

Planning Application by Biffa Waste Services Ltd

Application Number: 2011/1088/02

County Council Identity Number: 2011/C472/02

Details: Application for an Energy Recovery Facility and ancillary facilities

Submission to Public Consultation

RESTORATION CONDITIONS

Shepshed Against Incinerator Group (SAIG) 13th June 2011

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4. Restoration Conditions

4.1 Planning History

Planning permission to quarry Newhurst and Longcliffe Quarries was granted in 1947 and subsequent permissions were granted through the 1950's, 1960's and 1970's to extend the quarry to the east of the M1 motorway. The planning permissions for quarrying at the site have been subject to review as required by the Planning and Compensation Act 1991 and the Environment Act 1995 and two separate sets of updated and modernised conditions covering the whole Newhurst and Longcliffe Quarry site were issued by Leicestershire County Council on 8th July 1998. One set under the requirements of the Planning and Compensation Act and the other under the Environment Act. The conditions attached to the two permissions are, however, identical.

Condition No. 1 sets an end date of 21st February 2042 in order to comply with the requirements of the legislation under which the reviews took place, but in practise quarrying operations were suspended in 2007 and we believe further quarrying operations have not taken place since, though we can't be certain.

Conditions attached to the reviewed permissions deal with the restoration and aftercare of the site following the cessation of mineral extraction. Condition No. 30, in particular, requires submission of a restoration scheme to the Director of Planning and Transportation at Leicestershire County Council within 3 months of the cessation of mineral extraction and the implementation of the approved scheme within 2 years of approval.

Final restoration proposals were submitted as part of the review submission. These stated that Newhurst and Longcliffe Quarries would be allowed to flood naturally to create 2 water areas and land currently occupied by plant and equipment would be cleared and returned to a mixture of native grassland and heathland. No specific use was proposed for the water areas or the surrounding heathland and grassland other than its amenity conservation value. The restoration of the land surrounding the quarry voids to grassland and heathland would be in keeping with the site's location within the Charnwood area of the National Forest.

Quarrying permission for the Newhurst and Longcliffe sites came with a restoration condition to return the land to grassland and heathland in keeping with the site's location within the National Forest. Therefore the site is technically classed as a greenfield site and any assessment of proposals for further development should be made against the restored site. Leicestershire County Council has failed to do this.

Mineral extraction ceased in 2007 and although a restoration scheme was submitted it has not yet been implemented despite 4 years having elapsed compared with 2 years allowed under the planning conditions. Leicestershire County Council appears to have done nothing to enforce this condition.

In January 1999 Hanson Waste Management submitted a planning application for the development of an Integrated Waste Management Facility (IWMF) comprising restoration of Newhurst Quarry by controlled landfilling, a materials recovery facility

with in-vessel composting of household waste, a green waste composting scheme and a landfill gas utilisation plant at the site. In February 2001 Hanson's Waste Management interests were sold to Waste Recycling Group Ltd.

The IWMF planning application was considered by the Development Control and Regulatory Board at its meeting on 18th April 2002 when it was resolved to grant planning permission subject to the completion of a legal agreement and the imposition of 62 planning conditions. No decision notice was issued, although a legal agreement covering the following matters was signed on 26th November 2002:

- Suspension of quarrying activities following commencement of waste disposal;
- Suspension of processing, sale and exportation of stone;
- Completion of existing restoration requirements within 2 years of commencement;
- Provision of an improved site access;
- Restriction of waste types;
- Requirement for Bird Management Scheme
- Establishment and operation of a Restoration Management Scheme;
- Provision of public access to restored areas and non-operational areas;
- Continued participation in Liaison Committee;
- The restriction of blast frequency, times, vibration levels and the imposition of a requirement to monitor blasting.

Subsequently events were overtaken by the Landfill (England and Wales) Regulation which gave effect to the EU Landfill Directive on 15 June 2002. The planning application did not comply with the new regulations and so the County Council wrote to WRG on 9th January 2004 explaining that in order to progress the planning application to determination and avoid foreseeable risk of challenge, it would be necessary for WRG to submit an amendment to the planning application clearly setting out the revisions to the landfill development proposed and any other revisions to the planning application consequent to that. It was also explained that the amended application would need to be supported by an appropriate Environmental Statement.

No revised application or Environmental Statement was submitted and WRG formally withdrew the planning application on 7th November 2005.

4.2 Landfill Permission

Biffa Waste Services Ltd secured an interest in the site and submitted a planning application on 25th June 2007 for development of an IWMF and landfill operations. This was approved on 13th February 2009 with Conditions on Restoration as follows:

46. No landfilling of waste within Phase 6 as shown on Figure 4.10 (dated 10/04/07) shall take place until a detailed scheme for the restoration, landscaping and planting of the whole site covering both Newhurst and Longcliffe Quarries has been agreed in writing with the Director of Community Services. The scheme shall be based on the restoration concept shown on Figure 4.13 (dated 10/04/07) and described in 4.14 of the ES (Volume 1). The scheme shall include details of:

- The nature and quantities of soils or soil forming materials;
- The methods of soil handling and spreading;
- The cultivation, fertilising, watering, draining or other treatment of the restored land;
- The seeding, planting of trees, shrubs, hedgerows or other vegetation;
- The protection and maintenance of planted stock;
- The provision of public access routes within the site and links to public rights of way;
- Interpretation relating to the restored features and proposed geological trail.

