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## Appeal Decisions

Inquiry Held between 6 July 2021 and 29 October 2021

Site visit made on 20 July 2021

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> December 2021**

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### **Appeal A Ref: APP/Y0435/W/21/3271410**

#### **Bletchley Landfill Site, Guernsey Road, Bletchley, Milton Keynes MK3 5FP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by FCC Environment against the decision of Milton Keynes Council.
  - The application Ref 20/00678/FULMMA, dated 12 March 2020, was refused by notice dated 25 September 2020.
  - The application sought planning permission for recontouring of the landfill site without complying with conditions attached to planning permission Ref MK/806/95, dated 6 February 2002.
  - The conditions in dispute are Nos 2, 3 and 5 which state that:
    2. *Except for materials required for restoration, hardcore to surface internal roads or inert materials required to remedy the long term effects of differential settlement, the importation of waste materials to the site shall cease within 20 years of the date of this permission or 16 years from the opening of the new site access to traffic, whichever is the sooner.*
    3. *The development hereby permitted shall only be undertaken strictly in accordance with the Site Restoration Sequence included as figure 2.4 of the Environmental Statement dated June 1995 (notwithstanding that this is described on its face as indicative) unless an alternative scheme is submitted and approved in writing by the Waste Planning Authority.*
    5. *Final restoration of the whole of the application area, including the placement of all topsoil or topsoil substitute but excluding landscaping, aftercare and operations required to rectify differential settlement, shall be completed to the satisfaction of the Waste Planning Authority within 12 months of the cessation of waste inputs to the site.*
  - The reasons given for the conditions are:
    2. *To ensure that the restoration of the land is achieved within a reasonable timescale and to enable the Waste Planning Authority to review the situation in the light of altered circumstances and to comply with the requirements of Schedule 5, Part 1 of the Town and Country Planning Act 1990.*
    3. *To ensure the satisfactory restoration of the site.*
    5. *To ensure that the restoration of the land is achieved within a reasonable timescale and to enable the Waste Planning Authority to review the situation in the light of altered circumstances and to comply with the requirements of Schedule 5, Part 1 of the Town and Country Planning Act 1990.*
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### **Appeal B Ref: APP/Y0435/W/21/3273179**

#### **Bletchley Landfill Site, Guernsey Road, Bletchley, Milton Keynes MK3 5FP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by FCC Environment against the decision of Milton Keynes Council.

- The application Ref 20/00849/FUL, dated 12 March 2020, was refused by notice dated 21 December 2020.
  - The development proposed is construction and operation of a surface water attenuation lagoon, forming part of the surface water management scheme for Bletchley Landfill Site.
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## **Decisions**

### *Appeal A*

1. The appeal is allowed and planning permission is granted for recontouring of the landfill site at Bletchley Landfill Site, Guernsey Road, Bletchley, Milton Keynes MK3 5FP in accordance with the application Ref 20/00678/FULMMA dated 12 March 2020, without compliance with Conditions 2, 3 and 5 previously imposed on planning permission Ref MK/806/95 dated 6 February 2002 and subject to the conditions set out in the attached schedule.

### *Appeal B*

2. The appeal is allowed and planning permission is granted for construction and operation of a surface water attenuation lagoon, forming part of the surface water management scheme for Bletchley Landfill Site at Bletchley Landfill Site, Guernsey Road, Bletchley, Milton Keynes MK3 5FP in accordance with the terms of the application, Ref 20/00849/FUL, dated 12 March 2020, subject to the conditions set out in the attached schedule.

## **Applications for costs**

3. Applications for costs were made by FCC Environment against Milton Keynes Council in respect of appeals A and B and by Milton Keynes Council against FCC Environment in respect of appeal B only. Those applications are the subject of separate Decisions.

## **Background and Procedural Matters**

### *Background*

4. The site was historically used for clay extraction from the early 20<sup>th</sup> century. The resulting void has been used for landfilling of waste since the 1970s. The operative planning permission, Ref MK/806/95, was granted in February 2002 and is for recontouring of the landfill site. The appeal A application is made under S73 of the Town and Country Planning Act 1990 (the Act) for the development without complying with conditions 2, 3 and 5 of that permission. Those conditions limit the time period over which the site may be operated and control the sequence of restoration and the timescale for final restoration following cessation of landfilling.
5. The appeal A application proposes a further 15 year period for completion of landfilling followed by a 2 year period for completion of restoration. The sequence of restoration would also be changed from that shown in figure 2.4 of the 1995 Environmental Statement (the 1995 ES), which was the sequence required under condition 3.

### *Use of S73*

6. The site straddles the boundary between the administrative areas of Milton Keynes Council and Buckinghamshire County Council. The part of the site within Buckinghamshire is a small area of the westernmost part of the site, which has already been restored. A similar planning application was made separately to Buckinghamshire County Council which refused permission on the basis that the proposal would change the description of the development and therefore that it could not be determined under S73.
7. For this and other reasons, Newton Longville Parish Council has made submissions opposing the application. This did not form a reason for refusal by Milton Keynes Council (the Council), but the Council has subsequently made legal submissions which call into question the use of S73 as the procedure for the application.
8. The development applied for remains essentially the same as that approved in 2002, which is the landfilling of the void left from clay extraction with non-hazardous waste, and restoration of the site. The main difference would be that the operations would take place over an extended timescale. In addition to this there would be some amendments to the profile of the restored land in that a lagoon in the southern part of the site which provides habitat for Great Crested Newts would be retained. The height of the restored landform would remain the same as approved. The contours would remain substantially the same but with a more pronounced valley feature in the southern and central part of the site, continuous with the retained lagoon.
9. The development would remain in accordance with the description of development stated on the existing permission, which is for recontouring of the landfill site. The permission refers to the plans and particulars accompanying the application, including all drawings in the 1995 ES and an interim scheme which was submitted in 1998. The plans show the proposed landform and the sequence of restoration. Although the proposed landform would differ from that shown on the approved plans, it would remain substantially the same. The sequence of restoration is not fundamental to the description of development as condition 3 allows for this to be varied. On the basis of the approved plans, the proposal would not change the description of the development.
10. Because future volumes of residual waste can only be estimated, it is not possible to be precise with regard to the time period over which landfill operations will take place. The void space on the site is large, and thus any estimate of the time needed to fill it will be vulnerable to fluctuations in the volumes of waste received. The 1995 ES acknowledged uncertainties in this respect both in terms of waste volumes and because construction of a new access road would enable more vehicle movements. It states<sup>1</sup> "The increase in vehicle numbers proposed will allow the site to be restored in approximately 20 years. However, it should be stressed that this is only an indicative timescale, it cannot be guaranteed as it is not possible to predict exactly what the waste inputs will be over a 15-25 year period." On the basis of the rates of filling that existed at the time of the 1995 ES, before

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<sup>1</sup> 1995 ES Appendix 1 paragraph A70

construction of the new road, it was estimated that the restoration would take over 50 years.<sup>2</sup>

11. The 1995 ES formed part of the particulars accompanying the application and was thus clear as to the uncertainty in estimating the operational period of the landfill. Since that time waste has been increasingly treated at higher levels of the waste hierarchy, resulting in less volumes of waste brought to landfill. Because the operational period was estimated in the application particulars it did not form a defined part of the development. Rather, it is a matter that is controlled by condition 2 of the planning permission.
12. For these reasons neither the amended restoration profile, nor the proposed timescale and sequence of restoration would alter the description of the approved development. On this basis the application is properly made under S73 of the Act. I shall therefore consider only the matter of the conditions which should be imposed. The application proposes a scheme of restoration which is relevant to this consideration.
13. The sequence of site restoration that has been carried out to date has not followed figure 2.4 of the 1995 ES. This is because the operative Section 106 agreement restricted the filling of a defined area before the access road was provided, and because of a delay in constructing the road, it was not possible to follow the approved sequence. In addition to this, stability problems have been encountered in the southern part of the site which have affected the phasing of operations. No alternative site restoration sequence has been submitted to or approved by the Council as provided for by condition 3, however. In this respect therefore, the development has been carried out in breach of condition 3 of the 2002 permission. S73A of the Act provides for permission to be granted for development that has been carried out without complying with a condition.

