

LANDFORD: SECTION 73 APPLICATION
APPLICATION TO DEPOSIT WASTE IN A FORMER SANDPIT WITHOUT
COMPLIANCE WITH CONDITION 2 OF PLANNING PERMISSION S.00.2283 -
THE SANDPIT, GILES LANE, LANDFORD
(Application No. S.03.2469)

Purpose of Report

1. To comment on the application and to recommend that permission be granted to deposit waste in The Sandpit at Giles Lane without compliance with Condition 2 of planning permission S.00.2283 and that the permission be subject to a Section 278 Agreement to cover highway improvements.

The Site

2. The site at Giles Lane, Landford is located close to the boundary with Hampshire and 400 metres from the A36 Salisbury to Southampton Road (see **Appendix 1**). It is a former sandpit for which a time limited permission (31st December 2000) was granted for its infilling with naturally excavated materials to bring the site level to that of the adjoining land (50 metre contour). Once restored the land could possibly be used for the expansion of Giles Lane Industrial Estate subject to planning approval from Salisbury District Council. The site amounts to approximately 0.7 hectares and a detailed layout is shown at **Appendix 2**.

Site History

3. In June 1995 a planning application (S.95.0059) was submitted for the depositing of 23,750 cubic metres of inert waste into the remaining void of the sandpit (0.7 hectares). The Planning and Environment Committee at the time resolved to grant planning permission subject to conditions and to the applicant entering into a legal agreement with the Highway Authority regarding improvements to Giles Lane. The permission was issued on the 29th July 1999.
4. Condition 2, attached to planning permission S.95.0059, stated:-

"Unless otherwise agreed in writing by the County Planning Authority, tipping shall have ceased by 31st December 2000 and restoration completed by 1st July 2001."
5. In November 2000 a further application was submitted (S.00.2283) to vary Condition 2. At the time, the applicant requested that the Condition be varied to allow for tipping to cease by 31st December 2003 and for restoration to be completed by 1st July 2004. The Condition was varied to read as follows:-

"Condition 2 – unless otherwise agreed in writing by the County Planning Authority, tipping shall have ceased by 31st December 2003 and restoration be completed by 1st July 2004."

However, no tipping commenced on the site despite the further extension of time granted.

The Application

6. The current application is to vary Condition 2 again to allow an extended time period to restore the site. According to the applicant, one of the main reasons for site restoration not being commenced and completed within the timescale is the refusal of permission by the Waste Planning Authority for an inert material recycling facility and waste transfer station on an adjacent site which could have provided some material for restoration purposes. However, the applicant is confident that given a further extension of time the site can be fully restored.
7. The applicant is now requesting the Condition be varied again to read as follows:-

“Condition 2 – Unless otherwise agreed in writing by the County Planning Authority, tipping shall have ceased by 31st December 2008 and restoration completed by 1st July 2009.”
8. The applicant is therefore requesting a further 3-4 years to infill the site and six months to complete restoration.

Consultation

9. **Salisbury District Council** – no objection subject to a maximum of a further three years being granted.
10. **Landford Parish Council** – no objection although suggests that only a one-year extension period be allowed.
11. **Test Valley Borough Council** – no objection.
12. **Melchet Park and Plaitford Parish Council** – any further extension should not exceed 12 months and should be final.
13. **Highways Agency** – no objection.
14. **Hampshire County Council** – no objection in principle subject to safeguards regarding the routing of traffic and measures to ensure there is no adverse impact on the River Blackwater.
15. **English Nature** – no objection. (English Nature has raised comments in the past in relation to this area with regard to badgers).
16. **New Forest Committee** – no objection. The Committee would not wish to see any further extensions to the tipping beyond 31st December 2008.
17. **Environment Agency** – no objection to the proposed variation.
18. **Highway Authority** – no objection.
19. **Countryside Section (Ecology)** – recommends that a survey is undertaken by Ecological Consultants prior to determining the planning application, to establish the ecological value of the site. The results of the survey should determine the need for any mitigation. Also, there may be a need for updated badger surveys to be undertaken to confirm the size of the population, location, status of setts and that any proposed mitigation measures are adequate. An ecological survey was commissioned by the applicant to look into the position together with an updated badger survey. The County Council's Ecologist has been consulted and is generally happy with the findings and has suggested further mitigation measures which would be required by condition.

