

Agenda Item No 2

MINUTES of a meeting of the **REGULATORY – PLANNING COMMITTEE** held at County Hall, Matlock on 19 August 2013.

PRESENT

Councillor B Wright (in the Chair)

Councillors M Ford, Julie Hill, R L Hosker, R Mihaly, R A Parkinson, P Smith, T Southerd and J Twigg.

Councillor D Williams attended the meeting in accordance with Standing Order 16.6 as local Member in respect of the Sawmills application (Minute No 62/13).

Apologies for absence were received from Councillor J Innes.

Councillor P Smith declared a personal interest in respect of the Sawmills application (Minute No 62/13) as a Member of Amber Valley Borough Council who the operator acted on behalf of.

No Significant Lobbying had been received.

58/13 **PETITIONS RESOLVED** that (1) the petitions listed below be received and noted:-

<u>LOCATION/SUBJECT</u>	<u>SIGNATURES</u>	<u>LOCAL MEMBER</u>
Objections to Proposed Erection of a 2,500 Breeding Sow Pig Rearing Unit with Anaerobic Digestion Facility and Associated Infrastructure, Land off Uttoxeter Road, Foston (Code No: CW9/0311/174)	2512 pro forma letters	Councillor J Patten
Opposition to use of bio-remediation as part of proposed development at Station Yard, Station Road, Renishaw (i) Recovery of Ash and Ballast and the Importation of Fill for Restoration Purposes (Phase 2);	156 approx	Councillor B Ridgway

and (ii) Proposed Treatment of Waste Materials by Means of Soil Remediation for the Purposes of Manufacturing Fill Materials Suitable for the Construction of a Golf Course Landform (Code No: CW4/0111/150 and CM4/0212/162)

(See Minute No 61/13 below)

(2) the Acting Strategic Director – Environmental Services be asked to investigate the matters raised as part of the planning considerations in respect of application Code No CW9/0311/174.

59/13 **SITE VISITS** In accordance with the Code of Practice the Committee visited the sites at Sawmills (Minute No 62/13) and Renishaw (Minute No 61/13).

60/13 **MINUTES RESOLVED** to confirm the non-exempt Minutes of the meeting of the Regulatory – Planning Committee held on 29 July 2013.

61/13 **PROPOSED DEVELOPMENT AT STATION YARD, STATION ROAD, RENISHAW (I) RECOVERY OF ASH AND BALLAST AND THE IMPORTATION OF FILL FOR RESTORATION PURPOSES (PHASE 2); AND (II) PROPOSED TREATMENT OF WASTE MATERIALS BY MEANS OF SOIL REMEDIATION FOR THE PURPOSES OF MANUFACTURING FILL MATERIALS SUITABLE FOR THE CONSTRUCTION OF A GOLF COURSE LANDFORM (CODE NO: CW4/0111/150 AND CM4/0212/162)** The report of the Acting Strategic Director - Environmental Services referred to the details of proposals described under applications for planning permission under the Town and Country Planning Act 1990 by Ash (Renishaw) Limited relating to a site at Renishaw adjacent to the main railway line, the River Rother and the Trans Pennine Trail, which together proposed extraction of approximately 40,000 tonnes of ash and ballast for export for use in concrete production, to import up to 75,000 tonnes of waste materials, treat contaminated wastes by bio-remediation, restore the site using waste materials imported to the existing ground levels, and treat and export some of the imported wastes for subsequent export and use elsewhere. The report also contained comments received from consultees and an explanation of the relevant planning considerations, including reference to information contained in a formal environmental statement and further formal environmental information submissions provided by the applicant. The Acting Strategic Director reported that the site of the two applications corresponded to the southern part of a golf course site, which had planning permission from North

East Derbyshire District Council and that the a completion of the proposals under the applications would bring the application sites into a condition that was more conducive to the construction of the golf course.