#### *Environmental Impact Assessment*

14. On 1 July 2021 the Secretary of State issued a Screening Direction under Regulation 14(5) of the Environmental Impact Assessment (EIA) Regulations<sup>3</sup> that the appeal A development is an EIA application and that an Environmental Statement (ES) was required. The appellant submitted an ES on 3 August 2021. Consultation on the ES took place until 2 September 2021. The Inquiry was adjourned to allow this to take place. I have taken into account the responses to that consultation in my decision on appeal A.
15. The ES was prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), including illustrative figures, technical appendices and a non-technical summary. I am satisfied that the totality of the information submitted is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in the decision.

#### *Other procedural matters*

16. Revised phasing plans<sup>4</sup> were submitted with appeal A, which were not before the Council when it made its decision. Those plans were included in volume

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<sup>2</sup> 1995 ES Appendix 1 Working Paper

<sup>3</sup> The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

<sup>4</sup> Refs 2928-01-01 to 20

2 of the ES and have been subject to public consultation. On this basis, I consider that no party would be prejudiced if I were to take those plans into account in my decision.

17. The Council and the appellant reached agreement on the outstanding issues in respect of appeal B prior to the opening of the Inquiry. Newton Longville Parish Council, as a Rule 6 Party did not oppose that appeal. Consequently, the main issues relate only to appeal A.
18. The inquiry was closed in writing following the receipt of closing submissions and the supplemental Section 106 agreement.
19. I have assessed the proposals individually, but in order to avoid unnecessary duplication I shall deal with the appeals together in this document.

## **Main Issues**

20. The main issues in appeal A are whether conditions 2, 3 and 5 of permission MK/806/95 meet the tests in national policy and:
  - i) consideration of alternative options for closure of the landfill and their environmental implications;
  - ii) the effect of the extension of the period of operation of the landfill on the living conditions of local residents; and
  - iii) other environmental effects of the revised proposals for the duration, sequence and completion of restoration.

## **Reasons**

### *Planning Background*

21. To the south of the site there is a residential and mixed use development at Newton Leys. This has been developed in the years following the grant of permission for the recontouring of the landfill site. The residential development is now substantially completed. A proposal to comprehensively develop the former Newton Longville brickworks was included in the Milton Keynes Local Plans which were adopted in 1995 and 2001. A Planning Brief for the area was adopted in 1995. Policy DS4 of the 1995 Local Plan made provision for the development but also noted that there was an existing permission for landfill and provided for a new permission to be granted for a revised landfill programme. The continuation of the landfill was thus envisaged in planning policy at that time, together with the residential development of the area.
22. While the landfill would have been viewed as a temporary development, albeit over a significant period of time, the housing development was planned to co-exist with the landfill. Outline permission for mixed use development including housing was granted in 2005 and development commenced in 2007. When that outline permission was granted the permission for the landfill had about 17 years left to run.
23. Conditions imposed on that permission and a subsequent permission require separation of the housing development from the landfill site by provision of a buffer and the phasing of the development. The approved phasing was for development to take place furthest away from the landfill initially, then

progressing to areas closest to the landfill. The residential development has thus been planned to minimise effects on the living conditions of its occupiers in recognition of its location next to the landfill site.

24. The comprehensive development of Newton Leys as a strategic site allocation is carried forward in policy SD8 of Plan:MK 2016 - 2031 (2019) (LP). That policy requires a landscape and open space buffer between 50 and 250m wide around the southern and eastern boundaries of the waste management site, with development phased to ensure at least a 150m buffer between residential development and the active landfill area.
25. The LP also allocates land to the east of the landfill site for gypsy and traveller pitches. This is closer to the site than the housing at Newton Leys but is separated from the operational areas of the landfill as the south-eastern part of the site has been completed and is in the process of restoration.
26. While there is an imperative to divert biodegradable municipal waste away from landfill<sup>5</sup>, there will continue to be a need for such facilities to dispose of residual waste for which there is no other option for treatment. The number of landfill facilities and the available void space in the south-east is declining and it has been predicted<sup>6</sup> that, based on 2017 rates of landfill, capacity in the south-east will be exhausted by 2039. The evidence from the South East Waste Planning Advisory Group indicates that the Bletchley landfill provides a facility of strategic importance within the south-east. This is likely to continue as other landfills come to the end of their life.
27. The Council and the appellant agree that there is a demonstrable need for the facility. This is a requirement of Policy WDC1 of the Milton Keynes Waste Development Plan Document 2007 – 2026 (2008) (the WDPD).
28. Policy WCS1 of the WDPD identifies the capacity requirements for waste management. The policy states that the capacity will include managing non-hazardous landfill capacity for the disposal of residual waste to the end of the Plan period in 2026. The policy also refers to the need to provide capacity for waste from adjoining sub-regions and a declining amount of waste from London. The proposal accords with Policy WCS1.
29. Paragraph A18 of the WDPD notes that the site operators had predicted that the life of the site would need to be extended beyond the life of the Plan. Thus, the potential for an extension of the permitted period of the landfill after 2026 is recognised in the WDPD.

#### *Alternative options for closure of the landfill*

30. There is a considerable remaining void space of approximately 9 million m<sup>3</sup> and condition 2 requires cessation of landfilling by 6 February 2022. Given the very limited remaining authorised period, and the volume of waste needed to fill the void, it is clearly not feasible for the operator to comply with the terms of condition 2. The Council is in agreement on this point.

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<sup>5</sup> Under the Landfill Directive (1999/31/EC) and the Waste (England and Wales) Regulations 2011 (as amended)

<sup>6</sup> South East Waste Planning Advisory Group Joint Position Statement on non-hazardous landfill in the south-east



