

**VARIATION OF CONDITION 12 OF PLANNING PERMISSION F/02003/12/CW TO REMOVE WHEEL WASH FACILITIES AT THE FCC LANDFILL SITE, HUNDRED ROAD, MARCH, PE15 8QN**

**APPLICANT: FCC ENVIRONMENT (UK) LIMITED**  
**LPA REF: F/2009/14/CW**

*To:* **Planning Committee**

*Date:* **26 February 2015**

*From:* **Head of Growth & Economy**

*Electoral division(s):* **March North**

*Purpose:* **To consider the above planning application**

*Recommendation:* **It is recommended that the application for the variation of condition 12 of planning permission F/02003/12/CW be refused.**

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## 1.0 THE SITE AND PLANNING HISTORY

- 1.1 March landfill site is operated by Anti-Waste Limited, a wholly-owned subsidiary of FCC Environment (UK) Limited. The site is located approximately 2km north of the centre of the town of March.
- 1.2 The site is bounded to the north by agricultural fields and to the east by Hundred Road, with Network Rail's track materials recycling centre (the former Whitemoor Marshalling Yard) located on the eastern side of the road. March Trading Estate is situated to the south and southwest of the site. The nearest residential properties are located about 350m south of the site boundary, along Hundred Road and Norwood Road. Whitemoor Prison is situated about 500m north of the landfill site, at the northern end of Hundred Road.
- 1.3 Access to the site is via Hundred Road. March Household Waste Recycling Centre occupies the south eastern corner of the landfill site and is also accessed from Hundred Road via a separate access.
- 1.4 In June 1978, planning permission (ref. F/00139/78/CW) was granted for landfilling and restoration to agricultural use. The site was subsequently extended to the south (ref. F/00174/90/CW, granted June 1991) and later to the north (ref. F/00816/95/CW, granted August 1996).
- 1.5 In July 2002, planning permissions F/00152/01/CW and F/00153/01/CW were granted, extending the time period for landfilling operations to 31 December 2012. On 1 March 2013, planning permission ref. F/02003/12/CW further extended the time period for landfilling operations and the completion of site restoration to 31 December 2024.

## 2.0 THE PROPOSED DEVELOPMENT

- 2.1 This application seeks to vary condition 12 of planning permission F/02003/12/CW to remove the requirement to maintain a wheel wash facility on site. This condition states:

*“Unless otherwise agreed in writing with the Waste Planning Authority the wheel washing facilities illustrated on plan reference 652A075 shall be maintained to the satisfaction of the Waste Planning Authority.*

**Reason:** *In the interest of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (2011).”*

- 2.2 The applicant proposes to vary this condition as follows:

*“A scheme for the effective management and prevention of mud and dust being carried onto the public highway and for the effective control of dust emissions from the site shall be submitted to the Planning Authority for approval.”*

- 2.3 The wheel wash was originally installed on the haul road in Phase 1, approximately 120 metres from the weighbridge and the site office. However, the applicant explains in its supporting planning statement that due to the phasing of operations, landfilling is now taking place in Phase 1 and the wheel wash has been removed. The applicant does not propose to replace the wheel wash as it considers there is no space available in which to relocate it. Instead the applicant seeks to use alternative measures to ensure mud, dirt and dust do not cause a nuisance and maintain highway safety.
- 2.4 The site currently has management procedures for the control of mud, dirt and dust which form part of the site's ISO 14001-accredited Integrated Management System. The procedures are designed to prevent the mud, dirt and dust from the landfill site being transported onto the public highway. A copy of the procedures which will form the scheme for the effective management of mud dirt and dust has been submitted as an appendix to the supporting statement for the current application.
- 2.5 The procedure explains that the site manager is responsible for ensuring the nuisance and hazards arising from the landfill due to dirt, mud and dust are minimised and that daily inspections take place to ensure the continued effectiveness of the control measures.

#### Dirt and Mud Management/Monitoring

- 2.6 The procedures for dirt/mud management and monitoring highlight that as vehicles have to travel across temporary unsurfaced roads to gain access to operational areas of the site there is potential for dirt and mud to be exported on to surrounding highways.
- 2.7 In the event that mud and dirt is found to be transported onto the public highway network the management procedures outline the following action plan:
- Investigations will be made as to the cause of the problems;
  - action will be prioritised according to the meteorological conditions and location of sensitive receptors;
  - a tractor and brush will sweep the road; and
  - if appropriate, a road sweeper will be hired to sweep the access road and surrounding highway within 24 hours of notification of the problem.

