

20 September 2016**Agenda Item:****REPORT OF CORPORATE DIRECTOR – PLACE****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/16/00693/CMW****PROPOSAL: TO VARY CONDITION 46 OF PLANNING PERMISSION 3/14/91/1237,
REVISION TO APPROVED RESTORATION SCHEME****LOCATION: STAPLE LANDFILL, GRANGE LANE, COTHAM****APPLICANT: FCC ENVIRONMENT UK LIMITED****Purpose of Report**

1. To consider a planning application for the variation of a condition relating to restoration at Staple Landfill, Grange Lane, Cotham. The key issue relates to the amount of soils needed to be imported to complete restoration. The permission to be varied is subject to a section 106 agreement and a deed of variation will be needed to incorporate a reference any new planning permission issued. Applications with accompanying section 106 agreements have to be reported to Planning and Licensing Committee under the Scheme of Delegation.
2. The recommendation is to approve the application, subject to the completion of a deed of variation to an existing section 106 agreement.

The Site and Surroundings

3. Staple Quarry is located approximately 500 metres to the north east of the village of Cotham and 6 kilometres south of Newark-on-Trent.
4. The Quarry is owned by British Gypsum, but is divided broadly into two halves with the site access road forming the east to west dividing line. The southern section of the site is leased to FCC Environment and currently operates as a non-hazardous landfill. The northern half of the site remains under the ownership and control of British Gypsum and has historically been used for gypsum and plasterboard disposal. Most of this site has now been restored.
5. The landfill site is approximately 500m from north to south and approximately 400m east to west. A cycle route (dismantled railway line) forms the western boundary, separating the site from a historic landfill and agricultural fields. To the south, the landfill is bounded by agricultural fields and to the north by the former British Gypsum quarry. The eastern perimeter is defined by Grange Lane from which the site is accessed.

6. The eastern and southern perimeter areas of the landfill have been fully restored. A further “inner” area to the east and south of the site has been permanently capped, but is awaiting soils to complete restoration. However, there remains a large central area which is subject to ongoing landfill operations.

Proposed Development

7. Planning permission for Staple Quarry incorporating the larger planning unit of British Gypsum disposal area and the FCC Environment landfill area was originally granted in September 1992 (Ref: 3/14/91/1237). The permission allowed the “Extension to Opencast Mine Workings and subsequent Restoration by Landfill”. The planning permission includes an end date for landfilling of 31st October 2024 and restoration by 31st December 2025.
8. Condition 46 of the 1992 planning permission requires that:

“Unless otherwise agreed in writing by the MPA, the restoration and landscaping of the site shall conform to the scheme indicated on Drawing Nos. 1148-A008 received by the MPA on 29th April 1992. All details, including tree planting... hedgerows and fencing shall be agreed in writing by the MPA before restoration works commence”.
9. The Applicant (FCC) is seeking to replace Drawing No. 1148-A008 “Final Restoration and Landscaping” dated 22nd April 1992 with Drawing KB-STA002a “Staple Quarry Revised Final Restoration Plan” dated June 2016 as a variation of Condition 46.
10. The revised restoration contours show a single high plateau and gentle gradients sloping to the east and west. The overall height of the restored site remains unchanged.
11. The restoration profile consists of 1m depth of un-compacted subsoil covered with 200mm of topsoil. A total of around 232,000 tonnes of soils will need to be imported to complete restoration of the site. Given the current rate of soil import, which averages approximately 40,000 tonnes per annum, it is estimated that it will take around 5 years to import the required volume of soil.
12. The existing surface water lagoons will be retained to control surface water run-off beyond the life of the landfill. A single track access road will be retained across the northern edge of the site to allow future maintenance works to the lagoons (located in the north-west corner) and other site infrastructure.

Consultations

13. **Newark and Sherwood District Council:** Raise no objections.
14. **NCC (Nature Conservation):** Raises no objection subject to amendments to increase the biodiversity value of the scheme, whilst according with the proposed after use (i.e. agricultural grazing).
15. **(Via) Landscape:** Raises no objection subject to some minor modification to the restoration plan including changes to tree and hedgerow species and taking into account landscape character assessments. (Via is a company set up in

partnership between Nottinghamshire County Council and Cornwall Council to provide highway and associated services).