The Acting Strategic Director also reported that the applicant had indicated a willingness to enter into an agreement under Section 106 of the 1990 Act to cover the establishment of a Local Liaison Committee, adherence to a route for vehicles, and a proposed strict time limit on the bio-remediation process. Within the recommendation in the report there was a provision for obligations to be provided under Section 106 in advance of the grant of planning permissions sought under the applications, which also identified the need for an obligation to cover provision of security to cover costs of restoration of the sites. The representative of the Acting Strategic Director circulated a revision to the wording of provision in the recommendation of the report for the obligations under Section 106 in order that if the development was carried out under such planning permissions it would be mitigated by the mitigation measures proposed by the environmental statement and the further environmental information that had been submitted.

A response had been received from Eckington Parish Council which expressed objection to the proposals on the grounds of the effect on the local community and leisure activities, the site's location near a school, and in the Green Belt, use of chemicals, and the proposals not being considered to be in accordance with policies contained in the Local Plan. Detailed responses from the Environmental Health Officer, the Environment Agency and the Derbyshire Wildlife Trust were given in the report. As the report noted, the concerns raised about the proposals following publicity of the applications related mainly to the extent to which they were needed or offered any benefits, the location and impacts on the locality, the bio-remediation process and other general concerns. The receipt of an electronic petition by the Council signed by approximately 156 persons was also acknowledged; this urged the rejection of the proposal for use of bio-remediation. This had been formally noted by the Committee (see Minute No 58/13 above). Representations had been received since the production of the report from the local Member, Councillor B Ridgway, in respect of health issues and safety in handling contaminated waste; and from Natascha Engel MP supporting local residents' concerns relating to long-term health effects and associated impacts on the environment, including traffic, and the local community as a whole and the site forming part of the preferred route for the High Speed rail network. Further objections had also been received from Eckington Parish Council concerned with the lack of detail on health and safety and two further representations questioning why consideration of the applications were continuing because the site formed part of the proposed route of the HS2 proposals. Copies of the late representations were circulated to Members.

The Acting Strategic Director had assessed the applications as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004. In addition the relevant policies under the development plan, the National Planning Policy Framework, Planning Policy Statement 10, and National Policy Statement for Hazardous Waste had also been taken into account.

The report indicated that the main issues to be addressed were the need for the development, the need for the development in the proposed location, impacts on the Green Belt, the type, scale and acceptability of any impacts that would arise from undertaking the works in the manner proposed, and whether the need/benefits identified by the applicant would be sufficient to outweigh any adverse impacts. These and other detailed considerations, including Landscape and Visual Impacts, Ecology, Transport, Slope Stability, Impacts to Controlled Waters and Human Health, Archaeology, Noise, Odour and Odour Management, Dust, Social-Economics and Reclamation Strategy were examined in the Acting Strategic Director's report. It was also reported that the eastern leg of HS2 ran through the application site, but the Acting Strategic Director advised that this could not form a major factor in the determination of the applications or justify a delay in consideration of the applications as the HS2 proposal was still at the consultation stage.

The Acting Strategic Director concluded in his report that the extraction of the ash and ballast would contribute to the prudent and sustainable use of mineral resources. It was in commercial quantity and was not a suitable medium on which to base a golf course facility. He considered that the use of bio-remediation to obtain materials for the backfilling of the site and the surfacing of the golf course could be regarded as an acceptable development, subject to appropriate controls, as a short term operation.

The Acting Strategic Director's representative emphasised that the consideration of these proposals had to take into account the permission granted by the District Council for the golf course and its approval under that permission of a final 'golf course' landscaping profile without any methodology as to how the profile should be achieved. He added that the County Council now generally discouraged large scale landscaping through use of waste materials unless fully justified in design terms.

Some 15,000 tonnes within the overall maximum tonnage for importation (which was proposed as an 'import-treat-export' element) was not justified or acceptable and would represent the introduction of a waste management use which would not be appropriate. The recommendation in the report, therefore, included a condition to restrict importation of material to the development scheme to a correspondingly lower tonnage of 60,000 tonnes.

Two local residents who had made representations concerning the applications addressed the Committee.

Mr Lumb objected to the proposed siting and use of the bio-remediation process. He felt it was unnecessary and would provide no value to the village. Over the years Renishaw had become a cleaner and better place to live with a recent housing development and the investment that had been made in the Trans Pennine Trail. The site was in the centre of the village near housing and the local school and was reached from the main road which children needed to cross and there was no natural screening alongside the boundary route to obscure the working site from the Trail. The Local Councillors and the MP had provided comments on the proposals and had all expressed grounds for refusing to grant permission and he urged the Committee to reach this conclusion.