- 2.8 The management procedure requires the site operator to keep a daily record relating to the management and monitoring of mud and dirt, which includes
- the results of inspection and monitoring carried out by site personnel;
  - the date, time, duration and cause of any problem;
  - details of any complaints received;
  - details of the corrective action taken and subsequent changes to operational procedures; and
  - an evaluation of the effectiveness of the techniques used.

#### Particulate Matter (Dust) Management/Monitoring

- 2.9 In relation to particulate matter (dust) management and monitoring, the procedures highlight a number of measures which are to be used to minimise nuisances and hazards from dust. These include limiting vehicle speeds on site, the sweeping of access roads and sheeting of vehicles.
- 2.10 The dust monitoring procedures require the site operator to use the Meteorological Office weather forecast to predict weather that may give rise to high levels of dust and to undertake visual and quantitative monitoring to ensure appropriate measures are in place to manage dust.
- 2.11 Furthermore, the site operator is required to keep a record relating to the management and monitoring of dust, which shall include:
- a record of all dust events including their date, time and cause;
  - a record of all complaints; and
  - details of the corrective action taken and subsequent changes to operational procedures.

### **3.0 CONSULTATIONS**

- 3.1 Fenland District Council: Has no objections to the proposal.
- 3.2 March Town Council: Recommends the application be approved.
- 3.3 CCC Highways Development Management: Has no highway objections in principle to the removal of the wheel wash facilities. The replacement methods appear robust enough to deal with mud and detritus that gets deposited onto the public highway from the site. Discussions with the Local Highways Officer have not identified any historic problems relating to mud from the landfill site migrating onto the public highway.
- 3.4 The application was advertised by means of a notice near the application site and by an advert in the Fenland Citizen on 5 November 2014. No individual representations have been received.

## 4.0 PLANNING POLICY

- 4.1 Government planning policy is set out in the National Planning Policy Framework (NPPF). Paragraph 11 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, whilst paragraph 14 sets out a presumption in favour of sustainable development.
- 4.2 Specific Planning Policy for Waste was issued by the Government in October 2014 and provides guidance (sections 7 and 8) on the determination of waste development applications. The guidance advises that, when determining waste applications, waste planning authorities should:
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the document, and
  - ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.
- 4.3 The Development Plan in this instance comprises the adopted Cambridgeshire and Peterborough Minerals and Waste Development Plan (Core Strategy and Site Specific Proposals Plan) (adopted July 2011) and the Fenland Local Plan (adopted May 2014).

### Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy DPD

- 4.4 **Policy CS2** – *Strategic vision and objectives for sustainable waste management development* aims to protect the natural, built and historic environment of Cambridgeshire and Peterborough, with increased emphasis on operational practices which contribute towards addressing climate change, and which minimise the impact of such developments on local communities. This is supported by the Strategic Objective to safeguard the residential amenity of new and existing communities in Cambridgeshire and Peterborough.
- 4.5 **Policy CS24** – *Design of sustainable minerals and waste management facilities* states that proposals for minerals and waste management development will be required to achieve a high standard in their design and mitigation of environmental impacts including climate change.
- 4.6 **Policy CS32** – *Traffic and Highways* states that proposals for minerals and waste development will only be permitted where it is demonstrated that the site access and the highway network serving the site are suitable or could be made suitable and able to accommodate any increase in traffic and/or the nature of the traffic associated with the development; and that any associated increase in traffic or highway improvements would not cause unacceptable harm to the environment, road safety or residential amenity.

- 4.7 **Policy CS34** – *Protecting surrounding uses* states that minerals and waste management development will only be permitted where it can be demonstrated that there would be no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss to residential or other amenities. In appropriate circumstances, mitigation measures will be required.

#### Fenland Local Plan

- 4.8 **Policy LP16** of the Fenland Local Plan requires proposals for new development to demonstrate that they meet a number of criteria, including that any existing or proposed risks from sources of noise, emissions, pollution, contamination, odour and dust, vibration, landfill gas and protects from water body deterioration are identified, managed and mitigated against.

