

HERTFORDSHIRE COUNTY COUNCIL

CABINET

MONDAY 10 MAY 2004 AT 2.00 PM

Agenda Item
No.

5

GENETICALLY MODIFIED (GM) CROPS AND FOODS

Report of the Director of Environment and the County Secretary

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Purpose of Report

To present the recommendations of the Environment Scrutiny Committee following its consideration of the issue of genetically modified (GM) crops and food at its Public Hearing held on 23 March 2004.

Summary

There is widespread public interest in GM crops and food. The County Council has a direct interest as provider of meals, owner of the Rural Estate and enforcer of Trading Standards. But it does not have the power to declare the county as a GM-free area: the relevant regulatory authority for the release and marketing of genetically modified organisms (GMOs) is the Department for Environment, Food and Rural Affairs (Defra).

In response to local interest, the Environment Scrutiny Committee held a Public Hearing on 23 March 2004 to enable interested organisations and Hertfordshire residents to express their views and afford members with an opportunity to consider this matter. The Committee heard a selection of speakers on the day who provided views from both sides of the argument. It was supported in its consideration of the issues by Simon Baumberg, Professor of Bacterial Genetics at the University of Leeds, and Paul Brown, Environment Correspondent for The Guardian newspaper.

At the conclusion of the hearing the Scrutiny Committee made a number of recommendations that are the subject of this report.

3. Conclusions

The Cabinet is invited to consider whether it wishes to adopt the following recommendations of the Environment Scrutiny Committee:

Committee comments and recommendations

Having heard the evidence from all sides, the Committee, whilst in support of continued research into GM technology, was in favour of maintaining the precautionary principle and does not support the introduction of commercially grown GM crops in Hertfordshire at this time.

The Committee recommended to the Cabinet that:

1. It reviews the current policy established through the Rural Estate Task Group in 1999. The Committee expects that the Cabinet may wish to refer this work to the Rural Estates Panel and request that they report back before the 2005 growing season, when GM maize could be available for commercial cultivation. In particular, the Cabinet may wish to ask the Panel to consider whether or not the Council should alter its tenancy agreements as they come up for renewal to include a clause prohibiting the growth of GM crops. Practical guidance for tenants may need to be developed.
2. The Committee further recommends that, in the interim, the Cabinet should:
 - (a) maintain the Council's current policy of strongly advising tenants on the Rural Estate not to grow GM crops, and
 - (b) continue the policy of requiring school meals and other catering contractors to provide only foodstuffs that are free of GM organisms.
3. It should propose that the East of England Regional Assembly adopts a policy of seeking to prevent the growth of GM crops in the region.
4. It makes an application to the relevant authorities under Article 19.3(c) of Directive 18/2001/EC should an application for marketing consent be sought for any GM crop in future, to exempt the 'geographical area' of Hertfordshire from the area of consent.

Background

To aid members' consideration of the recommendations, they are set out below together with an analysis of the practical, financial and resource implications of adoption.

1. *Review of the current policy established through the Rural Estate Task Group in 1999, and maintain it in the interim. Develop practical guidance for tenants.*

The Environment Scrutiny Committee has suggested that this work could be undertaken by the Rural Estates Panel and should be reported back before the 2005 growing season. Members should note that since the Public Hearing, Bayer CropScience has withdrawn from the UK market their GM maize variety Chardon LL, the only GM crop that has been authorised for growth within the UK. This means that there are unlikely to be any licenced commercial GM crops grown in the UK before 2008 because of the need to undertake new farm trials.

Currently, the Council strongly advises its tenants not to grow GM crops, but tenancy agreements on the Rural Estate do not include any clauses restricting the range of crops to be grown on or sold from the Estate. If such a clause were to be introduced, this would normally be when new agreements are negotiated. The Council could not impose such a requirement in an existing contract without the agreement of the tenant. At present many agreements will not expire for several years.

If the Council decides to place a restriction on how council-owned land is used, it would need to be satisfied that any restriction was "for the benefit, improvement or development of its area".

In her statement to the House of Commons, Secretary of State Margaret Beckett gave a commitment that the Government would provide guidance for farmers interested in establishing voluntary GM-free zones consistent with EU legislation. The formulation of guidance by the Council could benefit from incorporation of this when the practical implications are clarified.

At present it is not known how much maize is currently being grown on the Estate. It is a crop that is likely to be grown for local consumption as cattle feed. Any changes to tenancy agreements preventing the growing of GM Maize will require a compensating reduction in the level of rent.

