

REGULATORY COMMITTEE

6th FEBRUARY 2002

ALDERBURY: ENFORCEMENT ACTION AGAINST
J. LEECH AND SONS TO REMEDY
A BREACH OF PLANNING CONTROL RELATING
TO PERMISSION NO. S.97.1274 AT
LITTLE RIDGHAMS COPSE

Purpose of Report

1. To inform Members that a Breach of Condition Notice was served on J. Leech and Sons on 15th January 2002 for non-compliance with conditions attached to planning permission S.97.1274.

The Site

2. The site is located within a Special Landscape Area and an Area of Special Archaeological Significance as defined in the emerging replacement Salisbury District Local Plan.
3. A site plan is attached at **Appendix 1**.

Site History

4. In September 1988, planning permission (S.88.0495) was granted for a five-year period for the use of land for the disposal of refuse or waste materials on land south of Little Ridghams Copse, Alderbury. In March 1993, planning permission (S.92.0053) was granted to extend the life of the facility to 30th September 1997. This time limit was then further extended to 30th September 1999 through the grant of planning permission S.97.1274.
5. A copy of planning permission S.97.1274 is attached at **Appendix 2**.

Background

6. The terms of planning permission S.97.1274 dictate that tipping on site had to cease on 30th September 1999, with the completion of restoration by 30th September 2000. To date, the site remains in an unrestored state.
7. J. Leech and Sons (the landowners) were advised, in August 1999, of the position with regard to the life of the permission and invited to apply to modify the terms of Condition No. 6 to allow for the satisfactory completion of works.
8. Application forms were requested and issued on 7th September 1999.

9. Site meetings and discussions with the Environment Agency and the landowners concluded that the site should be restored as soon as possible with the materials currently on site without recourse to further tipping.
10. An application to extend the life of the facility was submitted in September 1999 but was returned due to a fundamental lack of information. The requisite information was not supplied and the application was progressed no further.
11. Further site monitoring throughout 2000 noted no apparent progress being made towards restoring the site. Hence, in November 2000, Leech and Sons were informed of the County Council's intent to initiate formal enforcement proceedings to secure compliance with the terms of the planning permission.
12. In December 2000, Leech and Sons applied for a time extension to allow for the completion of restoration works. Legally this application could not be progressed because the permission to which it related (S.97.1274) had expired.
13. Further discussions with the Environment Agency resulted in this Authority again writing (November 2001) to Leech and Sons requiring the submission of restoration proposals. No information was received and hence the decision was taken to initiate enforcement proceedings.
14. The Solicitor to the County Council was consulted on the use of delegated powers for enforcement and, as a result, a Breach of Condition Notice ("the Notice") was issued and served on 15th January 2002.
15. The Notice requires the landowners to comply with the terms of Conditions 2(b), 5, 6 and 7 of planning permission S.97.1274 and thereby secure the satisfactory restoration of the site. The timescales set for completion of works on site are considered to be reasonable. A copy of the Notice is attached at **Appendix 3**.
16. Under the terms and conditions of the Courts Act 1980, Section 127(1), a Breach of Condition Notice is valid for six months. Therefore, if at any time within the six months following the expiration of the compliance period(s) the conditions specified in the Notice are not complied with, Leech and Sons will be held in breach of the Notice, which constitutes a criminal offence (Planning and Compensation Act 1991, c.34, 87AA(8)). Unless the company can prove that failure to comply occurred despite taking all reasonable steps, it will be liable, on conviction, to a fine of £1,000.

Conclusions: Options Considered

17. J. Leech and Sons have benefited from successive planning permissions for waste disposal since 1988. The most recent of these permissions (S.97.1274) has now time expired. However, the company remains bound by the terms of that permission in respect of conditions relating to the restoration and afteruse of the site. To date the site remains unrestored, which, it is considered, constitutes a breach of planning control.
18. All reasonable efforts to secure the satisfactory restoration of the site have failed, leaving the Authority with no other option but to use its powers of enforcement.

19. The Breach of Condition Notice served on J. Leech and Sons on 15th January 2002 requires the restoration of the site in accordance with the terms of planning permission S.97.1274. The timescales set within the Notice for completion of works are considered reasonable and achievable in the context of the current conditions on site.
20. The Environment Agency has repeatedly expressed concerns with regard to the lack of restoration on site but is powerless in this instance to enforce the terms of the site's Waste Management Licence. The Agency therefore supports the County Council's efforts to enforce the conditions of the planning permission.

Recommendation

21. That the contents of this report be noted and the decision to undertake formal enforcement proceedings against J. Leech and Sons be endorsed to ensure compliance with conditions attached to planning permission S.97.1274 and thereby secure the satisfactory and expedient restoration of landfill at Little Ridghams Copse, Alderbury.

Reason for Recommendation

22. As set out above and to ensure Members are kept fully informed of the action taken by Officers.

RICHARD J. LANDER

Director of Environmental Services

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

None.

Environmental impact of the Recommendations contained in this Report:

The decision to undertake enforcement proceedings against J. Leech and Sons has been taken to secure the restoration of a former landfill facility within a reasonable timescale.