

Application No: 13/5037W

Location: Former Tip, Roughwood Lane, Hassall Green, Sandbach, Cheshire, CW11 4XX

Proposal: Retrospective planning permission for the importation of inert material to install cover system to former tip and restoration scheme to allow change of use to informal recreational open space with ancillary car park.

Applicant: Professor Hays Plc

Expiry Date: 13-Mar-2014

#### **SUMMARY RECOMMENDATION**

Approve subject to conditions

#### **MAIN ISSUES**

- Land and groundwater contamination
- Geotechnical stability
- Landscape and Nature Conservation
- Local Amenity and Highways

#### **REASON FOR REPORT**

The application has been referred to Strategic Planning Board as the proposal involves a major waste application.

#### **DESCRIPTION OF SITE AND CONTEXT**

The site is located approximately 1.5km south east of Hassall Green and occupies a triangular parcel of land on the junction of Roughwood Lane and Betchton Lane.

The application site comprises the former Hassall Green landfill which was used for the deposit of industrial waste until the 1980's including the deposit of waste sludge and demolition rubble. The northern site boundary is defined by a large earth embankment. The existing vehicular access point off Betchton Lane lies on the southeast corner of the site.

Land to the south beyond Betchton Lane and to the east and west is predominantly open agricultural fields and woodland. Land to the north beyond the embankment is a large mature oak wood which stretches up to the boundary with Roughwood Lane beyond which are agricultural fields. Day Green Stream lies approximately 50m from the northern boundary

The general topography of the site is such that the land rises steeply to the south where views are restricted by the embankment and woodland vegetation. Land falls more gently from the embankment down to the south eastern corner of the site.

## **RELEVANT HISTORY AND DETAILS OF PROPOSAL**

The site was originally a sand quarry until it was commissioned in 1956 by BP Chemical Limited for the deposit of non-hazardous industrial wastes, asbestos sheeting and construction industry waste. It continued in this use until the 1980's after which it was left in a semi-restored state.

The former tip was used for the deposit of salt plant sludge and effluent sludge contaminated with mercury. Placed on top of this was demolition rubble from the old Caustic Plant and boiler house which is believed to have been contaminated with asbestos. The rubble is believed to have been capped with soil and the land has since been left with no formal remediation.

Planning permission was granted in September 2013 (Ref: 12/1799C) for the remediation of the site to enable the land to be used for informal recreation and open space. The approved site remediation strategy included for a cover system on the central section of the site (an area of approximately 4500m<sup>2</sup>). This comprised of a porous geo-textile material laid over the contaminant layer; followed by a 350mm granular fill sub base overlain by a 150mm low nutrient growth layer.

The permission also included for the following:

- Slight slope amelioration to reduce the gradients across the eastern and central sections of the site, and the provision of an access ramp for the duration of the works to be retained in part on its completion;
- A large area of low lying dense evergreen planting to be used as defensive planting over the western section of the site;
- Slope re-grading works to stabilise the northern embankment comprising of the removal of all current vegetation along the bank, placing and compacting approximately 700m<sup>3</sup> of inert material across the area to create a slope incline of 1:2 which is then finished with a geo-textile layer and a layer of seeded topsoil. The slope re-grading works also included for a new permanent fence approximately 1m from the toe of the proposed new slope;
- Various other temporary works including a temporary site compound and access tracks;
- Creation of an informal visitor car park.

On completion of the remediation works, the applicant proposes to transfer land ownership to the Land Trust charity, who would manage the site as a wildlife conservation area with public access for nature conservation education and informal recreation. Initially the Land Trust propose that the site would be open to the public on a request only basis, which, subject to interest and resources may increase in frequency. The existing access to the site will be retained and the former construction site compound area used to provide a small informal car park to accommodate visitor parking.