Publicity

20. The application was advertised in the local press, by site notices and by neighbour notification to twelve local residents. Fourteen letters of representation have been received from local residents.
21. The concerns raised in the letters can be summarised as follows:-
- (i) The period for infilling has already been extended twice.
 - (ii) Any opportunity to reduce the traffic in Giles Lane should be taken.
 - (iii) Proposal could continue indefinitely if a restriction is not imposed.
 - (iv) Access along Giles Lane is totally unsuitable for heavy traffic.
 - (v) The site is in a Special Landscape Area, is within the New Forest Heritage Area and is a candidate for National Park Status.
 - (vi) Potential risk of pollution to the River Blackwater.
 - (vii) There is no need for the site as demonstrated by the applicant's failure to fill it.
 - (viii) An unimplemented permission will act as a blight on the area.
 - (ix) State of the road will deteriorate further with additional traffic.
 - (x) Concerns raised about the nature of the material being tipped.
 - (xi) Giles Lane is being used as a dumping ground along the grass verge.
 - (xii) Objection to the length of time being requested.
 - (xiii) Concern regarding managing and policing a site of this size.
 - (xiv) Road is in a poor state of repair and more vehicles are using the road.

Copies of all representations are available in the **Members' Room**.

Planning Policy

22. The relevant planning policies which relate to this application are:-
- MSP
 - MSP3 of the Adopted Wiltshire Structure Plan 2011 which considers the need to restore worked out and mineral workings at the earliest opportunity to enhance the quality of the environment and make them suitable for a beneficial afteruse.
 - Policies 2, 5, 6, and 8 of the Adopted Wiltshire and Swindon Waste Local Plan March 2005 which consider the need to restore derelict land to a beneficial afteruse and the environmental impacts associated with landfilling.
 - Policies 31 and 32 of the Minerals Local Plan are relevant as they consider restoration and afteruse of mineral workings.
 - Policy G7 of the Adopted Salisbury District Local Plan (June 2003) considers Development Restraint Areas and the need to safeguard against the regular occupation of premises in such areas.

These policies are set out in the attached **Appendix 3**.

Planning Considerations

23. The application should be considered in accordance with the Development Plan unless material considerations indicate otherwise.
24. The application being considered relates to a sandpit from which all the sand has been extracted and the issue now is the restoration of the site to a beneficial afteruse. In policy terms, MSP3 of the Adopted Wiltshire Structure Plan 2011 considers the need to restore old mineral workings at the earliest opportunity to a beneficial afteruse appropriate for the location.
25. Difficulty in attracting inert material has led to delays in restoring the site. Reasons for this have been:-
 - (i) High site preparation costs in terms of strict requirements from the Environment Agency in the Waste Management Licence.
 - (ii) Other local inert landfill sites which have been more competitive in attracting inert waste.
 - (iii) Shortage of inert fill locally.
 - (iv) Sporadic availability of inert fill.
26. These reasons are considered to be valid and that in order to secure restoration of the site it would be reasonable to extend the period for infilling once more for a longer duration. This would allow for a lower intensity operation relating to infilling activities. However, it is intended that this would be the last extension granted and would be conditioned accordingly.
27. Because of the inactivity associated with the site in recent years, there has been a need for the applicant to update surveys in relation to badger activity and the ecological value of the site. This has been carried out and is considered at paragraph 36.
28. None of the consultees object to the proposal although there are suggestions for varying completion times from a one year extension to the 2008 deadline requested. The letters of representation received from local residents vary widely in their concerns ranging from the possible blighting of the proposal if it is not restored, to concerns regarding the nature of the material being tipped and possible impact on Giles Lane itself.
29. As the site is currently unrestored, it is considered that benefit will accrue from a genuine intention on behalf of the applicant to restore the site over an extended period. This has to be balanced against the ecological value of the site if it is not restored. Permission has been granted previously for the infilling of the sandpit and in this respect there has been no change in circumstances, other than the difficulty in obtaining the required amount of inert material to restore it fully. Whilst the site remains unrestored there is always the potential for unauthorised tipping to take place. It is therefore considered to be more beneficial to grant a further permission to the applicant who will infill it in a responsible manner after first relocating and/or providing mitigation measures for the impact on flora and fauna on site. Conditions would be imposed and these would be strictly enforced.
30. With regard to the Adopted Wiltshire and Swindon Waste Local Plan (March 2005) Policy 2 of the plan considers the need for waste development and, in this instance, the need to landfill where required for operational or restoration purposes. In the case of Giles Lane Pit, the proposal is to restore the site using inert material so that the land can be used. The proposal is therefore in accordance with Policy 2.

