in 2017 to the incinerator developer, Gent Fairhead and Co Limited.

The decision means that Gent Fairhead can build a 35-metre chimney stack at the integrated waste management facility on Rivenhall Airfield, Essex, which was given planning permission in 2010.

Four years ago it was accepted by the Environment Agency that a 35-metre chimney stack would be inconsistent with Best Available Techniques (BAT). However, a plan for a 35-metre chimney stack has since been agreed by Essex County Council and so, following the Environment Agency's recent decision, this means Gent Fairhead can now go ahead with the project.

There are fears that the uniquely low height of the chimney stack will severely impact the air quality for those living in the surrounding area.

PAIN says that the emissions from the site would be equivalent to 120,000 cars each travelling 8,000 miles a year around Braintree in Essex. It believes there is no other waste management facility in the UK with such a low chimney stack.

The plant would include an anaerobic digester which could process 75 tonnes of non-hazardous waste a day, an incineration plant with the capacity to process more than three tonnes an hour and a mechanical biological treatment facility.

The campaigners represent residents from the parishes of Coggeshall, Feering, Silver End, Stisted, Rivenhall, Kelvedon and Witham.

They make their case for judicial review on the following grounds:

- Permitting the 35m stack height amounted to a breach of the Industrial Emissions Directive

- Even if a 35m stack was capable of being a Best Available Technique, the Environment Agency failed to take into account the need to reduce to a minimum the overall impact of the emissions on the environment
- The decision was made in a manner contrary to guidance produced by the Environment Agency, without good reason.

Nick Unsworth, PAIN campaigner, said:

“We believe it is vitally important to our local communities that we ask why this permit has been allowed given the Environment Agency’s original emphatic refusal of a 35m stack.

“It seems contrary to the action that a Government agency should be taking to help tackle the climate change crisis and to pay scant regard to the various agreements, on that subject, to which the UK is a signatory. We now know about the impacts of air quality and CO2 on human health and the environment more generally. We estimate that the incinerator will generate 500,000 tons of CO2 per year.

We keenly await the Court’s decision on our application.”

Leigh Day solicitor John Crowley said:

“Our client believes that the building of a 35-metre stack at what will already be one of the biggest waste incinerators in the UK will have a massively negative effect on the lives of residents in the surrounding villages. We hope the Court will see the force of our arguments, and allow the claim to proceed to a full hearing, so that the problems of the permit can be put under the spotlight.”

<https://no2incinerator.co.uk/>