### **5.0 LAND USE PLANNING CONSIDERATIONS**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

#### National Planning Policy Framework

- 5.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how they are expected to be applied. The NPPF is a material planning consideration in planning decisions, which establishes a presumption in favour of sustainable development as a key principle.
- 5.3 At paragraph 12, the NPPF states that proposed development that conflicts with an up-to-date development plan should be refused unless other material considerations indicate otherwise.
- 5.4 Paragraph 14 explains that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless
- any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
  - specific policies in the NPPF indicate development should be restricted.

## National Planning Policy for Waste

- 5.5 On 16 October 2014 the Government published the updated National Planning Policy for Waste. This policy replaced PPS10 *Planning for Sustainable Waste Management* (2011).
- 5.6 The policy maintains the core principles of PPS10 for a 'plan led' approach, by focusing on moving away from traditional landfill towards more sustainable options for waste management. It provides a robust national planning policy framework to enable waste planning authorities, working collaboratively, to consider through their local plans what sort of waste facilities are needed and where they should go to meet waste needs.
- 5.7 This principle is also found in policy CS2 of the Cambridgeshire and Peterborough Minerals and Waste Development Plan. The principle of a landfill site in this location has been established through the planning history and long term use of the site for landfilling operations. The impacts of the proposed removal of the requirement to maintain wheelwash facilities therefore need to be considered in the context of development plan policies.
- 5.8 Policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Development Plan states that development will only be permitted where the access and highway network serving the site are suitable or could be made suitable for any increase in traffic and/or the nature of traffic associated with the development and any associated increase in traffic will not cause unacceptable harm to the environment, road safety or residential amenity.
- 5.9 The Minerals and Waste Development Plan recognises that there are various measures which can be taken, and may be sought, to address the main problems associated with mineral and waste operations related traffic, which include mud, dust and the spillage of materials. It specifically references the installation of wheel cleaning facilities amongst the measures to limit adverse effects. In this case, the removal of the wheel wash from the site has directly resulted in an increase in mud and debris being deposited on the public highway and is therefore contrary to Policy CS32 of the Minerals and Waste Development Plan.
- 5.10 Condition 12 of planning permission F/02003/12/CW imposed a requirement for wheel washing facilities to be maintained on site in order to ensure that no adverse highway safety impact arises due to landfilling operations.
- 5.11 Routine monitoring visits<sup>1</sup> undertaken by the County Council's Enforcement and Monitoring team to check the landfill site's

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<sup>1</sup> Chargeable site visits are made under *The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012*

compliance with planning conditions have identified long standing non-compliance issues in relation to the provision of wheel washing facilities at the site. Photographic evidence taken during several site visits in 2013, 2014 and 2015 also shows that vehicles leaving the site cause mud and dirt being deposited on the public highway near the site entrance.

- 5.12 At a site visit on 4 April 2013 the operator of the landfill site stated that it is intended to remove the wheelwash in order to repair it and return the system to a fully operational status.
- 5.13 During a monitoring visit on 15 August 2014, County Council officers noted that the wheelwash had been removed. The operator advised that landfilling operations on the site had moved into a phase of the site where the wheelwash had previously been located, leaving insufficient space between the active landfill cell and the weighbridge for the wheelwash to be relocated there. As a consequence, officers noted that the internal haul road leading up to the main site access was not being properly cleaned and that vehicles were tracking mud, dust and debris onto the site access, entrance and onto sections of Hundred Road (which is a public highway).
- 5.14 Prior to its removal the wheelwash facility had not been fully operational for some time and the Waste Planning Authority had sought written confirmation from the site operator that it would be repaired and maintained regularly. However, this has not been forthcoming.
- 5.15 The operator had also been advised by the Waste Planning Authority that the internal haul road from the wheel wash facility to the site entrance and the adjoining public highway should be kept clear of mud and debris. Previous site monitoring visits had identified that a tractor which was being used to sweep Hundred Road and the site entrance was not effective in clearing mud and debris off the highway.

The proposed replacement condition

- 5.16 The applicant is not proposing to delete condition 12 of planning permission F/02003/12/CW without substitution. Instead of a specific requirement to maintain and use a wheel wash, the applicant proposes a replacement condition which requires a scheme for the effective management and prevention of mud and dust being carried onto the public highway and for the effective control of dust emissions from the site to be submitted to the Planning Authority for approval.
- 5.17 It should be noted that the proposed replacement condition only requires the *submission for approval* of a mud and dust management scheme, but not its subsequent implementation.