31. Policy 5 considers the need to safeguard existing waste sites. Giles Lane is included as a current non-operational site in Appendix 6 of the Adopted Wiltshire and Swindon Waste Local Plan. It is non-operational due to the current application being processed. However, its inclusion in the plan confirms that it is a site which is subject to plan policies and conforms with such policies.
32. Policy 6 of the Waste Local Plan looks at the need to consider the variety of environmental impacts which can be associated with the type of development proposed. These are considered below:

Noise

33. The sandpit is located immediately adjacent to the Giles Lane Industrial Estate which has a number of manufacturing units on it and open industrial activities. The nearest residential property to the tipping area is some 175 metres away and so it is not envisaged that noise would be a problem.

Dust

34. Although the generation of airborne dust associated with transportation, stockpiling and tipping is possible, this would be tackled by ensuring that haul roads are dampened. A condition currently exists on the permission being varied to cater for this.

Odour

35. Because the materials to be tipped are not of a biodegradable nature (i.e. inert soils and sub-soils) odour would not be a problem.

Ecology

36. It has been mentioned earlier in this report that one of the main reasons for delays occurring in the determination of this application has been the need to carry out ecological surveys at the appropriate time of year to gain further information. The reason for this is that the site has been left undisturbed for long periods with the result that the area has now colonised. A botanical survey and a badger activity and Phase 1 habitat survey were requested and have been undertaken by consultants. The County Ecologist has considered these and suggested the need for conditions to be imposed on any permission granted which would take account of the increased ecological value of the site that has developed due to non-activity. The main areas to be covered in the conditions include the following:
- (i) A mitigation scheme to include details of the location of existing common spotted orchids and common wintergreens together with details of their proposed translocation, protection and management within the site.
 - (ii) Mitigation measures for badgers to be carried out in accordance with details set out in the study undertaken by consultants and submitted as part of the application.
37. In addition to the above, it was suggested that the applicant be requested to consider revising the agreed restoration and landscaping scheme for the site in part to allow for improved biodiversity.

Visual Impact/Landscaping

38. No adverse visual impact is anticipated as a result of the proposed development. The location of the pit adjacent to an industrial estate with access through part of it means that the development would be screened from any public view and can only be seen from within the site.

Pests and Vermin

39. Because the material to be tipped would be inert soils and sub-soils there would be no pests or vermin attracted to the site.

Traffic Generation

40. Although there are no objections on highway grounds to the proposed development due to the low volume of traffic anticipated over a relatively long period of time, an issue which has been raised by a number of local residents is the condition of Giles Lane and the possible impact the proposal would have on it if granted.
41. From the first grant of planning permission there has been an undertaking from the applicant that he will contribute to the improvement of Giles Lane through a Section 278 Highway Agreement. However, because infilling has not formally commenced, no contribution has been made. If permission were granted it would be a requirement that the contribution is paid "up front" prior to commencement. The recommendation would include the requirement for a Section 278 Highway Agreement with the financial payment being revised upwards in line with inflation and current costings.

Effect on the Water Environment

42. A number of residents have raised concern with regard to the potential for pollution of the River Blackwater. The site is currently licensed by the Environment Agency to accept only inert waste. This requirement would be continued if further planning permission is granted for the site. Responsibility for ensuring that no pollution takes place is that of the Environment Agency in consultation with the applicant.

After Use

43. Policies 31 and 32 of the Adopted Wiltshire and Swindon Minerals Local Plan (November 2001) consider the need to restore mineral sites and to ensure that they have an appropriate afteruse. It is possible that part of the Giles Lane site could be restored for use as an extension to the adjoining industrial estate subject to planning permission being granted by the District Council.
44. The Adopted Salisbury District Local Plan (Adopted June 2003) shows the Giles Lane site as falling within a Development Restraint Area (G7) relating to the regular occupation of premises (houses). This policy does not affect the development being applied for in the application.

Conclusions

45. The application must be considered in accordance with Development Plan policies unless material considerations indicate otherwise.