31. The Environment Agency (EA) regulates the landfill under the terms of an Environmental Permit<sup>7</sup>. The EA has advised strongly against leaving the site unfinished, because to do so would result in a long term surface water management issue. If the centre of the site was left to fill with water this would risk damage to pollution control infrastructure and pose a risk of pollution to air, land and water.
32. The Council does not contend that the site should be left unfinished but considers that there are alternative options for restoration which would potentially shorten the operational period and thereby lessen impacts on the living conditions of local residents.
33. No alternative scheme for restoration has been put forward but the Council has questioned some of the engineering assumptions made in the design of the restoration scheme and the timescale needed to complete the scheme. The Council also contends that the restoration sequence should be altered to minimise impacts on residents' living conditions.
34. The restoration scheme has been designed to provide a domed profile to ensure that surface water drains from the landfill. The site is approximately 33 ha in area and approximately 13,000 – 14,000 m<sup>3</sup> of water per day is managed. Any alteration to the restoration scheme in terms of its profile or the sequence of restoration would require very careful consideration in terms of ensuring slope stability, avoidance of differential settlement and ponding of water, and avoiding potential damage to landfill gas and leachate management systems. The scheme has been designed to minimise the risk of pollution of land and water which is a requirement of Policy NE6 of the LP.
35. The slope gradients used in the scheme are mainly to 1 in 15, with some shallower slopes of 1 in 25. The slopes used throughout the scheme could potentially be reduced to 1 in 25 to a greater extent. This would accord with EA guidance<sup>8</sup> for the design of landfill restoration schemes. However, such a design would increase the risk of ponding of water resulting from differential settlement. Any such ponding of water would risk damage to gas and leachate infrastructure with potential for pollution of ground and surface waters and emissions to air. Because the proposed scheme mainly uses steeper slopes it provides a more robust basis for managing surface water run-off and avoiding uncertainty in this respect.
36. In the approved restoration scheme, a settlement rate of 25% was assumed. The Council questioned this assumption on the basis that most settlement occurs from biodegradable waste and the proportion of such waste going to landfill has declined. If there were less than 25% settlement, then less waste would be needed to achieve the post-settlement contours.
37. Table E6 of the EA guidance states that typical settlement rates vary greatly depending on the nature of the waste, depth of the landfill and density of the waste. This states that settlement rates of 15-25% or more are normal and should be allowed for in biodegradable waste landfill sites, with the majority of this settlement normally occurring within the first five years.
38. The waste streams that are accepted at the site are predominantly commercial and industrial waste and construction and demolition waste. The

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<sup>7</sup> Under the Environmental Permitting (England and Wales) Regulations 2016

<sup>8</sup> EA Technical Guidance on capping and restoration of landfills, November 2004 Table E6

Gregory report<sup>9</sup> states that trade industrial waste accounts for an average 48.4% of the waste received at the site and that inert waste accounts for 44.1% of the waste. The Landfill Directive imperative to divert biodegradable municipal waste away from landfill does not apply to trade waste which includes a significant amount of biodegradable waste. This includes trommel fines from waste processing plants. This waste stream includes biodegradable material and in addition is particularly compressible because of its particulate nature. Because commercial and industrial waste forms almost half of the waste received at the site and because this contains a significant proportion of biodegradable waste, this supports the assumption of 25% settlement.

39. While it is the case that the biodegradable fraction of domestic waste has decreased since permission was granted, this accounts for only 7.5% of the waste received at the site.
40. Inert waste also forms a high proportion of the waste imported to the site at 44.1%. The proportion of this waste has increased from an average of 37% between 2005 and 2015.<sup>10</sup>
41. The assessment of settlement rates is not an exact science and the EA guidance provides a range. The guidance states that settlement may be more than 25%, and evidence was presented to the Inquiry that in certain circumstances settlement of up to 40% can occur. The assumption used takes into account the maximum depth of the void at about 60m and the degree of settlement that is likely at this depth.
42. Although the proportion of inert waste received at the site has increased, the scale of that increase is limited. This, together with the lack of information on the biodegradable fraction of the commercial and industrial waste does not support an assumption of a lower settlement rate.
43. Notwithstanding these considerations, the appellant has calculated<sup>11</sup> that a reduction in the gradients to 1 in 25 throughout the scheme and assuming 15% settlement would reduce the volume of waste required by about 1 million m<sup>3</sup>, and the period of operation by about 1 year. On the one hand this would reduce any impacts on residents' living conditions in terms of the period of operation. On the other hand, this alternative would be likely to increase the risk of pollution, including emissions to air, and odour impact. The reduction in the period of operation would be limited and there would be uncertainty as to whether the scheme could be achieved in terms of the lower assumed settlement rate.
44. The Council has previously suggested that restoration using soil only would be another option. The EA has expressed its concern about this alternative in that there would be potential for damage to leachate and gas infrastructure. The Council maintains that although an enhanced level of management and maintenance would be necessary, this option for restoration would be technically feasible. However, the appellant has provided evidence that filling the site with soil would take about 5 years longer than filling the void with waste and this evidence is not disputed.

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<sup>9</sup> Bletchley Planning Appeal Technical Assessment: Landfill Gas Management and Renewable Energy Generation – Robert G Gregory 7 June 2021 Table 1

<sup>10</sup> Section 2.0 Gregory report

<sup>11</sup> Mr Martin in XX



While filling with soil and other inert material may avoid odour, there would still be significant heavy goods vehicle (HGV) movements over an extended period.

45. The Council agrees that, taking into account reductions in the waste that is disposed of at landfill, and based on EA figures for the waste received at the site, the waste received over a 15 year period would be sufficient to fill the void.<sup>12</sup> Indeed, based on the average input over the last 6 years, landfilling to the required levels would be complete in 11.7 years.<sup>13</sup> However, it cannot be guaranteed that the average input over the last 6 years will continue for another 11 or so years. I see no reason to doubt that the appellant's estimation of 15 years to complete the landfill is realistic. Of course, in the event that imported waste volumes are higher than predicted and the site is completed sooner than anticipated this would be beneficial to the community in comparison to the period applied for.
46. Taking all of these matters into account, the assumptions made in the proposed restoration scheme including the period of operation are robustly based. While the assumptions made can be questioned, no worked up alternative scheme has been put forward. The potential saving of one year in the restoration period would have environmental implications and this option has not been demonstrated as an acceptable alternative beyond doubt. For these reasons the proposed scheme would provide for restoration of the site at the earliest practicable opportunity as required by Policy WDC4 of the WDPD.

#### *Site Restoration Sequence*

47. The site restoration sequence that was required to be adhered to by condition 3 of the 2002 permission comprises four phasing plans which are in Figure 2.4 of the 1995 ES. This is entitled 'Indicative Site Restoration Sequence'. Condition 3 includes provision for an alternative scheme to be approved by the waste planning authority. Both the approved scheme and the condition recognised that there may be flexibility in the restoration sequence.
48. Figure 2.4 shows that the south-western area of the site would be restored first, followed by the south-eastern area and finally the northern part of the site. The figure shows that the south-eastern area was to be filled by 2005. The Section 106 agreement restricted development in the south-eastern part of the site until the landfill access road was completed; this did not happen until 2007. Therefore, it would not have been possible under the terms of the planning obligation to have complied with Figure 2.4. No alternative restoration sequence was submitted to the Council, however.
49. Operational issues were also encountered in 2016 when the stability of the southern quarry wall failed and there was slippage of waste in the south-eastern area of the site. These issues delayed the restoration of that part of the site that is nearest to the residential development at Newton Leys.
50. While these factors have affected the restoration sequence, the south-western part of the site is complete in accordance with the original scheme. The northernmost part has also been completed. Permanent capping has

<sup>12</sup> Ms Newman Supplementary Proof paragraph 24

<sup>13</sup> Ms Newman EIC

been applied to the south-easternmost part of the south-eastern area and temporary capping has been applied to most of the remaining part of that area.

51. The indicative phasing plans submitted with the ES update show progressive restoration in that the permanently capped area will extend around the eastern edge of the remaining void, followed by the north-eastern part and then further restoration of the south-eastern part extending into the centre. The phasing scheme has been designed to enable effective management of surface water which is pumped from the central void. This avoids water infiltrating the waste.
52. Concern has been expressed by the Council that a larger area of the landfill next to Newton Leys could be restored sooner. While the appellant has agreed that there would potentially be other options for phasing, no other scheme that effectively manages drainage has been put forward. A large area of the site immediately next to Newton Leys has already been restored to pre-settlement levels and the nearest part of the operational area of the landfill is separated from the housing at Newton Leys by some distance.
53. The phasing plans that were submitted with the application were subsequently revised. The appellant explained that the revised phasing would prioritise the completion of the cell closest to Newton Leys. This would also reduce the length of time that landfill operations would be visible from Newton Leys and would enable tree planting to take place to provide additional visual screening. The Council has not challenged this point.