- 5.18 A copy of the proposed scheme has been submitted with the planning application. The scheme appears to be mainly reactive in that it relies on measures to deal with problems after they have occurred (e.g. road sweepers being deployed within 24 hours of the site manager being notified of a problem), whereas the correct operation of a wheelwash, as required by the condition which the applicant seeks to vary, would help prevent mud and dirt being deposited on the public highway in the first place.
- 5.19 The applicant advises that the management scheme is already in operation as part of the site's Integrated Management System. However, recent site monitoring visits have found that the current management regime at the site does not appear to be sufficient to prevent the deposition of mud on the highway. It is therefore considered that the proposed mud and dust management scheme would not be sufficient to control the environmental effects of the site in terms of dust and mud.

#### Response from the Highway Authority

- 5.20 Whilst the Highway Authority has not objected to the principle of the removal of the wheel wash facilities, its consultation response focuses on the proposed variation of the condition and the proposed dust and mud management scheme. The Highway Authority's main interest is whether or not the proposed measures would be adequate to deal with mud on the highway and whether the measures employed would be effective in removing this hazard. However, the Waste Planning Authority is taking a wider view and has to consider the proposed replacement condition in the context of that which it replaces.

#### Assessment of necessity and reasonableness of condition 12 it is proposed to remove

- 5.21 Planning Guidance issued by the Government states that planning conditions have to meet six tests, including the tests of necessity and reasonableness. In relation to the test of necessity, the key question when imposing a planning condition is: *"Will it be appropriate to refuse planning permission without the requirements imposed by this condition?"*
- 5.22 As detailed above, whilst management procedures for the control of mud, dirt and dust are in place as part of the site's integrated management system, checks carried out during site monitoring visits have found that these procedures are either not effective or are not applied properly. This matter is to be followed up as part of the ongoing site monitoring regime. The condition which is requested to be varied was imposed on grounds of highway safety. Whilst there has been no objection on highway safety grounds, it is considered that the removal of the condition would lead to the present situation to continue and that the condition therefore does meet the test of necessity.

- 5.23 In relation to the test of reasonableness, Planning Guidance states that the key consideration is whether the imposition of a planning condition would place unjustifiable and disproportionate burdens on an applicant. The requirement for wheel cleaning facilities to be in place and operational is a standard requirement on most modern planning permissions for waste and mineral sites where vehicles that use the public highway also cross unsurfaced haul roads. It is therefore considered that the requirement to maintain a wheelwash at the site would not be disproportionate and would meet the test of reasonableness.

## **6.0 CONCLUSION**

- 6.1 It is considered that the proposed removal of the requirement to maintain wheel washing facilities on the site would result in the continuation of an adverse impact on the environment, as mud and debris would continue to be deposited on the public highway, and that, based on the results of recent site monitoring visits, the proposed replacement condition would not be sufficient to control and prevent the deposition of mud on the highway for the following reasons:

- The proposed replacement condition is reactive in nature and attempts to deal with mud and dirt on the highway as and when a problem arises, rather than attempting to prevent the deposit of mud and dirt on the highway in the first place.
- The intention of the original condition is to prevent mud and dirt on the highway becoming a safety hazard. The proposed replacement condition would not achieve this.
- Photographic evidence has been gathered during a number of site visits since the wheel wash has been taken out of service, showing that the mud and dust management scheme currently in operation is not working sufficiently well to ensure that the public highway is kept clean.

## **7.0 RECOMMENDATION**

- 7.1 It is recommended that planning permission be refused for the following reason:

*The proposed variation of condition 12 of planning permission F/02003/12/CW to remove the requirement to maintain wheel cleaning facilities and its proposed replacement with a condition requiring a scheme for the effective management of dirt and mud to be submitted would not offer sufficient means to prevent the deposition of mud and debris on the public highway, thereby causing unacceptable harm to the environment and road safety, contrary to planning policies CS24, CS32 and CS34 of the Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy DPD and policy LP16 of the Fenland Local Plan.*

Source Documents	Location
Planning application file F/2009/14/CW Planning permission file F/02003/12/CW	<a href="http://planning.cambridgeshire.gov.uk/swift/apas/run/wphappcriteria.display">http://planning.cambridgeshire.gov.uk/swift/apas/run/wphappcriteria.display</a>