46. The Giles Lane Industrial Site exists as a result of sand extraction which took place many years ago. The sandpit remaining at the southern edge of the site has had the benefit of planning permission which has been extended once since 1995 and the current application would represent the second extension.
47. The original condition attached to the permission was to ensure control over the completion of the operation which, at the time, the applicant envisaged would be an intensive short duration operation. However, as outlined in this report, this short intensive restoration has never occurred. Despite this, the applicant has invested in the site by improving the drainage from the natural springs and has had to undertake Phase 1 ecological and badger surveys, together with a botanical survey, because of the time lapse from the original surveys. The presence of badger setts at the site also influences when operations can commence and reduces the time available for operations.
48. In order to secure the restoration of the site it is considered expedient that a further planning permission be granted in line with a revised extended timescale. However, in order not to prolong the uncertainty about developments at the site it is considered that this would be the last extension granted. Furthermore, there would be a requirement for a financial contribution (as previously) to be made by the applicant immediately upon the granting of the planning permission to improve Giles Lane through a Section 278 Highways Agreement. To grant a reasonable time period would mean a lower intensity of use which would, in turn, mean a reduced impact on local residents who would have the reassurance that this would be the final permission granted for infilling the site. If for any reason the site is not restored in the revised timescale the position would need to be reviewed with a view to restoring at a lower level using the material deposited on site. This would be achieved by condition. In planning terms, the restoration of the site to some beneficial purpose/afteruse accords with Minerals Local Plan policy and should therefore be supported. Due to the delays which have occurred since submission of the application it is proposed to extend the period requested to 2011 to allow five years to complete tipping as originally requested.
49. There are no justifiable planning reasons not to grant a further permission subject to a revised Schedule of Conditions and the revision of the Section 278 Agreement.

Note to Committee

50. Prior to the submission of the application in 1995 by the present applicant to restore the site, the County Council had no involvement in the site whatsoever. The sandpit was worked pre-planning and therefore there are no conditions requiring its restoration. If the current applicant chooses not to restore the site then it would remain as it is at present. However, if he chooses to commence development (assuming planning permission is granted) then activities at the site would come within the control exercised through the planning permission and the attached conditions.

Recommendation

51. That, following revision of the Section 278 Agreement, planning permission be granted subject to the following conditions:-
1. Prior to the commencement of development, the area of infill shall be marked out on site and approved by the Waste Planning Authority.
 2. The tipping shall have ceased by 31st December, 2011 and restoration will be completed by 1st July, 2012.

3. No operations authorised by this permission, including transport of materials from the site, shall take place outside the hours of 0730 hours to 1800 hours Mondays to Fridays, and 0730 hours and 1300 hours Saturdays. No such operations shall take place on Sundays or Public Holidays.
4. Prior to the depositing of waste, wheel cleaning facilities shall be installed in accordance with a specification agreed in writing with the Waste Planning Authority in order to prevent the transfer of mud or detritus onto the public highway.
5. The operator shall provide, implement and maintain suppression measures as may be agreed by the Waste Planning Authority to minimise the emission of dust from the development hereby authorised. Such measures shall include the water spraying of access and haul roads to suppress dust in periods of prolonged dry weather.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking or re-enacting that Order), no building, structure, fixed plant or machinery shall be installed, erected, altered or placed within the site without the prior written agreement of the Waste Planning Authority.
7. The development shall be carried out in accordance with the approved restoration plan RC 8/4a.
8. If by 1st January 2011 it is found that the site is unlikely to be restored in accordance with the scheme set out in Condition 7, a revised scheme shall be submitted for approval within a period of two months detailing proposals to restore the site at a lower level, taking into account the amount of inert material deposited in the void at that time. Restoration shall be carried out in accordance with the revised approved scheme.
9. The number of vehicular movements during a normal working day shall not exceed 68.
10. Prior to the commencement of fill operations, a notice-board of durable material shall be provided at the site access to be clearly visible to all drivers leaving the site to instruct them to leave and approach the site from the A36 only.
11. All vegetation and tipped material below the 50m ordnance datum contour shall be removed from the site prior to the commencement of filling operations. Only naturally excavated materials should be deposited at the base of the landfill operation.
12. Prior to the commencement of the development, licences required under the Badgers Act 1992 shall be submitted to the Waste Planning Authority.
13. The final restored levels should not exceed 50m above ordnance datum.
14. Prior to commencement of development, a Mitigation Scheme for the conservation of common spotted orchids and common wintergreens found on the site shall be submitted to the Waste Planning Authority for approval. The scheme shall include details of location of the existing population, method of protection during works, method and timing of translocation, details of where within the site the orchids will be translocated to and their management and monitoring post translocation.

15. The mitigation measures for badgers set out in the submitted document entitled "Giles Lane Industrial Estate, Plaitford, Survey of Badger Activity and Phase I Habitat Survey (Ecological Planning and Research) June 2004" shall be implemented in full.

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The following unpublished documents have been relied on in the preparation of this Report:

Consultation replies and correspondence