#### *Final Restoration*

54. Condition 5 of the existing permission requires final restoration including placement of soil but excluding landscaping to be completed within 12 months of cessation of tipping. The proposed extension of this period to 24 months would ensure that restoration is effectively carried out in accordance with current best practice. This longer period for final restoration would thereby ensure the restoration scheme is of a suitably high standard as required by Policy WDC4 of the WDPD. There is doubt as to whether the 12 month period imposed by the existing condition would enable restoration in accordance with current best practice. For these reasons the proposed final restoration period of 24 months would be necessary.

#### *Conclusions on alternative options*

55. For the reasons given, it has been demonstrated that the proposed restoration scheme is based on robust assumptions and the proposed phasing of restoration is designed to safeguard the living conditions of residents while achieving effective drainage and avoiding pollution. The proposal for final restoration is based on current best practice.

#### *Living Conditions of Local Residents*

##### *Odour*

56. Odour from the landfill operation is controlled under the Environmental Permit. The National Planning Policy Framework (the Framework) states that planning decisions should assume that separate pollution control regimes will operate effectively. Nonetheless there is evidence from

interested parties' representations that the landfill has resulted in odour that has adversely affected residents' living conditions.

57. Over the last 9 years the EA has carried out 34 odour assessments in response to complaints made by residents. Of those, off-site odours were detected by EA officers on 5 occasions and 2 of those were identified as minor breaches of the Permit. These odours, which were reported during a period of increased complaints in September 2020 and March 2021 were identified as originating from landfill gas. As a result, remedial action was taken by the appellant and the issue was resolved. Since April 2021 a small number of complaints have been received by the EA which have not been substantiated.
58. A significant number of the representations made concern odour. They refer to frequent unpleasant odour and the residents' need to take action to avoid odour such as ensuring windows are closed. The representations were made prior to the identified breaches of the Permit referred to above and coincided with the period of complaints to the EA and the Council. There is no evidence that the Council's Environmental Health Officer (EHO) has deemed it necessary to take action against the operator. Both the EA and the EHO consider that the landfill site is well run. Neither of those consultees objected to the application.
59. Odour assessments have been carried out by both the Council and the appellant. These both include dispersion modelling, sniff testing and analysis of complaints. The Council has in addition analysed the representations made by interested parties.
60. The IAQM Guidance<sup>14</sup>, Appendix 2 sets out a scale of intensity for assessment of odour by sniff testing. The Council's sniff testing covered 5 locations and was undertaken on 4 occasions. On one occasion, a distinct odour, that is one that is barely recognisable, was detected at two of the monitoring locations at Newton Leys for a small proportion of the time. A strong odour, that is one that is easily recognisable was detected at the Blue Lagoon Nature Reserve on one occasion for a small proportion of the time surveyed. The results of the Council's sniff testing indicate that for most of the time no odour was detected and that any odours that were detected close to the residential area were either weak or very weak.
61. These results are consistent with those obtained by the appellant which reveal that odour effects were negligible. The exception to this was that 'slight adverse' odour was detected from the odour suppressant sprays. These have since been relocated to avoid odour impact on residents. The effectiveness of the sniff tests is limited by the times at which the tests were undertaken which may not be representative of the full range of likely weather conditions. The prevailing wind direction is from the south-west away from Newton Leys. The appellant's sniff testing was undertaken with winds from different directions including from the north so does not ignore the potential for odour to be carried towards the housing.
62. The dispersion modelling which was undertaken by both parties takes into account weather and atmospheric conditions including wind direction. This was used to supplement the sniff testing and analysis of community

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<sup>14</sup> Institute of Air Quality Management Guidance on the assessment of odour for planning (July 2018)

responses to provide comprehensive overall assessments. The Council points to the higher likelihood of odour in stable weather conditions than could be assessed on site. In such cases, wind speeds would be low, and the atmosphere would be stable. However, because of the prevailing wind direction, for most of the time, the residents are not downwind of the site. There are inherent limitations in the use of dispersion modelling, but this does not mean that no weight should be given to the assessments that have been undertaken.

63. I acknowledge the uncertainties involved in odour assessment and that there may be potential for greater odour effects than demonstrated by the assessments. Notwithstanding this, unacceptable effects on residents' living conditions has not been conclusively demonstrated. It is also the case that the Permit requires an Odour Management Plan and that mitigation measures are in place to control odour.
64. Permanent capping is in place on the parts of the landfill nearest to Newton Leys. The phasing plans show that waste is proposed to be tipped in areas immediately adjacent to that capping in phases 12 to 14 which the appellant estimates would be for approximately 34 months. The appellant's assessment indicates that odour effects from waste tipping during these phases would be 'slight adverse' at the nearest properties which are about 130m away. This is because during those phases waste would be tipped at a high level in order to create a domed landform. At other times, waste would be contained within the void.
65. Residents have made representations regarding odour from parked HGVs on nearby roads. In recognition of this, the supplemental Section 106 agreement includes an updated Traffic Management Plan which is designed to avoid such parking.
66. The assessments are clear that any adverse odour effects on nearby residents and other sensitive receptors over the proposed remaining period of operation are likely to be very limited. Policy WDC1 of the WDPD requires that there is no significant adverse effect on people. It has been demonstrated that odour effects would predominantly be negligible or, at most slight. The appellant's slight adverse assessment for phases 12 to 14 would not amount to a significant adverse impact and on this basis the proposal would accord with Policy WDC1. The proposal would also accord with the requirement of that policy that means of odour control are used. It would accord with Policies NE6 and D5 of the LP which require assessment of impact upon odour levels and provision of a good standard of amenity.
67. For the reasons given, the use of the site for landfill for the proposed additional period would not result in unacceptable adverse impact on residents' living conditions in terms of odour.

#### *Air Quality*

68. The Council and appellant are in agreement that the existing facility does not give rise to unacceptable impacts on air quality in terms of dust and pollution and that the proposed extension of the permitted period of operation would not do so subject to the imposition of a condition requiring dust mitigation measures. The facility is managed in accordance with a Dust Management Plan, which is a requirement of the Permit. The proposal

accords with Policy NE6 of the LP and Policy WDC1 of the WDPD which require consideration and control of air quality.

#### *Noise/Disturbance*

69. An Environmental Noise Assessment has been undertaken which considers potential impacts from noise arising from site operations and traffic moving to and from the site. The section of Jersey Drive from the A4146 roundabout is separated from the nearest housing on the Newton Leys development by a mounded and landscaped buffer which is about 20m wide. This landscape feature will lessen the effect of noise from traffic on the living conditions of the nearest residents.
70. Noise impact did not form a reason for refusal but interested parties have referred to this. The noise assessment demonstrates that noise levels would be acceptable and would not justify refusal of permission. A condition requiring noise control measures has been agreed between the Council and the appellant. The proposal accords with Policy NE6 of the LP and Policy WDC1 of the WDPD which requires consideration and control of noise impact. It also accords with Policy CT2 of the LP which requires that no material harm is caused to the living conditions of residents.