16. **NCC (Highways):** Raises no objections.
17. **Environment Agency:** Raise no objections.
18. No responses have been received from Cotham Parish Council, Hawton Parish Council, National Grid (Gas), NCC (Flood Risk Management Team), NCC (Reclamation), Severn Trent Water Limited and Western Power Distribution. Any responses received will be orally reported.

Publicity

19. The application has been publicised by means of a site notice and press notice in accordance with the County Council's adopted Statement of Community Involvement Review.
20. Councillor Mrs Sue Saddington has been notified of the application.
21. No representations have been received.

Observations

Background

22. The approved restoration plan, which is proposed to be varied, covers the whole of the original site i.e. including the northern (British Gypsum) half. However, the northern site is now covered by its own restoration scheme, recently varied under planning permission 3/16/00599/CMA. This application therefore only relates to the southern part of the originally approved restoration plan.
23. Staple Quarry is nearing completion of landfilling operations and some of it has already been restored. The minor modifications to the restoration contours will not delay restoration but the large volume of soils to be imported will take 5 years to complete. However, this will still enable the site to be restored within the requisite timescale on the original planning permission, i.e. by the end of 2025.
24. It is anticipated that landfill waste imports will cease at the end of 2018 or the beginning of 2019. Final soil imports should be achieved by the end of 2021 and the restoration seeding, tree and hedgerow planting programmed for winter-spring 2022/23.
25. This is a section 73 application for the variation of conditions. Where such an application is granted, the effect is the issue of a new planning permission, sitting alongside the original. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Therefore the 67 conditions from the 1992 permission can be re-imposed, amended, deleted and if necessary, new conditions added. In this

case because the original permission was issued some 24 years ago, many of the conditions have already been discharged or are no longer relevant. Thus the new planning permission, subject to member approval, will only contain 41 conditions.

26. WLP Policies W4.1 and W4.9 require restoration and aftercare controls to be imposed on all waste developments. The proposal generally accords with these policies as the primary objective is to secure satisfactory restoration of the site. However, the details of the proposal, including the requirement to import 232,000 tonnes of soils, are addressed below.

Landform

27. The proposed revision to the contour plan would not result in a change to the overall height or general profile of the restored landform. The main difference is in the western perimeter showing the infill of soils, and a slight “rounding” of the final dome.
28. The contours along the northern edge of the site are confirmed since there is a need to retain the access road for future maintenance requirements.
29. WLP Policy W4.6 requires landscape proposals to include a final landscape master plan; that the final landform should harmonise with the existing landscape character; and details of planting and aftercare. The submitted scheme meets all of these criteria and therefore complies with the policy.

Restoration details

30. The site has been and continues to be restored in a phased manner to a combination of agricultural grassland and woodland. The site is currently being restored in accordance with the approved restoration plan (Drawing No. 1148-A008).
31. Some of the proposed planting and other details have been amended by the applicant in response to comments from the NCC Nature Conservation Officer and the NCC Landscape Officer. The main changes to the submitted scheme are set out below.
32. The grass seed mix has been amended to Germinal Seeds Traditional Hay Meadow mix (or similar) to include 20% wild flowers and 80% slower growing grasses to benefit invertebrates and bird life.
33. In respect of the tree and hedgerow mix scots pine has been omitted and replaced by hawthorn. aspen, sycamore and elder have been omitted and replaced by species appropriate for the South Nottinghamshire Farmlands County Landscape Character Area.
34. The existing conifer trees along the perimeter soils bund will be removed and a continuous belt of trees established.
35. It is considered with the proposed amendments that the restoration scheme is acceptable and accords with WLP Policy W4.6.