The Acting Strategic Director's representative commented that traffic impacts were commonly predicted in respect of development proposals of these kinds and were usually amendable to control and reduction to acceptable levels through planning conditions or obligations. He suggested that an operator could be required in such a case to operate transport arrangements which avoided periods in the day which clashed with school starting and finishing times.

Elizabeth Harrison objected to the proposals; she considered that the removal of the ash and ballast and the bio-remediation process would have an unfortunate impact on the village. She urged the Committee to reject the proposals, and added that should the applications, however, be approved the site should be monitored very scrupulously to ensure that all conditions were fulfilled by the applicant and that a financial bond be provided to the Council.

The Acting Strategic Director's representative confirmed that he had understood that the works proposed were unwelcome to residents. He confirmed that both planning officers and the Environment Agency would monitor the site with both pre-arranged and ad hoc inspections being undertaken, and that all complaints received would be investigated. He pointed out that the recommendation for approval contained a recommended proviso that would require financial security such as a bond to be provided to the Council.

Mr Ballam, the Agent for the applicant, then addressed the Committee. He found from his experience local residents were the best monitors and it would be in the applicant's interest to carry out operations correctly. The proposed Liaison Committee would provide a dialogue between residents and the applicant. Once the ash and ballast had been removed the site would be re-filled to recreate previous levels of the landform but in accordance with

engineering specifications for the golf course. The profile that was approved for the golf course was modestly above these levels and did not include any huge mounding. He commented that the bio-remediation would be limited to 24 months and that the site was too small in any event for long-term waste recovery use. He commented that the applicant had tried to engage with local residents about the proposals and had contacted the local press, local school, Local Councillors and attended 2 public meetings in the village. He understood that there was public concern about contaminated waste and toxicity effects but that this had been evoked unduly by a widespread association of the word 'toxic' with hazardousness to health. He expressed assurance that the proposals were not associated with particularly hazardous material, so that the work force would not need to wear any protective clothing.

The Acting Strategic Director's representative commented that the permission for the creation of the golf course was considered to justify certain operations taking place on the site over a temporary period, which would not generally be suitable for it.

Mr Moreau from the applicant then spoke about the treatment proposed for materials proposed to be brought on to the site. The bio-remedial treatment of waste soils would be in accordance with requirements set out in an environment permit from the Environment Agency and would be subject to regulation through the permit and regular inspections and monitoring for environmental impacts. Any unacceptable material would be separated and not processed. He stated that the applicant would have a full duty of care to comply with the licence.

The applications were then discussed by the Committee. Councillor Smith commented that he accepted the case for the removal of the ash and ballast but was not persuaded that need for the bio-remediation element could be justified on the site. He found that each of the applications raised its own issues. He also had concerns about the closeness of the site to the River Rother and shared the residents' concerns that a 'quarantine' area should be needed.

The Acting Strategic Director's representative explained that the comprehensive coverage report included references to previous expressions of concerns by the Environmental Health Officer and the Environment Agency regarding bio-remediation and the closeness of the river, but that none of the consultees had sustained concerns in objection to the schemes following submissions of further information.

Councillor Smith did not accept that contaminated materials should need to be brought on to the site or that the bio-remediation treatment could

not be carried out at a suitable authorised site before the materials were brought to Renishaw.

Councillor Julie Hill supported the comments made by Councillor Smith concerning the material to be processed. She also remarked on how close the Trans Pennine Trail was to the sites.

Mr Ballam pointed out that it was a standard waste site licensing requirement of the Environment Agency to have a 'quarantine' area on site. Therefore, it did not imply that dangerous material would be on site.

Councillor Ford commented that he had been concerned about the impact the proposals would have on local people and the environment but having heard explanations given during the meeting he was more comfortable with the proposed process, particularly with the conditions being imposed and suggested amendments.

Councillor Southerd commented that he found that the report described the proposals and the relevant considerations fully and fairly, but did not consider that the circumstances excused a waste operation at the location of the type and scale that the proposals involved. He felt that the length of the list of conditions in the recommendation illustrated the complexity of the proposed working. He was concerned that, even with compliance with such conditions, the proposed operation would still generate impacts he would not find acceptable.