#### *Impacts from Flies*

71. Monitoring of flies is a requirement of the Environmental Permit and there has been no breach of the relevant Permit condition in this respect. Fly counts are regularly undertaken by the appellant. The counts in April and May 2021 did not reveal flies in numbers necessary to require remedial action in the form of spraying.
72. There was previously an issue with flies which was identified as having arisen from the waste processing facility which is separate from the landfill. Action was taken to eliminate the problem in that the waste processing facility was closed and the landfill did not accept the infested waste.
73. Although I note the representations that have been made by local residents regarding flies, there is no evidence that the number of flies is excessive as a result of the landfill or that these are not adequately controlled under the Permit. The proposal accords with Policy WDC1 of the WDPD which requires adequate control of vermin.

#### *Conclusion on living conditions*

74. For the reasons given above I conclude that the proposed extension of the operational period of the landfill would not unacceptably harm the living conditions of local residents. Neither would it result in unacceptable harm to the users of other facilities in the area, including the Newton Leys Pavilion and local schools.
75. I have taken into account the potential for effects on residents' health and wellbeing. It has not been demonstrated that there would be any adverse effect on health and the proposal accords with Policy WDC1 which has this requirement.

### *Other Environmental Effects*

#### *Highway Safety*

76. Since the existing permission was granted, a new road link to the site from the A4146/Drayton Road roundabout has been constructed. This has been designed to accommodate HGV traffic flows to and from the site and is the sole access to the site for waste vehicles. Because the access road provides a direct link to the A4146 which is a designated route for HGVs it seems unlikely that waste lorries would use other roads in the area to any significant extent.
77. The appellant's transport evidence demonstrates that the facility operates without resulting in any unacceptable impact on highway safety. This is consistent with the view of the highway authority, which did not object to the application. The reason for refusal does not refer to highway safety.
78. The appellants monitor HGV queuing at the present time to enable effective management of vehicles visiting the site. The measures that are taken by the appellant also include wheel washing, sheeting of lorries to prevent littering and a 20 mph speed limit along Guernsey Road.
79. These measures are incorporated into the Traffic Management Plan which is secured by the supplemental Section 106 agreement. They ensure that there would be no adverse impact on highway safety in terms of vehicle speeds, unacceptable congestion and avoiding deposited material on the road.
80. The proposal would accord with Policy CT2 of the LP which requires that proposals which generate a significant number of HGV movements demonstrate that there would be no severe impact to the efficient and safe operation of the road network.

#### *Public access*

81. The reason for refusal refers to the postponement of the restoration works resulting in a loss of opportunity for the community to benefit from open space recreation as originally agreed. Although a permissive path was intended to be provided in the approved scheme, there is no mechanism in place to secure this. A public footpath (FP28) that previously crossed the site was temporarily diverted in 1985 but has not been reinstated and this would not be possible until the site has been restored. A new footpath route (the Redway route) is currently being progressed by the Council and the appellant is supporting this process. This is to connect the Lakes estate, the Blue Lagoon Nature Reserve and Newton Leys. This could potentially form part of the diverted FP28 route.
82. While most of the new footpath routes could not be provided until after the site is restored for public safety reasons, it is proposed to provide a perimeter path around the western and northern parts of the site that have either not been subject to landfill or were filled some time ago. In this respect the proposed restoration scheme seeks to maximise public access at the earliest opportunity.



83. The supplemental Section 106 agreement includes a requirement to implement the permissive footpaths scheme. The proposal would thus provide certainty in terms of allowing for public access to the restored site.

#### *Ecology*

84. The proposed restoration scheme in appeal A would provide woodland, and fields enclosed by hedges as well as wildlife habitats. The latter would include the retained lagoon in the southern part of the site, species-rich grassland and open mosaic habitat. Restoration of the site would be progressively undertaken. These are requirements of Policy WDC4 of the WDPD and the proposal would accord with that policy.
85. The appeal A scheme would be of greater ecological benefit than the approved scheme in terms of the retention of existing habitat for great crested newts and the creation of new habitat. It would complement and link to adjacent habitats including that at the Blue Lagoon Nature Reserve. The scheme would provide a significant level of biodiversity net gain, in the order of 136%. The appeal A scheme would accord with Policy NE3 of the LP in these terms.
86. The further Preliminary Ecological Assessment together with the species surveys submitted by the appellant have addressed the Council's reason for refusal of the lagoon proposal subject to appeal B. The site of the appeal B proposal is of local importance for biodiversity and supports protected and priority species. Policies NE1, NE2 and NE3 of the LP protect such sites and it has been demonstrated that the appeal B proposal accords with those policies.

#### *Landscape*

87. The proposed restoration landform would be substantially the same as that approved. The proposed landscaping would differ from that previously approved only to a limited extent and not such that it would be materially different in character.
88. Although the extension of the life of the landfill would prolong the visual impact of the facility, the restoration of the site would be progressive. This approach would minimise the intrusive visual effect of the facility and would ensure the character of the surrounding landscape is respected as soon as possible. The south-eastern part of the site has been completed to pre-settlement levels and this already provides visual separation between houses at Newton Leys and operational areas of the landfill. It is proposed to plant an area of woodland on this part and to plant hybrid poplars along the northern edge of the lagoon in the south of the site, which would provide further visual screening.
89. The appellant's landscape evidence demonstrates that there would be no significant adverse landscape or visual impact and this evidence was not disputed by the Council. Landscape impact did not form a specific reason for refusal.
90. The proposal would accord with Policy D1 of the LP which requires high quality design. It would meet the requirements of that policy by responding appropriately to the site and surrounding context, providing appropriate landscaping and walking routes.

91. It would also accord with Policy NE5 of the LP which requires development to respect the character of the surrounding landscape.

#### *Drainage*

92. There is no issue between the parties regarding surface water drainage. The proposed lagoon which is subject to appeal B forms part of the surface water management plan for the site and is necessary to ensure effective control of flood risk. The revised phasing proposals have also been designed to ensure effective surface water drainage of the operational areas over the remaining life of the landfill.

#### *Conclusion on Other Environmental Effects*

93. For the reasons given above, the proposed restoration scheme and the site restoration sequence have been specifically designed to minimise environmental effects. The development would not result in any significant adverse environmental effect. Indeed, it would be beneficial in terms of providing for net gains in biodiversity and in facilitating public access.

### **Overall Conclusions**

94. It is agreed between the parties that it is not possible to restore the site within the period required by condition 2. Furthermore, for the reasons given above, the site restoration that has taken place is at variance to that specified in condition 3. Those conditions no longer meet the tests of being necessary, reasonable and enforceable.
95. It is agreed that continuation of use of the landfill is necessary in order to achieve the restoration scheme. While the site could be filled with soil this would take longer than the 15 year period applied for.
96. The assumptions made about the time needed to complete the restoration scheme and the phasing of restoration are robust. Although it may be possible to design an alternative scheme that would take less time to fill, this has not been conclusively demonstrated and such a scheme would pose a higher risk of pollution. In any case, the time that would be likely to be saved would be limited.
97. Aside from the technical considerations relating to completion of the restoration scheme, the continued use of the site for landfill of non-hazardous waste would be of significant benefit in terms of providing a strategic facility of regional value.
98. The proposed scheme would also have additional benefits compared to the existing scheme in terms of biodiversity net gain and provision for public access. The Landscape and Ecology Management Plan that would be secured by the supplemental Section 106 agreement would secure the long term management of the restored landscape and habitats to secure enhancement to biodiversity. The scheme would also provide for public access at the earliest opportunity during restoration.
99. I have considered the implications of a continuation of landfilling operations for a further 15 years for the living conditions of nearby residents. I have found that there would be no unacceptably harmful effect on living

conditions. The proposals would accord with the development plan as a whole, for the reasons given above.

