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LIMITED

MBA/jts/WCC-03

16 October 2005

K Robinson Esq
Chief Executive
Wiltshire County Council
County Hall
TROWBRIDGE
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Dear Sir

**Re: Planning Application No. S.05.8012
Brickworth Quarry, Whiteparish**

An application under Section 73 of the Town and Country Planning Act 1990 in respect of the above site was considered by your Regulatory Committee, on 5th October 2005. This application sought a number of modifications to selected conditions of the existing planning permission, which can be summarised as follows: -

- a) An increase in permitted mineral output rate from 100k to 150k tonnes/annum.
- b) A change in the sequence of working the mineral.
- c) Commencement of extraction in Phase 3 prior to completion of reinstatement of Phase 1.
- d) Agreement to the principles by which a pre-settlement restoration landform can be defined, and
- e) Changes to the timing of submission of an aftercare scheme for restoration of the site.

The background to the proposals, the consultation responses and the Mineral Planning Authority's assessment of their merits, are very well set out in the Report to Committee of your Officer Mr Jason Day. The recommendation of the Report was that, with the exception of the question of the pre-settlement landform, all of the other aspects of the application should be approved. Given the relatively uncontroversial nature of the proposals both we and our clients, Cleansing Service Group Ltd (CSG), were very surprised and disappointed when the Committee voted 6-4 against the Officers recommendations.

More importantly, we have grave concerns regarding the method by which the Committee appeared to arrive at its decision. One of my staff was present at the Meeting and we therefore have the benefit of notes outlining the discussion and exchanges which took place during the consideration of this matter. Our concerns can be summarised as follows: -

1. Members proceeded directly from discussion of the matter to a vote, without any consideration of specific planning reasons why the proposals should be refused.
2. In discussion Members failed to take full account of the facts of the matter as set out in the report of Mr Day and the responses to questions from Members as presented by your Officer Mr David Rose.

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On the basis of the above, it is our view and the view of our clients that the Committee's decision on this matter on 5th October 2-5 is unsound. We are seeking legal opinion on the potential for judicial review of the Members decision and it will also be our client's intention to appeal the decision to the Secretary of State with an application for full costs. In these circumstances we would urge you to consider carefully whether the Committee's decision should be allowed to stand or whether, in order to show that due process has been followed, the matter should be subject to further consideration prior to final determination.

In order to assist yourself and your colleagues, I set out below some further information which I hope will amplify and clarify certain aspects of the proposals and the consequences of their refusal.

Why do CSG need to increase the permitted rate of mineral extraction and what are the consequences of no increase being granted?

Whilst CSG is predominantly a waste management business, the firm has developed a locally significant minerals business. For many years this was based at the nearby Pound Bottom site, near Redlynch, until these reserves were finally exhausted in 2002. Having negotiated an operating licence with The Trafalgar Estate, CSG were able to continue to supply sand to their established customer base from the permitted reserves at Brickworth Quarry. Whilst there were a number of suppliers of soft sand in the S Wiltshire/SW Hampshire/E Dorset market area, many of these have now closed.

The construction industry, like most business activities, is subject to cyclical trends. The proposals accompanying the original Drinkwater Sabey planning permission at Brickworth were predicated upon the assumption that the quarry would output very close to 100,000 tonnes every year for the anticipated life of the site. In practice, as a result of the reduction in the number of sources of supply of soft sand in the region it became clear to CSG, within a year of opening, that there was a local demand for more than the permitted output. A higher output rate may have the consequence that the reserve is consumed faster than anticipated by the current permission. However, given the cyclical nature of demand from the construction industry, the opportunity to meet higher demand when it exists would allow the site to achieve a timescale for working the available reserves which is consistent with, or sooner than, the expectations of local people.

If at some future time there is a downturn in demand for soft sand in the region, then it is possible that annual output from the site may fall below the 100,000 tonne level, making it impossible for the site to achieve the timescale expected for the working of the identified reserves.

Why do CSG need to change the sequence of working mineral at the site and what are the consequences of no change being granted?

There are two main problems which would be created by this decision. The first, immediate, problem is that if CSG are not permitted to commence soil stripping in Phase 3 very shortly then it is likely that the limited reserves remaining in Phase 1 will be exhausted before the start of the 2006 earthmoving "season", ie the period of the year within which soils can be handled without risk of damage to their structure. If this occurs, the extraction operation will have to stop, leading to staff lay-offs until such time as the operation can re-start, as well as significant costs associated with the fixed elements of the operation, such as rent, plant lease costs etc. For guidance, I am advised by CSG that these fixed costs equate to approximately £32,000 per month. Further, such a stoppage would create a loss of continuity of supply from this outlet and the risk that established customers may go

elsewhere for an unknown period of time. This could significantly delay the time taken to re-establish output to a rate consistent with the expected completion date.

The second problem, as noted in the Officer's Report, is the fact that the current sequence of working is a legacy of the original proposals which envisaged access to the site from the south. Phase 2 already houses the site reception facilities, plant and stockpile areas, therefore the original proposed sequence of working cannot be achieved. In accordance with the approved policies of the Waste Local Plan, and subject to further discussions with your Officers, this area may also become the site of an inert waste recycling facility. It is therefore contrary to logic and good quarrying practice to retain the current sequence.

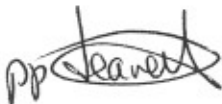
The purpose of the current planning condition which prevents more than two Phases being subject to extraction or infill at any one time, is intended to avoid unnecessary extensive disturbance to land. CSG fully support this principle and do not seek to change it. If no extraction takes place in Phase 2 and working simply moves on to Phase 3, then the principles of the current condition are upheld; only the Phase numbers are changed.

Why has no PPC Permit application for landfill restoration of the mineral void been submitted to the Environment Agency yet?

The Environment Agency's rules for the quantity of information required to accompany a PPC Application are considerably more stringent than those required for a Waste Management Licence under the EPA 1990. Boreholes were drilled around the periphery of the Phase 1 area in order to gather background environmental data in respect of geology, groundwater and soil gas, and this process is now nearing conclusion. Preparation of the documentation in support of the application is well advanced and it is anticipated that submission will be made to the Agency before the end of this year.

I trust that these comments will assist in your deliberations. Please let me know if there is any additional information which you require.

Yours sincerely
For **White Young Green Environmental Limited**



MB ARNOLD
Project Director

cc: - M Johnson – CSG
- G Batten – WCC