

Application No: 10/0692W

Location: MAW GREEN LANDFILL SITE, MAW GREEN ROAD, CREWE, CW1 5NG

Proposal: To carry out Development without Complying with Conditions Attached to 7/P05/1326 to Extend the Operation Life of the Maw Green Landfill Facility to 31 December 2017, Restoration by 31 December 2018, permit a Variation to the Sequence of Phasing of Operations along with Minor re-contouring to the South East of the Site

Applicant: 3C Waste Ltd

Expiry Date: 17-Jun-2010

SUMMARY RECOMMENDATION:

Approve the approach to the Deed of Variation proposed by the applicant

1. REASON FOR REPORT

To seek an amendment to the resolution in respect of the deed of variation previously approved at Strategic Planning Board in June 2010.

2. DESCRIPTION OF SITE AND CONTEXT

The application site is the Maw Green Landfill which covers an area of some 66 hectares. It is located off Maw Green Road, Coppenhall, approximately 1.5 km north east of Crewe Town Centre. The site is bounded by the Crewe to Manchester railway line to the east, Maw Green Road to the south, and agricultural land to the north and west.

In summary the general arrangement of the site comprises an internal access road to the south of the site accessible off Maw Green Road; site offices and weighbridge infrastructure; within this infrastructure area is staff and visitor car parking and storage / lockup containers. To the north east of the site offices is the waste to energy compound. This is bounded and screened by the railway line to the east and established planting to the west and north.

To the south west of the main waste deposit landfilling areas is the leachate treatment facility. The leachate treatment plant is accessed via an internal haul road traversing to the north of the completed Phase 1 area of the landfill.

Surface water lagoons are located to north of the waste to energy compound, and also to the west of the site beyond the leachate facility. An area of hardstanding formerly used for

composting is located immediately to the north of the site's facilities, the waste to energy compound and surface water lagoons on the eastern side of the site.

RELEVANT SITE HISTORY

The site has a long history of waste disposal operations dating back to 1984 when planning permission was first granted '*To raise the level of agricultural land by the controlled landfill of wastes, on land between Groby Road and Maw Green Road, Maw Green, Crewe*' (Ref 7/10731). That particular consent was time limited so that waste disposal operations would cease no later than thirteen years after the date of commencement. The site became operational in 1986, and therefore waste disposal operations were originally anticipated to cease in 1999.

A series of subsequent permissions were granted, the most relevant being:

- Permission granted (Ref: 7/P92/0450) in **January 1995** for '*an extension to the landfill with extraction of clay and demolition of meat processing plant followed by restoration to agriculture and woodland*'. This included for the provision of the leachate treatment facility. This consent was time limited to January 2011.
- Application Ref: 7/P05/1326 to allow the receipt of waste from local authority domestic household waste collections on days previously prohibited at the site. Permission granted on appeal in **July 2007**.
- Permission granted (Ref: 7/P94/0740 and 7/P99/1015) for a waste to energy compound to be retained until six months following the cessation of electricity generation from the site.

An application was made in February 2010 to vary conditions of permission Ref: 7/P05/1326 to Extend the Operation Life of the Maw Green Landfill Facility to 31 December 2017, Restoration by 31 December 2018, permit a Variation to the Sequence of Phasing of Operations along with Minor re-contouring to the South East of the Site. The extension of time was sought to enable the remaining consented void to be utilised, as per originally envisaged when the site was granted planning permission in 1995 (subject to minor re-contouring). The applicant sought a seven year time extension to fill the remaining consented void based on current and predicted input rates of waste.

REASON FOR THE AMENDMENT

Application 7/P05/1326 was considered at Strategic Planning Board in June 2010 and Strategic Planning Board resolved to grant planning permission subject to a number of planning conditions and a deed of variation to the existing Section 106 Planning Obligation to secure:

- diversion and maintenance in perpetuity Fowle Brook;
- long-term management of the restored nature conservation area on Cell 9a for a period of 15 years following the restoration of Cell 9a
- monitoring and maintenance of the leachate control system;
- monitoring the generation and extraction of landfill gas;
- Heavy Goods Vehicle routing; and
- Maintenance and management of a length of Maw Green Road.

The deed of variation is required to tie the terms of the existing Section 106 Agreement to the new planning permission, and to update the terms to reflect changes in circumstances and legislation/regulation.

Since the committee meeting, work has been on-going to progress discussions on this Deed. The result of these discussions has identified that the existing s106 legal agreement does not tie in the relevant 3rd party landowner(s) in respect of the obligation to undertake current and future monitoring, and equipment maintenance of gas and leachates beneath the restored 'Phase 1' landfill area on the southern extent of the wider landfill. This matter was not known at the time of considering application 7/P05/1326 and thus was not identified to Members of the Board in the consideration of the application. The purpose of this report is therefore to make Members aware of this matter and confirm the arrangements to address this as detailed below remain consistent with the recommendation made by Members at Strategic Planning Board on 2nd June 2010.