100. These considerations indicate that permission should be granted and that revised conditions which relate to the proposed restoration scheme should be attached.

### **Planning Obligations**

101. A supplementary Section 106 agreement has been entered into between the Council and the appellant. This supplements the existing agreement. It amends obligations in that agreement and introduces new obligations.
102. First, a permissive footpaths scheme is required to be submitted to the Council for approval and implemented as agreed and in accordance with the phasing of restoration. This provision is necessary to ensure that public access is available through the site when it is safe to do so, such that connectivity between the site and adjacent areas is provided.
103. The second new provision of the supplementary agreement is a Landscape and Ecology Management Plan. This would secure the provision of new habitats and enhancement of existing habitats. It would require phased provision and subsequent management to ensure that habitats become established. This provision is necessary to ensure that habitats are provided, maintained and enhanced.
104. Thirdly, the supplementary agreement includes a Traffic Management Plan which requires mitigation measures to avoid disturbance to local residents from HGV traffic. This provision is necessary to ensure the living conditions of residents are protected.
105. As well as being necessary, these obligations are directly related to the development and they fairly and reasonably relate in scale and kind to the development. The supplementary Section 106 agreement meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and the tests in the Framework.

### **Conditions**

#### *Appeal A*

106. The parties have agreed a list of conditions for appeal A. These update the conditions on the existing permission. Any conditions that have been discharged or that are no longer necessary have not been included. I have imposed the agreed conditions subject to minor amendments as discussed at the Inquiry.
107. There is no power under S73 to extend the time limit for commencement of the development and indeed this has already commenced. I have not therefore included the first suggested condition concerning commencement of the development. The plans differ from those previously approved in terms of the pre-settlement and post-settlement contours and restoration scheme, and the restoration sequence. I have specified the approved plans in condition 1 in order to provide certainty.
108. Condition 2 is necessary to specify the date by which the importation of waste must cease and the time in which restoration and landscaping works

must be complete. The latter is extended to 2 years to allow for a high quality of restoration to be achieved having regard to factors that could potentially disrupt the process, including adverse weather conditions.

109. Condition 3 is necessary to ensure the Council is kept informed of progress and to allow effective monitoring of the site.
110. Conditions 4 and 5 require an annual survey plan and a site development plan for each 12 month period. These conditions are necessary to allow the Council to monitor progress in restoration of the site and to ensure the restoration takes place in accordance with the approved plans.
111. It is necessary to require that vehicular access for waste disposal and restoration is via the existing access road in the interest of highway safety and to minimise disturbance. It is also necessary to ensure that the road is maintained in good condition and to avoid mud deposition on the road to ensure highway safety.
112. Measures to control noise and dust and a restriction on the hours of operation are necessary to safeguard the living conditions of nearby residents. It is also necessary to restrict the erection of lighting in order to prevent glare, in accordance with Policy NE6 of the LP which requires consideration of potential light pollution.
113. In the event that the deposit of waste ceases before the end date of the permission, it is necessary to require removal of all ancillary plant, buildings, hardstandings and equipment and restoration within a two year period as a contingency. Infrastructure that is required in connection with the monitoring and control of leachate or landfill gas will be required to remain in place after this, but it is necessary to require removal of such infrastructure when it is no longer required.
114. It is necessary to require a detailed scheme of foul and surface water drainage to prevent flooding and pollution. In order to ensure operation of the site takes place in accordance with the planning conditions and the Section 106 agreement, it is necessary to ensure staff have access to the documents by ensuring their availability at the site office.
115. Because unrestricted vehicle access could disturb capped areas, it is necessary to restrict vehicle access to defined haul routes or to the area being infilled, although it may be necessary to allow access for vehicles necessary to carry out the landscaping.
116. Conditions 17, 18, 19 and 20 are necessary to minimise disturbance to soil and to facilitate satisfactory restoration. The required 1 metre capping layer, or 1.5 metres beneath trees or hedgerows is in accordance with current best practice.
117. It is necessary to require full details of the landscaping scheme and that the approved scheme is carried out in full to ensure effective restoration of the site.
118. In addition to the agreed conditions, the Council proposed a condition that would require monitoring of the settlement rates of the site for 5 years following the decision and revision of the pre-settlement tipping levels if the settlement rates are at variance to the 25% anticipated. The reason for

such a condition would be to ensure that the post-settlement landform is no higher than proposed, in the event that settlement rates are less than expected.

119. The use of ongoing monitoring of settlement would have to be treated with caution as the amount of settlement would depend on the depth of tipping which will vary across the site. Monitoring undertaken at any point in time would cover material that had been tipped for different periods. It is also by no means certain that any re-profiling could feasibly be undertaken because this would present technical issues such as stability and drainage. Any such change would require approval under the Permit and there would be uncertainty as to whether such approval could be obtained.
120. For these reasons the proposed condition would not meet the tests of reasonableness or enforceability. Furthermore, the pre-settlement and post-settlement contours shown on the approved plans would be secured under condition 1 and an annual survey and development plan for each 12 month period would be secured under conditions 4 and 5. These conditions would provide for continual review of the contours as waste is tipped and, on this basis, I see no need for the suggested additional condition.

#### *Appeal B*

121. A condition that specifies the approved plans, including the landscape restoration plan is necessary to provide certainty. A Construction Environmental Management Plan (CEMP) is necessary to ensure that effects on biodiversity during construction are adequately mitigated.
122. If any further ecological survey is necessary because of any delay in implementing the appeal B scheme, this would be covered by the CEMP.
123. It is necessary to require the provision of the approved surface water drainage scheme to ensure adequate drainage of the landfill facility as it is restored.
124. A condition requiring details of landscaping is necessary to ensure that the development blends into the landscape and that landscaping details are suitable for biodiversity mitigation and enhancement.

#### **Conclusion**

125. For the reasons given, I conclude that the appeals should be allowed.

*Nick Palmer*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian, of Queens Counsel

He called

Dr Michael Bull BSc, PhD, CEng, CSci, Cenv, IAQM, MIEEnvSc, IChemE	Director, Michael Bull and Associates
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David Dray MCIWM, CEnv, Meng	Waste Management Consultant, Mott MacDonald Ltd
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Vincent Maher MA, MCD, MBA, MSc, MRTPI	Chartered Town Planner
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Andrew Irving FdSc	Countryside Officer, Milton Keynes Council
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Jane Newman MTCP (Hons), MRTPI	Planning Consultant
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### *For Conditions and Planning Obligation Sessions:*

Egle Gineikiene	Senior Solicitor, Milton Keynes Council
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Jaspreet Lyall	Solicitor, Milton Keynes Council
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### FOR THE APPELLANT:

Alison Ogley, Solicitor Advocate	Partner, Walker Morris LLP
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She called

Alistair Hoyle BSc (Hons), MCD, MRTPI	Associate Director, Axis
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Katrina Hawkins BSc (Hons), MSc, CEnv, MIAQM, MIEEnvSc, MIEMA	Partner, Smith Grant LLP
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John Martin BSc, MSc, FGS	Managing Director, TerraConsult Ltd
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Lee Kendall MCIHT, MTPS	Technical Director, Axis
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Dean Kettlewell MSc, MAE, MIOA, I.Eng	Managing Director, Noise & Vibration Consultants Ltd
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Kevin Honour MSc, MCIEEM	Director, Argus Ecology Ltd
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Jon Mason BSc (Hons), DipLA, CMLI	Technical Director, Axis
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### *Conditions and Planning Obligation Sessions:*