The planning permission included a number of pre-commencement conditions in respect of agreeing the final remediation strategy and slope stabilisation works. The applicant completed the development before discharging any of the pre-commencement conditions. As the conditions went to the heart of the permission, the advice of Legal Services was that this course of action invalidated the planning permission and thus the development which occurred is unauthorised, albeit in line with the previously approved scheme (12/1799C). As such, the applicant has submitted a further retrospective planning application to regularise this position. The retrospective application seeks approval for the same scheme as that approved under 12/1799C.

## **POLICIES**

The Development Plan comprises the Cheshire Replacement Waste Local Plan 2007 (CRWLP) and Congleton Borough Local Plan 2005.

The relevant development policies are;

### ***Cheshire Replacement Waste Local Plan (CRWLP)***

- Policy 1: Sustainable Waste Management
- Policy 12: Impact of Development Proposals
- Policy 14: Landscape
- Policy 17: Natural Environment
- Policy 18: Water Resource Protection and Flood Risk
- Policy 23: Noise
- Policy 24: Air Pollution; Air Emissions Including Dust
- Policy 25: Litter
- Policy 26: Odour
- Policy 28: Highways
- Policy 29: Hours of Operation
- Policy 32: Reclamation

### ***Congleton Borough Local Plan (CBLP)***

- Policy GR1: New Development
- Policy GR4 and GR5: Landscaping
- Policy GR6, GR7 and GR8: Amenity and Health
- Policy GR9: Accessibility, Servicing and Parking
- Policy GR17: Traffic Generation
- Policy NR1: Trees and Woodlands
- Policy NR5: Wildlife and Nature Conservation
- Policy NR6: Reclamation of Land
- Policy BH4: Effect of Proposals on Listed Building
- Policy RC1 and RC4: Recreation and Community Facilities
- Policy PS8: Open Countryside

On the Congleton Borough Plan Proposals Map the site is located in the open countryside. It is situated adjacent to a Site of Biological Importance to which Policy NR4 applies. It is also situated adjacent to an area at risk of flooding to which Policy GR21 applies.

### ***National Planning Policy and Guidance***

National Planning Policy Framework (2012)

## PPS 10: Planning for Sustainable Waste Management

### Other Material Considerations

The revised EU Waste Framework Directive 2008 (rWFD)  
Consultation on PPS10: Planning for Sustainable Waste Management  
Government Review of Waste Policy in England 2011 (WPR)  
Government Waste Management Plan for England 2013  
Cheshire Consolidated Joint Waste Management Strategy 2007 to 2020  
Cheshire East and Cheshire West and Chester Councils Waste Needs Assessment Report ('Needs Assessment')

### CONSULTATIONS (External to Planning)

**Environmental Health Officer:** raises no objection and makes the following comments with regards to contaminated land:

- The application area has a history of quarry and waste tip use and various stages of site investigation have shown that contamination is present on the site.
- The application is for a new recreational area which is a sensitive end use and could be affected by any contamination present.
- The applicant supported the application with various contaminated land assessments including a detailed quantitative risk assessment for human health. This has shown that the proposed remedial strategy will mitigate against risks to human health for the proposed worst-case scenario of the site's future use as an open recreational area.
- The applicant has undertaken remedial works on site to address the risks from contamination and has also submitted a remediation validation report and further information for the site to demonstrate that these necessary remedial works were undertaken.

Conditions are recommended in respect of securing the retention of the defensive planting and seeking the Council approval prior to its removal.

**Nature Conservation Officer:** does not anticipate there being any significant adverse ecological issues associated with the grant of this retrospective application.

#### **The Environment Agency:**

The Environment Agency has no objection in principle to the proposed development but we would like to make the following comments.

We have reviewed the following reports with respect to potential risks to controlled waters from land contamination:

- Works Information Notice. Hassall Green. WSP. Report Ref: 2834.008. Date: July 2013.
- Remediation Completion Report. Hassall Green. Chandos Remediation Services. Report Ref: 320.04. Date: October 2013.
- Remediation Works Validation Report. Hassall Green. WSP. Report Ref: 2834.11. Revision 2. Date: November 2013.

Based on the information provided we understand that the remedial objectives set out within

section 2.2 of the Works Information Notice have been achieved as set out within the Remediation Completion Report and Remediation Works Validation Report.