2. *Require school meals and other catering contractors to provide a GM-free service.*

As this continues to be current policy, there would not be any financial or resource implications arising from its continuation that have not already been taken into account.

3. *Propose that the East of England Regional Assembly (EERA) adopts a policy of seeking to prevent the growth of GM crops in the region.*

Part of the East of England Regional Assembly's remit is to assess the strategic needs of the region with respect to economic, social and environmental well-being, seeking to influence partners to adopt common goals and meet identified needs. Should the Cabinet decide to raise this matter regionally, the EERA would be the appropriate forum.

The County Council is represented on the Assembly by Michael Janes (Con), John Metcalf (Lab) and Chris White (Lib Dem). The positions in relation to GM crops and food of the five other County Councils represented on the Assembly are set out in appendix 2.

4. *Make an application to the relevant authorities under Article 19.3(c) of Directive 18/2001/EC should an application for marketing consent be sought for any GM crop in future, to exempt the 'geographical area' of Hertfordshire from the area of consent.*

As the law stands, local authorities have no powers to create "GM-free" counties or districts. The relevant authority for England under Article 19 (attached at appendix 3) is the Secretary of State for Defra. Following the receipt of a petition from Friends of the Earth in September 2003 asking for the Council to lobby Government to make Hertfordshire a "GM-free" area under Article 19 the Government advised that this was not legally possible on present scientific evidence (see appendices 4 and 5).

Under Article 24 (information to the public) of the same directive, the Commission is required to make a summary of any marketing consent applications it receives available to the public. The public has 30 days to comment to the Commission. It has been suggested that the Council could apply directly to the European Commission for removal from the area of consent for GM crops for which there is no legal precedent.

If the recommendation is accepted, letters will be sent to the Secretary of State and the European Commission.

Appendix 1 – The Council’s current position

Prior to the Public Hearing, the County Council has publicly debated the issue of GMOs on three occasions. The current position, which was agreed by the Environment Committee in 1999 is set out below:

Environment Committee 12 October 1999 Genetically Modified Organisms – resolutions

- (1) That the county council supports the Five Year Freeze campaign on genetic engineering and patenting in food and farming and stresses that properly controlled research is required before any commercial exploitation is permitted.
- (2) That the Rural Estate Task Group, in the context set by the approved masterplan and in consultation with the tenants, provide guidance to this Committee on the economic implications and environmental safeguards necessary to control the use of genetically modified crops.
- (3) That a five year freeze on genetic engineering and patenting in food production be supported, to allow time for the current government funded research projects on the long term environmental and health consequences of commercial growing to be completed and for a full and well informed public debate on these issues.
- (4) That a requirement to ensure that any product or ingredient produced through genetic modification is clearly labelled, be supported.
- (5) That the government be urged to introduce mandatory segregation of genetically modified crops at source and impose a statutory legal liability on the producers of genetically modified products for any adverse health or environmental effects.
- (6) That, in the light of recent research on how the growing of genetically modified crops can cross-pollinate other crops, the government be urged to reconsider the conditions under which these experiments are permitted.

Environment Committee, 11 July 2000 Extract from Agenda Item 3 – Annual Report of the Rural Estate Task Group 1999/2000

Genetically Modified Organisms (GMO)

Following its discussion of GMOs at its meeting on 12 October 1999, the Environment Committee resolved that “the Rural Estate Task Group, in the context set by the approved masterplan and in consultation with the tenants, provide guidance to this committee on the economic implications and environmental safeguards necessary to control the use of genetically modified crops”. Topic Group considered the matter and held discussions with tenants. The response from tenants was that they would be at an economic

disadvantage if they could not grow GM crops should they become commercially available. There may be a concern about the potential impact of trial crops adjacent to the Estate, but only if the tenant has converted to organic production. The growing of GM crops is not banned under any tenancy agreement but tenants have been strongly advised not to grow them at this time. The debate has not closed on this issue and the Task Group wish to continue to monitor the situation.

Extract from the Minutes of the Environment Committee, 11 July 2000

Minute 3 – Annual Report of the Rural Estate Task Group

Resolution:

- (2) That the work of the Task Group on the issue of genetically modified organisms be noted and the emerging situation monitored.