Mat Nicholson	Estates Manager, FCC Environment
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Emma Conwell	Senior Associate, Walker Morris LLP
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Katie Le Boutillier	Associate, Walker Morris LLP
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Sian Hayle

Senior Planning Consultant, Axis

FOR NEWTON LONGVILLE PARISH COUNCIL:

Mike Galloway

Clerk to Newton Longville Parish  
Council

INTERESTED PERSONS:

Allan Rankine

Ward Councillor, Bletchley Park

Emily Darlington

Ward Councillor, Bletchley East

Mohammed Khan

Ward Councillor, Bletchley East

Ed Hume

Ward Councillor, Bletchley East and  
Councillor, Bletchley and Fenny  
Stratford Town Council

Ethaniel Kelly-Wilson

Councillor, Bletchley and Fenny  
Stratford Town Council

Delia Shephard

Clerk to Bletchley and Fenny Stratford  
Town Council

Steve Heath

Local resident

## **DOCUMENTS SUBMITTED**

CD 1-3a National Planning Policy Framework, July 2021

CD 4-11 Wildlife licensing – comment on new policies for European protected species licences

CD 4-12 E-mail Aecom to MKC 21.07.20

CD 4-13 E-mail MKC to Aecom 14.12.20

CD 4-14 E-mail MKC to Aecom 21.7.20

CD 4-15 Appellant's opening statement – Appeal B

CD 4-16 Appellant's Costs Application

CD 4-17 Appellant's Costs Application Statement

CD 4-18 20-0000678-FULMMA Decision Notice

CD 4-19 E-mail from PINS re. ES

CD 4-20 Appellant's Opening Statement – Appeal A

CD 4-21 R v Coventry City Council ex parte Arrowcroft

CD 4-22 Essex County Council v UBB Waste Essex Ltd

CD 4-23 S73 document locator

CD 4-24 LANDSS – Landfill Aftercare Decision Support System

CD 4-25 Land off Millers Way Costs Decision

CD 4-26 Land off Millers Way Appeal Decision

CD 4-27 Plan to demonstrate factors influencing phasing

CD 4-28 GasSim Waste Compositions explanation

CD 4-29 Appellant condition discharge information

CD 4-30 Turner v Secretary of State for Communities and Local Government

CD 4-31 R (on the application of Champion) v North Norfolk DC

CD 4-32 Appellant's Closing Submissions – Appeal A

CD 4-33 Appendix 1 of Appellant's Closing Submissions – Appeal A

CD 4-34 Appellant's response to proposed settlement monitoring condition

CD 4-35 Appellant's final response in support of its Costs Application – Appeal A

CD 4-36 Appeal B: Appellant's Closing Statement, Appellant's final response in support of its Costs Application and Appellant's response to the Council's Costs Application

CD 5-26 Bagshaw & Anor v Wyre Borough Council [2014] EWHC 508 (Admin)

CD 5-27 Development Plans Response

CD 5-28 Ecology response 14.12.20

CD 5-29 Council's Opening Statement Lagoon Appeal

CD 5-30 Bletchley landfill appeal ES DCC report

CD 5-31 Further advice

CD 5-32 Langley School

CD 5-33 Trusthouse Forte Ltd

CD 5-34 Additional information Defra

CD 5-35 Carter Commercial Developments Ltd v SSTLGR

CD 5-36 R v Ashford BC, ex parte Shepway DC

CD 5-37 First Secretary of State & Anor v Sainsburys

CD 5-38 Save Stonehenge World Heritage Site v Secretary of State

CD 5-39 Bletchley opening for LPA Appeal A

CD 5-40 Derbyshire Dales decision

CD 5-41 GasSim explanation

CD 5-42 Application for Costs on behalf of the LPA

CD 5-43 Landfill response from FCC

CD 5-44 Settlement Condition

CD 5-45 MKC Closing Submission

CD 5-46 Henry Boot Homes Ltd v Bassetlaw DC

CD 5 -47 MKC Costs Reply

CD 5-48 Counter application costs reply

CD 6-2 NLPC Submission on procedural matters

CD 7-9 Appeal A Conditions agreed between the appellant and the Local Planning Authority

CD 7-10 Condition proposed by the LPA but not agreed by the appellant

CD 7-11 28 October Final Conditions (Appellant) – Appeal B

CD 7-12 CIL Compliance Statement

CD 7 - 13 Supplemental Section 106 Agreement

CD 7-14 Bletchley Section 106 Progress

CD 9-1f review of NPPF

CD 9-1g Rebuttal Evidence of Alistair Hoyle

CD 10-10 Jane Newman Supplementary Proof of Evidence

CD 10-11 Vincent Maher Supplementary Proof of Evidence  
CD 12-21 S106 Plan 3  
CD 14-1 Inspector advice on ES 8 July 2021  
CD 14-2 Site notice v2  
CD 14-3 Volume 1 ES  
CD 14-4 Volume 2 ES  
CD 14-5 Volume 3 ES  
CD 14-6 Volume 4 ES  
CD 14-7 EIA letter to consultees  
CD 14-8 Highways response  
CD 14-9 Development Plans response  
CD 14-10 EHO response  
CD 14-11 Ecologist response  
CD 14-12 Landscape Architect response  
CD 14-13 Arboriculture response  
CD 14-14 LLFA response  
CD 14-15 MKC Flood Team response  
CD 14-16 Rights of Way response  
CD 14-17 A Day response  
CD 14-18 Say No to Bletchley Landfill response  
CD 14-19 C Johnson response  
CD 14-20 Cllr Rankine response  
CD 14-21 W Cottis response  
CD 14-22 V Crockett response  
CD 14-23 J Passarella response  
CD 14-24 S Sabnis response  
CD 14-25 N Chauhan response  
CD 14-26 A James response  
CD 14-27 Todd-Weller response  
CD 14-28 P Stephenson response  
CD 14-29 J Cunningham response

## **Schedule of Conditions**

### **Appeal A**

- 1) The development hereby permitted shall only be undertaken strictly in accordance with the approved plans and drawings:
  - 2928-01-01 dated May 2021
  - 2928-01-02 dated May 2021
  - 2928-01-03 dated May 2021
  - 2928-01-04 dated May 2021
  - 2928-01-05 dated May 2021
  - 2928-01-06 dated May 2021
  - 2928-01-07 dated May 2021
  - 2928-01-08 dated May 2021
  - 2928-01-09 dated May 2021
  - 2928-01-10 dated May 2021
  - 2928-01-11 dated May 2021
  - 2928-01-12 dated May 2021
  - 2928-01-13 dated May 2021
  - 2928-01-14 dated May 2021
  - 2928-01-15 dated May 2021
  - 2928-01-16 dated May 2021
  - 2928-01-17 dated May 2021
  - 2928-01-18 dated May 2021
  - 2928-01-19 dated May 2021
  - 2928-01-20 dated May 2021
  - Site Area 60602321.03 dated October 2019
  - Pre-Settlement Contours 60602321.05 dated January 2020
  - Post-Settlement Contours 60602321.06 dated January 2020
  - Proposed Restoration Scheme Figure ES 1.25 dated July 2021
- 2) Except for materials required for restoration, hardcore to surface internal roads or inert materials required to remedy the long-term effects of differential settlement, the importation of waste materials to the site shall cease by 6 February 2037. The site restoration and landscaping works shall be completed in accordance with the scheme approved pursuant to Condition 21 of this permission by 6 February 2039, or within 2 years of cessation of waste disposal whichever is the sooner.
- 3) The operator shall notify the local planning authority within one month of cessation of waste disposal operations.