We note that a number of minor exceedances were recorded within the samples taken from the imported aggregate and soils as detailed within section 4.3 of the Remediation Completion Report. However, given the minor nature of these exceedances these are unlikely to pose a risk to controlled waters therefore we have no further requirements for works at this time in respect of controlled waters.

#### **VIEWS OF THE PARISH / TOWN COUNCIL**

None received

#### **OTHER REPRESENTATIONS**

One letter of representation has been received raising issues concerning the suitability of creating a recreational open area with associated car parking in an isolated rural area used by non motorised users. Concern is raised over the additional traffic generated and potential for the site to be used for anti-social behaviour and fly tipping.

#### **OFFICER APPRAISAL**

##### **Principle of Development**

The principle of remediating the site by means of a cover system and the use of the site for informal recreation has already been accepted by virtue of permission 12/1799C. No amendments are proposed to the original scheme as this application purely seeks to regularise the current unauthorised development which has occurred on the site.

##### **Land and Groundwater Contamination**

A range of contaminated land investigations were supplied with the previous application (12/1799C) which identified that a variety of wastes have been deposited at the site, namely:

- Deposit of salt plant sludge and effluent sludge, both contaminated with mercury;
- Deposit of demolition rubble from the old Caustic Plant placed on top of the sludge and deposit of concrete bases from Hooker Cells;
- Deposit of demolition waste from the boiler house placed on top of the sludge which is understood to be contaminated with asbestos.

The results of the contaminated land investigations demonstrated that the proposed cover system would adequately mitigate any risk to human health or groundwater arising from the previous deposit of industrial wastes on the site.

The assessments recommended further investigations to establish the full geographical extent of asbestos on the site and the condition of the soils beneath the concrete blocks on the western side of the site. The Environmental Health Officer also required planning conditions to secure the approval and completion of all remedial/protection measures identified in the Phase II Geo-Environmental Assessment; the provision of Site Completion Statement; and the provision of defensive planting and fencing around areas subject to asbestos.

Whilst the remediation works were subsequently undertaken on site without this detail being approved, the applicant has submitted sufficient information in this application to satisfy the

recommendations of the contaminated land investigations and the specific requirements of the Environmental Health Officer. This includes a detailed quantitative risk assessment for human health and a remediation validation report which demonstrates that the remediation strategy undertaken will mitigate against risks to human health. The results of the chemical analysis of samples taken from the granular fill and imported soils have also been provided, along with information to confirm the thickness of the material placed on the site.

Furthermore, information obtained from site investigations including trial pits undertaken with the Environmental Health Officer in attendance has provided sufficient evidence to demonstrate that the engineering works undertaken are acceptable in respect of the risks of ground contamination. Likewise in respect of risks to controlled waters the Environment Agency has assessed the laboratory results and notes that whilst a number of minor exceedances were recorded within the samples taken from site, given the minor nature of these exceedances, they are unlikely to pose a risk to controlled waters and the Environment Agency has no further requirements in respect of these works and raises no objection.

On the basis of the information submitted by the applicant, the evidence collected on site and the views of the Environmental Health Officer and Environment Agency; it is considered that the scheme will not present any risks to human health or the environment and would accord with policies 12 and 18 of CRWLP, policies GR1, GR6, GR7 and GR8 of CBLP, and the approach of NPPF and PPS10.

### **Geotechnical Stability**

The northern site boundary was originally defined by a 5m high sand/gravel embankment which sloped down to the adjacent land at an angle of 1:1.5. The embankment held the contaminated waste mass in situ on the site. Previous investigations identified that the embankment did not have sufficient engineering properties and there was evidence of historical movement along its length at various locations. Advice provided by an independent geotechnical engineer in the consideration of the original application (12/1799C) was that the slope was potentially unstable and lacking an adequate factor of safety against sliding. As such, a scheme of slope stabilisation works were secured as part of the previous planning permission, which included for the construction of a supporting 'wedge' of crushed stone/hardcore to achieve a more gradual 1:2 slope; to be overlain by erosion matting and a low nutrient soil which would be allowed to colonise naturally.