Soils

36. As at February 2016 there were only 20,000 tonnes of subsoil and 3,000 tonnes of topsoil stored on site. Therefore in order to complete restoration soils will need to be imported due to the lack of available soils on site, which in total will equate to nearly 232,000 tonnes. There is no restriction on the original permission which prevents the import of additional soils for restoration purposes. Imported spoils will be stored in a designated area in the north-west of the site.
37. The quantity of soils to be imported would appear to be high, given that soils should have been stripped and stored prior to quarrying operations commencing in 1992. There is a large soil bund in the south-west part of the site which will be retained to achieve the approved contours, which would account for some of the soil shortfall.
38. NCC file records shed no light on the soils “shortage” and there is no record on file that a plan showing quantities of soils stored on site and requested under condition 30 of the 1992 permission was ever submitted. The only reference to quantities of soil on site is a letter on file from WRG (now FCC) in July 2001 which stated that some 145,000m³ of subsoils were on site in July 2001, but no topsoil.
39. However, there is a report on file from ADAS, dated November 1991, which refers to a shortage of soils on the existing (northern) site. (This is the site to the north of the application site now under restoration by British Gypsum). This amounted to 43,000m³ (86,000 tonnes) of topsoils and 86,100m³ (172,200 tonnes) of subsoils. The report recommended:

“Soils stripped from the present undisturbed extension area should be used to make up the shortfall on the existing quarry area to the north; the balance of material should be used to reinstate the extension area supplemented by the soil making material found below one metre depth in the present extension area...”
40. The “balance of material” referred to was 66,000m³ of soils, equivalent to about 132,000 tonnes. There is a possibility, therefore, that soils were stripped from the southern site (subject to this application) and used to restore the northern (British Gypsum) site. The second part of the ADAS recommendation may have been only partially implemented or not implemented at all. Consequently there may have been a shortfall of restoration soils on the southern site which has not been properly addressed until now.
41. It is also worth noting that the ADAS report advised that the southern area required a total of 146,250m³ of soils to achieve restoration, equivalent to around 292,500 tonnes.
42. The importation of additional soils would enhance the restoration of the landfill site, principally by improving the soil structure and profile of the restored site and directly compensate for the shortfalls that have been identified. The imported soils therefore would be put to beneficial use as opposed to them being disposed within a landfill site.
43. WCS Policy WCS1 incorporates a presumption in favour of sustainable development and Policy WCS3 supports waste recovery in preference to disposal. The use of waste soils to assist with the restoration of a derelict site

would be more sustainable than simply disposing of the soils and so the development is therefore supported by these policies. Furthermore, the development is also supported by WLP Policy W4.5 which supports soil importation to waste processing sites when there is a deficiency of available soil resources to enable the satisfactory restoration of the site.

44. The WCS identifies that there is likely to be a shortfall of waste disposal capacity for inert waste (including soils) during the plan period. The plan estimates that this shortfall equates to an estimated 3.2 million cubic metres of void space during the life of the plan (up to 2031). Although operational facilities are currently available to meet inert waste disposal needs for the next few years, any additional new facilities which come available now would assist in reducing the anticipated capacity shortfalls in future years. The current proposal would make a comparatively small but positive contribution to addressing the longer term shortfalls identified in the WCS on the basis that soils used at Staple Landfill would not be disposed of within the county's existing network of disposal facilities and thus preserve this disposal capacity for future years.

Traffic

45. WLP Policy W3.14 (highways) aims to ensure that vehicle movements can be accommodated on the highway network and that they would not cause unacceptable disturbance to local communities. The main potential impact arising for the proposal is from lorries bringing the soils onto the site over a 5 year period, although it should be noted that the life of the site will not be prolonged by the proposal. There are no residential properties near to the site and HGVs will use the designated landfill access off Grange Lane.
46. The 1992 planning permission was subject to a Section 106 (Legal) Agreement relating to highway works, landfill gas monitoring and lorry (HGV) routeing. The lorry routeing directs drivers to the primary road network in the vicinity, once they have left Grange Lane. This includes the A1, A46 and A52. However, HGVs accessing the site from the A52 to the south would still have to travel through Kilvington and Alverton. HGV movements through these communities would cause some minor impacts to the amenity of residents by reason of noise. However, such impacts would be transient and the overall magnitude of impact is not considered to be significant.
47. Whilst the highway works have been implemented, there is still an ongoing landfill operation at the site and it is still necessary to be able to control lorry routeing through a legal agreement. This will ensure that HGVs are controlled for the remainder of the landfill operations and the subsequent soils importation.
48. It is therefore considered that, with the routeing agreement retained, there would be no adverse significant impact from the additional lorry movements caused through importation of soils and that the proposal would comply with Waste Core Strategy Policy WCS13 and Policy 3.14 of the WLP.