Extract from the Minutes of the meeting of the County Council held on Tuesday 16 September 2003

Minute 5 – Public Petitions – Standing Order 14

Marion Baker from Berkhamsted presented a petition and addressed members for three minutes, asking the Council to:

- Request the Secretary of State for Agriculture and the European Commission to provide legal protection for Hertfordshire from specific GM crops
- Ensure that no GM crops are grown on Hertfordshire County Council land
- Adopt a GM-free policy for all Hertfordshire County Council goods and services.

The petition stood referred to the Director of Environment for consideration and report to members.

Appendix 2 - Position of the other County Councils in the East of England Regional Assembly

Bedfordshire County Council

The meeting of the County Council to be held on 22 April 2004 will decide whether or not to approve the following Executive Committee recommendation:

That the County Council maintains its current position that it:

- will not take a stance in respect of non-County Council land;
- will continue to oppose the growing of GM crops on its own land;
- will continue to expect its food suppliers to not knowingly supply food with GM content as confirmed by them in writing;
- requests that the Council's food suppliers be asked to clearly label ingredients of foodstuffs to give an indication of whether they contain genetically modified organisms (GMOs).

Cambridgeshire County Council

Cambridgeshire County Council does not currently have an official position with regard to GM crops and food.

Essex County Council

Essex's Environment and Waste Policy Development Group has considered the issue of GM on two occasions. It has established a small Member Panel to look into the issue in more depth and provide recommendations to the Cabinet Member for Environment, Heritage and Culture. One early conclusion of this group is that it would be inappropriate and meaningless to declare Essex a 'GM-free area', as it is not within the powers of the County Council to enforce this.

However, ECC policy does already prohibit the use of GM food in any catering that the Council provides - e.g. school meals / meals on wheels. We also have a policy that prohibits the growth of GM crops on County Farms. Members are looking at this issue to see whether these existing policies are still appropriate, and whether any additional steps might be taken. These may include:

- Preventing livestock on county-owned land from being fed GM fodder;
- Investigating whether the Trading Standards department might be able to do more to help consumers become better informed about GM, e.g. through improved labelling
- Ensuring any policies are 'future proof' e.g. we may at some point want to develop activities which rely on biofuels, and it may be necessary for these to be GM in terms of price or quality.

In general terms the Essex County Council position is one of adopting a precautionary approach subject to better information becoming available about impacts, positive or negative.

Norfolk County Council

The issue of GM crops and food has not been considered by Members. The Council wishes to maintain a neutral position: it does not have a current policy and has not responded to Government consultations on this matter.

Suffolk County Council

Members have not considered the issue of GM crops and food.

Appendix 3 – Directive 2001/18/EC Of The European Parliament and of the Council [of the European Union] Of 12 March 2001 on the Deliberate Release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC

Article 19

Consent

1. Without prejudice to requirements under other Community legislation, only if a written consent has been given for the placing on the market of a GMO as or in a product may that product be used without further notification throughout the Community in so far as the specific conditions of use and the environments and/or geographical areas stipulated in these conditions are strictly adhered to.
2. The notifier may proceed with the placing on the market only when he has received the written consent of the competent authority in accordance with Articles 15, 17 and 18, and in conformity with any conditions required in that consent.
3. The written consent referred to in Articles 15, 17 and 18 shall, in all cases, explicitly specify:
 - (a) the scope of the consent, including the identity of the GMO(s) to be placed on the market as or in products, and their unique identifier;
 - (b) the period of validity of the consent;
 - (c) the conditions for the placing on the market of the product, including any specific condition of use, handling and packaging of the GMO(s) as or in products, and conditions for the protection of particular ecosystems/environments and/or geographical areas;
 - (d) that, without prejudice to Article 25, the notifier shall make control samples available to the competent authority on request;
 - (e) the labelling requirements, in compliance with the requirements laid down in Annex IV. The labelling shall clearly state that a GMO is present. The words 'This product contains genetically modified organisms' shall appear either on a label or in a document accompanying the product or other products containing the GMO(s);
 - (f) monitoring requirements in accordance with Annex VII, including obligations to report to the Commission and competent authorities, the time period of the monitoring plan and, where appropriate, any obligations on any person selling the product or any user of it, inter alia, in the case of GMOs grown, concerning a level of information deemed appropriate on their location.
4. Member States shall take all necessary measures to ensure that the written consent and the decision referred to in Article 18, where applicable, are made accessible to the public and that the conditions specified in the written consent and the decision, where applicable, are complied with.