A planning condition was imposed on the planning permission which required the final engineering works to be visually inspected by the geotechnical engineer and written approval sought from the Planning Authority prior to the remainder of the remediation works being undertaken to ensure that the works had been undertaken in accordance with the agreed specification. As the works were carried out before any planning conditions were discharged, the opportunity for a visual inspection of the stabilisation works was not presented. The applicant has however provided sufficient detail within the application on the engineering works undertaken, including the method adopted, specification of the erosion matting and material used for the slope engineering works, cross sections of the achieved slope profile and topographical information. In addition, visual inspections of the engineering works have been undertaken by the consultant geotechnical engineer and the advice provided to the Council is that the works undertaken have been completed to a good standard and are considered acceptable.

As such, on the basis of the advice provided by the geotechnical engineer it is considered that the scheme is acceptable and will achieve the stabilisation required, and therefore complies with policy 12 of CRWLP, policy GR7 of CBLP and the provisions of PPS10 and NPPF.

### **Landscape and Nature Conservation**

The remediation works undertaken on site include the placement of 150mm layer of soil which has been seeded with a wildflower mix, in accordance with the advice of the Nature Conservation Officer on the previous application who recommended the use of a low nutrient status soil for the capping layer, and the natural colonisation of the site as mitigation against any loss/damage to existing ecological habitats.

In order to provide a sensitive balance between any ecological and landscape value created as part of the final site restoration, and to ensure such features are adequately established, the previous permission provided for the submission of a scheme of landscape and ecological enhancement measures to be secured by planning condition. This requirement would be replicated on any planning permission and would include for the provision of detailed habitat and aftercare plans for the site.

Subject to securing these provisions, it is considered that the scheme would have an acceptable impact on landscape and nature conservation interests and would accords with policies 12, 14 and 17 of CRWLP, and policies GR1, GR2, GR5, NR1, NR4 and NR5 of CBLP, along with the approach of PPS10 and NPPF.

### **Impact on Local Amenity and Highways**

Concerns have been raised by a local resident over the use of the site for recreational open space and provision of an informal car park in this location due to the additional traffic generated and potential for an increase in anti-social behaviour and fly tipping. These issues were previously deemed acceptable by Strategic Planning Board and no amendments have been made to the previous scheme with this application.

The scheme will bring the land back into use and will therefore increase the amount of informal surveillance in the area. New Paladin fencing has been installed which will act as a deterrent to any trespassers and fly-tipping. The informal car park which has been created on the former construction compound will remain locked unless in use by the Land Trust and would be open on an infrequent basis by invitation only; primarily for small minibus parties subject to agreement with the Land Trust. The car park is only large enough to allow a minibus to enter, turn around and exit in a forward gear and does not have any formal designated spaces. It is noted that neither the Highways Officer nor Environmental Health Officer raised any concerns over impacts on local amenity or the local highway network arising from the long term use of the site by the Land Trust in the assessment of the previous application. As such, it is considered that the scheme would not have an unacceptable impact on local amenity or the local highway network and would accord with policies 12 and 28 of CRWLP; policies GR1, GR6, and GR18 of CBLP along with the provisions of PPS10 and NPPF.

### **Conclusion**

Whilst the Council cannot endorse the unauthorised works which have been carried out at this site, the works undertaken reflect the scheme which was previously approved under 12/1799C albeit this permission is now invalid. For the reasons given above and subject to

compliance with the recommended conditions, it is considered that this development, which is the subject of this application, is acceptable and in accordance with the relevant local plan policies and the provisions of the PPS10.

**RECOMMENDED:**

**That the application be APPROVED subject to the following:**

- 1. Standard conditions**
- 2. Entrance gate to remain locked aside from when in use by visiting parties**
- 3. No external lighting**
- 4. Retention of defensive planting fencing**
- 5. Submission of final landscape/nature conservation enhancement scheme.**



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