Legal Agreement

49. The 1992 planning permission was subject to a section 106 agreement relating to highway works, landfill gas monitoring and lorry (HGV) routeing. Whilst the highway works have been implemented, there is still an ongoing landfill

operation at the site and it is still necessary to be able to control lorry routeing and landfill gas monitoring through a legal agreement. The existing legal agreement, however, relates only to the original 1992 planning permission and there is no provision within it to cater for a subsequently updated or varied planning permission.

50. Accordingly any grant of planning permission for the proposed development would be subject to the prior completion of a legal agreement relating to continued lorry routeing and landfill gas monitoring. The applicant would be expected to cover all reasonable costs incurred by the County Council in the drafting and execution of this agreement.

Other Issues

51. The gas compound will be retained according to planning permission 3/10/00295/CMA, which was approved on 17th May 2010. That planning permission expires on 31st December 2025 and the gas compound is to be removed by 30th October 2024.
52. Removal of the leachate tanks adjacent to the site entrance will be carried out in accordance with Condition 9 of Planning Permission 3/14/00480/CMA.

Other Options Considered

53. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

54. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

55. Any grant of planning permission for the proposed development would need to be accompanied by a legal agreement in respect of lorry routeing and landfill gas monitoring. The applicant would be expected to cover all reasonable costs incurred by the County Council during the drafting and execution of this agreement.

Human Rights Implications

56. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered. The proposals have the potential to

introduce impacts such as noise upon the occupiers of properties in the villages of Kilvington and Alverton. However, these potential impacts need to be balanced against the wider benefits the proposals would provide such as finalising restoration and improvement of the visual impact of the site. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Implications for Sustainability and the Environment

- 57. There are no sustainability implications. However, the restoration of the site to the permitted after-use will be a positive environmental benefit.
- 58. There are no crime and disorder, service user, financial, equalities, safeguarding of children or human resource implications.

Conclusions

- 59. Due to the lack of available soils on site, around 230,000 tonnes of soils will need to be imported to complete restoration of Staple Quarry. There is a section 106 agreement tied to the original 1992 permission, which includes routing for HGVs, and this will need to be varied to reflect the updated planning permission, should it be approved by members. Soil importation over a period of 5 years may have an impact on residents in Kilvington and Alverton, which are on the prescribed vehicle routing for HGVs. However, such impacts are not considered to be significant and would be outweighed by the need to complete satisfactory restoration of the site.
- 60. Overall therefore, the proposal to amend the restoration contours and import additional soils will enable the site to be finally restored and will provide an environmental benefit to the locality.

Statement of Positive and Proactive Engagement

- 61. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions.

RECOMMENDATIONS

- 62. It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under section 106 of the town and country planning act Section 106 of the Town and Country Planning Act 1990 (as amended by Planning and Compensation Act 1991 Section 12) to cover lorry routing.
- 63. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before the 20 December 2016 or another date which may be agreed

by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed by the 20 December 2016, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is RECOMMENDED that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

64. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

TIM GREGORY

Corporate Director – Place

Constitutional Comments

Planning and Licensing Committee is the appropriate body to consider the content of this report.

[SLB 09/08/2016]

Comments of the Service Director - Finance

Text to be entered here

[Initials and date here in square brackets]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division and Member Affected

Farndon and Muskham

Councillor Mrs Sue Saddington

Report Author/Case Officer

Mike Hankin

0115 9932582

For any enquiries about this report, please contact the report author.