It was suggested by Committee Members that since the proposed recovery of ash and ballast did not raise the same concerns for them as the proposed bio-remediation they would wish each application to be determined by separate resolution.

Officers confirmed that although this approach would depart from the structure of the recommendation in the report it was open to the Committee to proceed in this manner. In submitting two applications the applicant had chosen to put forward separate, albeit closely related, development proposals.

A motion was proposed and seconded for a grant of planning permission for the development proposed under application Code No CM4/0212/162 on the terms set out in the following resolution:

RESOLVED that planning permission for the development proposed under the application Code No CM4/0212/162 be granted subject to (1) the applicant or operator and any other persons with an interest in the application site first entering into an Agreement with the County Council under Section 106 of the Town and Country Planning Act 1990 to secure planning

obligations considered by the Acting Strategic Director – Environmental Services and the Director of Legal Services to make satisfactory provision for:-

- a Community Liaison Committee
- securing achievement of a full programme of restoration and aftercare relating to the site of the application to the satisfaction of the County Council within a reasonable timescale following completion of the development to be permitted under the application, incorporating all those measures for mitigations of the environmental impacts referred to under the Environmental Statement submitted on behalf of the applicant for the application (as amended by supplemental information subsequently submitted relating to it) that are to be provided by the development of a golf course covering the site and adjacent land under North East Derbyshire District Council planning permission NED/11/00028/OL or equivalent measures to achieve similar mitigations in any event of premature cessation of the development under the planning permission and financial security (eg a sufficient performance bond or cash deposit) to fund the Council for all costs it might expend in any remedial action it might take in the public interest towards the completion of the restoration and aftercare of the site
- requiring measures to be implemented for requiring drivers to adhere to the proposed traffic route for the import and export of materials under the application; and

(2) a set of conditions substantially based on the draft set of conditions contained within the report of the Acting Strategic Director - Environmental Services, and as amended at the meeting.

A motion was then proposed and seconded for a refusal to grant planning permission for the development proposed under application Code No CW4/0111/150 on the basis set out in the following resolution:

RESOLVED that a grant of planning permission on application Code No CW4/0111/150 be refused on the basis of the development proposed under the application being found to be unacceptable on the following grounds: the Green Belt location of the application site, the closeness of the location to the Trans Pennine Trail, and the closeness of the application site to housing and to a school.

62/13 PROPOSED RETROSPECTIVE CHANGE OF USE OF AN INDUSTRIAL UNIT FROM INDUSTRIAL B8 USE (STORAGE AND DISTRIBUTION) TO A WASTE TRANSFER STATION, TO ALLOW THE STORAGE AND BULKING UP OF DRY RECYCLABLES COLLECTED

FROM AMBER VALLEY RECYCLING KERBSIDE COLLECTIONS ON LAND AT THE LOCKWOOD HOLDINGS INDUSTRIAL ESTATE, OFF RIPLEY ROAD, SAWMILLS (CODE NO: CW6/0513/38)

This was a retrospective application to use an existing industrial unit for the storage of dry recyclable waste materials, such as glass, plastic, tin, paper and cardboard, that had arisen from local kerbside recycling collections. Details of the application, together with comments received from consultees were contained within the report of the Acting Strategic Director - Environmental Services. Objections and concerns had been received from the local Member, Councillor D Williams, Ripley Town Council and following publicity, and these were addressed in the Strategic Director's report.

The application had been considered in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The National Planning Policy Framework and Planning Policy Statement 10 had also been taken into account.

The report indicated that the key issues which were relevant to the proposal were the need for the development, location of the development and local amenity impacts and these were examined in the report.

The Acting Strategic Director concluded that notwithstanding that the proposal was retrospective he considered that the proposal would continue to make a significant contribution to the effective and efficient treatment of waste within the County. The site had the benefit of an established working industrial environment and already had relevant planning permissions for industrial use and storage. The site was well located in terms of the waste collection stream and to the primary road network systems and the existing access had been designed to a high standard. The application site was also screened effectively within the industrial landscape and by existing vegetation and, therefore, the potential impacts would not be significant.