The scheme shall aim to achieve the woodland, heathland, grassland and wetland habitats shown on Figure 4.10 and shall incorporate the objectives of the Habitat Management Plan approved under Condition No. 8 above. The scheme shall set a timescale for the completion of restoration and landscaping in a phased programme including provision for any necessary review. Only native plants of local provenance shall be used. The site shall be restored, landscaped and planted in accordance with the scheme as agreed in writing by the Director of Community Services.

47. Plant or vehicle movements associated with soil replacement operations shall be kept to the minimum necessary to achieve the final restored landform and shall avoid unnecessary crossing or travelling over restored areas.

48. In any part of the site where differential settlement occurs during the restoration and aftercare period the applicant shall fill the depression to the final settlement contour specified with suitable soils or soil forming materials to a specification to be agreed with the Director of Community Services.

49. Unless otherwise agreed in writing by the Waste Planning Authority by 31st December 2032 all buildings, plant, structures, machinery, hardstandings and roads associated with the recycling facilities (other than essential environmental control infrastructure) shall be removed from the site. The site shall then be restored in accordance with the restoration scheme approved under condition No. 46 by 31st December 2034.

51. Following the restoration of any part of the site in accordance with the agreed restoration scheme the restored land shall be treated and managed over a period of 5 years in accordance with an after-care scheme which has previously been agreed in writing by the Director of Community Services. The agreed scheme shall provide a strategy for the 5 year aftercare period and specify the steps that are to be taken in order to bring the newly restored land to the required standard for the approved after-use – having regard to the Habitat Management Plan approved under Condition No. 8 above. Unless otherwise agreed in writing by the Director of Community Services the aftercare scheme shall be submitted within 6 months of the date of approval of the corresponding restoration scheme submitted under Condition No. 46 above.

4.3 Incinerator Application

In the LCC Report of the Chief Executive on 15th October 2010 for the Biffa Incinerator Application restoration of the existing quarry areas is referred to as follows:

356 The extant planning permission would have led to the comprehensive restoration of both Newhurst and Longcliffe Quarries, with Newhurst being restored using MSW landfill with proposals for public access upon completion.

357 The application boundary includes neither quarry void, although the Newhurst Quarry void is included as being under the applicant's control. Therefore, in the event that permission is granted for the ERF, it would be possible to include planning conditions to ensure the restoration of the Newhurst void and the surrounding land. With regard to Longcliffe Quarry, this is not part of the application area and in the event that the extant landfill permission was not considered that the issue of restoring the wider site area to an acceptable standard is achievable using other means and very little weight should be given to this issue.

We challenge the advice given by Leicestershire County Council Officer and contend that significant weight should be given to the requirement to restore the whole of both Newhurst and Longcliffe Quarries to a greenfield site in keeping with their location both within The National Forest and Charnwood Forest Regional Park – as well as being across the road from the historic Garendon Park. Residents have suffered from noise, highways congestion and HGV movements for many years and a promise of restoration of the site remains unfulfilled. LCC Officers should review their advice to the Development Control and Regulatory Board for the following reasons.

1. LCC should enforce the conditions associated with the quarrying permissions for both Newhurst and Longcliffe Quarries before any more developments are allowed on the site. Any assessment of the incinerator proposal should be made against the restored site which is currently technically classed as a greenfield site.
2. The conditions of the landfill permission required that the site shall be restored in accordance with the restoration scheme approved under condition No. 46 by 31st December 2034. It would not be possible to set such a timetable for the incinerator project. In fact no final restoration date could be set at all since the incinerator could continue in operation for perhaps 50 years. This is not acceptable to The National Forest, Charnwood Forest Regional Park authorities or Shepshed, Loughborough or Leicestershire residents.
3. Longcliffe Quarry and much of the Newhurst Quarry would not be restored at all, which again is not acceptable. The Biffa incinerator application only promotes restoration initiatives for approximately 40% of the Newhurst site, with no proposals for the restoration of the wider site or the Longcliffe Quarry site.
4. Leicestershire County Council's 'Vision for the Future' for hard rock quarry restoration in Leicestershire, which includes their use for recreation and nature activities, would not be achievable.

5. The Newhurst Quarry site together with the neighbouring Longcliffe Quarry site provides a unique opportunity for a complete and comprehensive approach to restoration and as such was considered and agreed under the terms of the previous planning consent for the landfill operation. This would have promoted a mix of woodland, heathland, grassland as well as open water uses with considerable recreation potential and a strong focus on achieving wider public access. The incinerator development puts in jeopardy the complete restoration of the two sites.
6. LCC Officers claim that *it would be possible to include planning conditions to ensure the restoration of the Newhurst void and the surrounding land*. Before the DCRB was asked to make a decision on the application they should have been given details of what these planning conditions would include, and particularly the timescale for implementation. We do not believe that Officers can come up with any acceptable restoration scheme for the incinerator project and certainly not within a timescale that would be agreeable to long-suffering residents, The National Forest or Charnwood Forest Regional Park authorities.
7. With regard to Longcliffe Quarry, Officers suggest *the fall back is to the extant mineral permission*. But Officers have not enforced the conditions relating to the extant mineral permission even though we are some 2 years past the deadline. We cannot have any confidence that this condition for restoration will in fact be implemented and since work would have to be done whilst the incinerator is being constructed and operated the practical problems would be substantial.
8. We cannot comprehend how Officers could advise that *very little weight should be given to this issue*. The restoration conditions will seriously affect residents, TNF and Charnwood Forest for the next 50 years and we are surprised how little consideration has been given to this by Leicestershire County Council Officers.

Officers should withdraw their advice on 'Restoration of the existing quarry areas' as included on page 74 of the Report of the Chief Executive. They should give a full explanation of how restoration would be possible and on what timescale. Officers should also explain why existing conditions have not been enforced.