Background

Maw Green Landfill is owned by Cheshire East Council and leased to 3C Waste Limited under a series of long leases, each expiring in 2042. 3C Waste is a wholly owned subsidiary of the FCC group.

Numerous planning obligations including those relating to the monitoring of gas and leachate under the Phase 1 land are secured by a Section 106 Agreement made between Cheshire County Council and 3C Waste dated 18 January 1995 (the Original Agreement). This agreement was then varied on 12 March 1997 to incorporate the requirement for the diversion and maintenance of a footpath. As at the date of the Original Agreement, the Phase 1 land was already capped and restored.

The Phase 1 land is stated to have been in the County Council's ownership when the Original Agreement and the variation in 1997 were signed; however documents from HM Land Registry indicate that the land is owned by a third party (who remain the current owners). The third party landowners were not party to the Original Agreement or the Deed of Variation.

Separately, the County Council and the third party landowner entered into a Deed of Exchange to swap two small parcels of land on the Phase 1 land. As part of this Deed, the County Council formally acquired a legal easement which allows the Council access onto this third party land for *'the purposes of installing, maintaining, repairing, renewing, replacing and monitoring all necessary pipes, plant and apparatus required for the monitoring of landfill gas and leachate'*.

Current Position

The wording of the Deed of Variation has been agreed between the Council and applicant, subject to establishing whether the identified third party's land needs to be included in this Deed in order to re-secure the existing planning obligations to monitor landfill gas and leachates on the Phase 1 land which was not previously included in the Original Agreement in 1995 or the Deed of Variation in 1997.

At no point previously have the third party entered into a Section 106 Agreement with the Council to enable 3C Waste to enter into their section of the Phase 1 land to carry out the monitoring required by the Obligations.

However since 1995 when the legal agreement was signed, monitoring obligations on that parcel of land have continued to be secured by:

- 1) Through the Original Agreement against 3C Waste under Section 106 of the Town and Country Planning Act 1990
- 2) Through the legal easement exercisable by either the Council or 3C Waste to enter the Phase 1 land for the purposes of carrying out gas and leachate monitoring/maintenance.
- 3) Through the Environmental Permit enforced by the Environment Agency which duplicates the monitoring requirements contained in the Original Agreement.

3C Waste are not proposing to change the existing arrangements which have successfully been used since 1995 to secure the necessary monitoring arrangements on the Phase 1 land. They do not consider it necessary to tie the third party landowners into the Deed of Variation required by this application for the reasons set out above, and also to avoid further complications, delays to the process and additional costs.

In addition, 3C waste propose to incorporate into the Deed of Variation an express restriction on the importation of waste for disposal i.e. cessation of all landfilling at Maw Green unless the monitoring and maintenance requirements for leachate and landfill gas are carried out.

As such the applicant is seeking the approval of Strategic Planning Board to the arrangements as set out and confirmation that these arrangements are consistent with the resolution approved by Strategic Planning Board in June 2010.

Recommendation

- Subject to receiving confirmation from the Property Portfolio Manager that they have noted the reliance being placed on the legal easement to enter the Phase 1 land for the purposes of carrying out gas and leachate monitoring/maintenance;
- That the recommendation for approval should be maintained as per the Strategic Planning Board committee report dated 2nd June 2010; subject to:

(1) Deed of variation to the existing Section 106 Planning Obligation to the extent described in the report to secure:

- diversion and maintenance in perpetuity Fowle Brook;
- long-term management of the restored nature conservation area on Cell 9a for a period of 15 years following the restoration of Cell 9a
- monitoring and maintenance of the leachate control system;
- monitoring the generation and extraction of landfill gas;
- Heavy Goods Vehicle routing; and
- Maintenance and management of a length of Maw Green Road.

(2) Planning permission being granted subject to conditions covering in particular: -

- All the conditions attached to permission 7/P05/1326 unless amended by those below;
- Approved plans;
- Revisions to existing approved restoration plan – replace with in interim and final restoration plan and associated restoration conditions;
- Revisions to existing phasing plans and associated phasing conditions;
- Revisions to existing pre-settlement contours, and associated contouring conditions;
- Additional surface water lagoon plan;
- Extension of time to 31st December 2017 with interim restoration of the site within 12 months or no later than 31st December 2018
- Final restoration as final restoration plan to be no later than 12 months following the cessation of production of leachate and landfill gas;
- Interim and final restoration proposals to be amended to include rough tussocky grassland to provide suitable habitat for breeding skylarks;
- Approved Method statement for protected species;
- Liaison Committee Scheme;
- Noise limits;
- Noise Monitoring Scheme;
- Best practical site management for noise/ dust/ odour/ flies/ vermin/ birds/ litter control as per ES