Councillor D Williams, local Member, addressed the Committee. He had visited the site and commented that although it had been operating for over 6 years without planning permission there had been no complaints.

The Acting Strategic Director's representative at the meeting commented that the site had been empty and clean when the Committee had visited the site earlier. Whilst the application was retrospective it allowed the opportunity to regularise waste management conditions. An officer would carry out an unannounced inspection of the site within the next 3 months. It was confirmed that the tonnage figures in the report related to current levels and were not based on 2005 levels.

RESOLVED that planning permission be granted, subject to the conditions contained within the report of the Acting Strategic Director - Environmental Services, subject to condition 6 being corrected to read “**All** operations shall be carried out between 0600 hours to 1700 hours Monday to Saturdays. There shall be no working on Sundays, Bank Holidays or other National Holidays.”; and the Environmental Protection condition in the report being re-numbered 11.

63/13 **CURRENT ENFORCEMENT ACTION** **RESOLVED** to receive the report on Current Enforcement Action.

64/13 **OUTSTANDING APPLICATIONS** **RESOLVED** to receive the list on decisions outstanding on 19 August 2013 relating to EIA applications outstanding for more than sixteen weeks, major applications outstanding for more than thirteen weeks and minor applications outstanding for more than eight weeks.

65/13 **CURRENT APPEALS/CALLED-IN APPLICATIONS** **RESOLVED** to note the report on current appeals/called-in applications relating to County matters.

66/13 **MATTERS DETERMINED BY THE ACTING STRATEGIC DIRECTOR – ENVIRONMENTAL SERVICES UNDER THE DELEGATED POWERS** **RESOLVED** to note that the following applications had been approved by the Acting Strategic Director - Environmental Services under the Delegated Powers on:-

(a) 1 August 2013

- 1 Application under Section 73 of the Town and Country Planning Act 1990 to Not Comply with Condition 1 of Planning Permission CM3/901/76 in Order to Allow an Extension of Time for Continuation of Mineral Extraction and Restoration to Landfill at Slinter Top Quarry, Cromford
Applicant: Slinter Mining Company Limited
Planning Application Code No: CM3/0507/30
- 2 Proposed Retention and Continued use of a Portacabin Unit at the Veolia ES Site, Norwood Industrial Estate, Ellison Road, Killamarsh
Applicant: Veolia ES (UK) PLC
Planning Application Code No: CW4/0513/26
- 3 Proposal to Install an All-Weather Outdoor Learning/Play Area at Dallimore Primary School, Dallimore Road, Ilkeston
Applicant: Derbyshire County Council

Planning Application Code No: CD8/0613/55

- 4 Application under Section 73 Application of the Town and Country Planning Act 1990 to Not Comply with Conditions 3, 4 and 5 (Time Limits) of Planning Permission 9/586/726 in Order to Allow an Extension in Time for Continuation of Restoration at Bellington Hill Sand and Gravel Site, Near Ambaston and Shardlow
Applicant: Lafarge Tarmac Central Ltd (formerly Tarmac)
Planning Application Code No: CM9/1107/184
- 5 RESTRICTED – Proposed Enforcement Action in Relation to a Breach of Planning Control on Land at Stancliffe Quarry, Darley Dale
- 6 Delegation Decisions on Schemes Required by Planning Conditions
 - SW2383
 - SW2384
 - SW2385
 - SW2386
 - SW2387
 - SW2388

(b) 8 August 2013

- 1 Proposed Construction of Phase 2 of the Great Northern Greenway, Between Brookside Road and Lime Lane, Breadsall
Applicant: Derbyshire County Council
Planning Application Code No: CD8/0713/63
- 2 Delegation Decisions on Schemes Required by Planning Conditions
 - SD2453
 - SW2406
 - SW2407
 - SW2399
 - SW2395
 - SM2364
 - SM2365
 - SM2431
 - SM2432

67/13 MONTHLY PERFORMANCE MANAGEMENT
STATISTICS RESOLVED to receive the Planning Services Development

Management Monthly Performance Management Statistics for the period 1 July – 31 July 2013.

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