- 4) Each year by no later than 31 January, a current survey plan (from a survey carried out not more than 16 weeks prior to submission) of the site shall be submitted to the local planning authority.
- 5) Each year by no later than 31 January, a site development plan showing the areas which are anticipated to be capped, restored and operational areas (including phasing and anticipated height of tipping) for the forthcoming 12 month period shall be submitted to the local planning authority.
- 6) Vehicular access to the site for all development except for monitoring, landfill gas and leachate plant access shall be via the Jersey Drive and Guernsey Road link to the A4146.
- 7) The site access shall be kept in good physical condition and kept sufficiently clean for the duration of the tipping and restoration operations to prevent mud being deposited on the public highway. Steps shall be taken to ensure that all vehicles leaving the site are in such a condition to avoid the deposit of mud or debris on the public highway.
- 8) Within 3 months of the date of this permission, a scheme shall be submitted to the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. The measures shall be implemented within one month of receiving written approval by the local planning authority.
- 9) Dust suppression measures shall be employed to ensure that dust is not carried beyond the site boundary. This shall include the use of water bowsers on internal haul routes as required.
- 10) No operations shall take place on the site except between the hours of:  
  
0700 to 1800 hours, Mondays to Fridays,  
0700 to 1300 hours, Saturdays  
and not at all on Sundays or Bank or Public Holidays.
- 11) No fixed lighting shall be erected or installed on the site.
- 12) All ancillary plant, buildings, hardstandings and equipment (save for those required in connection with the control and monitoring of leachate or landfill gas), shall be removed and the site restored either within two years of the cessation of deposit of waste on the site or by 6 February 2039 whichever is the soonest.
- 13) From 6 February 2039 or two years from the cessation of waste deposit, whichever is the soonest, a plan shall be submitted by no later than 31 January each year showing the location of above ground landfill gas and leachate infrastructure. All above ground plant, equipment and infrastructure required in connection with the control and monitoring of leachate or landfill gas shall be removed when no longer operationally required in connection with the control and monitoring of leachate and/or landfill gas.
- 14) Within 3 months of the date of this permission a scheme detailing foul and surface water drainage and measures to prevent water pollution and flooding shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be implemented as approved.



- 15) A copy of the decision notice, application plans as hereby approved and the associated Section 106 agreement shall be kept at the development site office and available for inspection by employees and agents of the site operators and the Local Planning Authority at any time during working hours.
- 16) Plant or vehicle movements on the site shall be confined to defined haul routes, or to the overburden/infill surface and shall not cross areas of topsoil or subsoil except for the express purpose of landscape restoration.
- 17) The handling and movement of soils during placement operations shall only be carried out in suitable weather conditions and when soils are sufficiently dry and friable, to prevent compaction, smearing and loss of structure.
- 18) All soil storage bunds shall be maintained and weed control carried out.
- 19) The above cap restoration layer shall comprise 1 metre of soil or soil forming materials. Beneath areas to be covered by hedges or trees this shall be increased to 1.5 metres.
- 20) Where it is intended to use imported soils or soil forming materials these shall either be placed directly on the area where they are to be utilised or stored in areas that have first been approved in writing by the local planning authority.
- 21) Within 3 months of the date of this decision, a scheme of landscaping and aftercare based on the Landscape Restoration Plan (Proposed Restoration Scheme Figure ES 1.25 dated July 2021) shall be submitted to the local planning authority for approval in writing. The scheme shall provide details of the restoration and aftercare for a minimum period of 5 years from final restoration of an individual phase within the administrative boundary of the Borough of Milton Keynes. Where a phase has already been restored, the period of aftercare shall be deemed to commence on the date of this decision and shall run for 5 years thereafter. The scheme of landscaping and aftercare shall include long term design and habitat objectives, method statements for site preparation and establishment of key habitats, management responsibilities and maintenance schedules. The scheme shall also include details and provision for:
  1. Soil preparation.
  2. Application of fertiliser.
  3. Sowing and establishment of green cover.
  4. Tree, hedgerow and shrub planting, inclusive of species, sizes, and planting density.
  5. Details of any new boundary treatment that is not hedgerow / tree planting.
  6. Wetland margin and aquatic planting, inclusive of sources, species, sizes, and planting density.
  7. Maintenance / aftercare provisions for all habitats which shall include a scheme which ensures that if within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or

shrub planted in replacement for it, is removed, uprooted or destroyed or dies, another tree or shrub of the same species, size and maturity as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

8. Details of access arrangements for pedestrian and vehicular access, including materials to be used.

The approved landscaping and aftercare scheme shall thereafter be carried out in full.

## **Appeal B**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 60602321.SWL.01, 60602321.SWL.02, 60602321.SWL.03 and drawing 2928-02-01 by Axis dated June 2021.
- 3) Prior to the commencement of any site clearance, construction works or development, a Construction Environmental Management Plan (CEMP) for the site shall be first submitted to and approved in writing by the local planning authority.

The CEMP shall take account of the advice submitted in the proof of evidence by Kevin Honour on matters relating to ecology and nature conservation and supporting appendices (Argus Ecology, June 2021) and include:

- a) an implementation programme;
- b) a Pollution Prevention Plan to demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan;
- c) a Site Waste Management Plan for the recycling and/or disposal of all waste resulting from construction works;
- d) a Construction Drainage Scheme indicating how surface water and land drainage run-off will be dealt with to prevent contamination or flooding;
- e) a Construction Phase Ecological Management Plan detailing how protected species, habitats and sensitive ecological receptors will be managed during the construction phase; this shall include details of any pre-construction surveys and protection measures;
- f) details of site clearance and construction methods and measures to be taken to minimise the impact of any works phasing/timing of works;
- g) details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The details so approved and any subsequent amendments as shall be agreed in writing by the local planning authority shall be complied with in full throughout the construction period.

- 4) The surface water drainage scheme shall be constructed and maintained in full accordance with the Design Report for the Surface Water Management Plan at Bletchley Landfill Site Ref. WR7439/SW/01 Rev 0.
- 5) Within 3 months of the date of this decision, a scheme of landscaping and aftercare based on the Landscape Restoration Plan (Drawing 2928-02-01 by Axis dated June 2021) shall be submitted for the approval in writing of the local planning authority. The scheme shall provide details of the restoration and aftercare for a minimum period of 5 years from final restoration of land within the administrative boundary of the Borough of Milton Keynes. On completion of the development, which shall be no more than 24 months from commencement of the development, the applicant shall notify the local planning authority in writing. The site shall be restored no later than 24 months from completion of the development. The scheme of landscaping and aftercare shall include long term design and habitat objectives, method statements for site preparation and establishment of key habitats, management responsibilities and maintenance schedules. The scheme shall also include details and provision for:
  1. Soil preparation.
  2. Application of fertiliser.
  3. Sowing and establishment of green cover.
  4. Tree, hedgerow and shrub planting, inclusive of species, sizes and planting density.
  5. Wetland margin and aquatic planting, inclusive of sources, species, sizes and planting density.
  6. Maintenance/aftercare provisions for all habitats which shall include a scheme which ensures that if within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, another tree or shrub of the same species, size and maturity as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
  7. Details of access arrangements for pedestrian and vehicular access, including materials to be used.

The approved landscaping and aftercare scheme shall thereafter be carried out in full.