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Your Ref: 10/05199/EFUL
Our Ref: APP/F0114/A/13/2195706
Date: 14 August 2013

Dear Ms Clarke

**Town and Country Planning Act 1990
Appeal by Mr Larry Edmunds
Site at Stowey Quarry, Stowey Road , Stowey**

The Inspector has had sight of the following documents:

- Letter dated 25 July 2013 from Oaktree Environmental Ltd to the Environment Agency (EA).
- EA reply dated 6 August.
- Letter dated 6 August from Oaktree to PINS.
- Response to PINS email of 7 August dated 12 August from Richard Buxton enclosing letter dated 9 August to the Council from Stowey Sutton Action Group (SSAG).
- Response to PINS email of 7 August dated 13 August from the Council.
- Main and Rule 6 Parties' Statements of Case.
- Some Main and Rule 6 Parties' proofs of evidence (hard copies not yet available to him so he has not yet had the opportunity to review these in depth).

The Inspector has not interpreted the Oaktree letter dated 6 August as a formal request to vary the nature of the application for which planning permission is sought by way of this appeal. It simply sets out the nature of the discussions with the EA and records that the EA has now been given confirmation that the unacceptable waste types will be withdrawn from the proposal.

He notes also that the inclusion of the Hydrogeological Risk Assessment as Appendix C to the Watermill proof appears to be the first time this document has been made available to anyone other than the EA. Unless the Inspector has misunderstood section 3 of Mr Harper's proof, it appears that his expert opinion is that the site remains capable of being engineered to accept the range of wastes applied for including stable non-reactive hazardous waste (SNRHW).

The Inspector agrees with the Council that the *Wheatcroft* principles will guide his decision as to the way he should proceed. As he understands the Council's letter of 13 August it has not expressed a view on this either way; it merely says how it will react if a certain decision is taken. However, SSAG objects to the appellant's '...attempt...to amend the application at this very late stage.'

The Inspector therefore intends to hear submissions from each party after formally opening the Inquiry. In particular he will wish to understand:

- The position of Bristol Water. His current understanding is that the Company is being called as part of the Council's case but the Council's 13 August letter suggests this may not be correct.
- Whether the appellant will wish to pursue an appeal on the basis of the submitted application if, having heard the submissions, that is the Inspector's decision.
- Whether, on the other hand, SSAG will be in a position to proceed if he decides to accept the proposed amendment to the submitted application. If not, why not and how would their case be prejudiced?
- Whether there is any relevant case law that he should take into account given that the development proposed that he is now being invited to determine would be different to that for which the Environmental Statement was prepared.

Having heard submissions, he will adjourn for a short period to determine the basis on which the Inquiry will proceed.

The parties are asked to consider whether the 3 days allocated for this Inquiry are likely to be sufficient. Potentially, there appear to be 15 witnesses to hear from plus what will be opening and closing submissions in addition to those mentioned above. While the site inspection can take place the following week, the parties are asked to note that the Inspector is not available on Friday 6 September.

Once he has given detailed consideration of the evidence it is the Inspector's current intention to issue a pre-Inquiry note outlining the matters about which he will wish to be clear from the evidence and submissions at the Inquiry. The appellant will be aware that where an appeal is lodged the effect is as if the application was made to the Secretary of State in the first instance. The Inspector notes the way the appellant has chosen to deal with the matters raised by SSAG in paragraph 3.19 of the Statement of Case. However and without prejudice to his more detailed reading, the appellant should be aware that those matters are likely to be included among the issues to be taken into account when determining the appeal. The Inspector is not inviting any rebuttal proofs at this late stage but the appellant will need to consider how these matters are to be addressed.

Would the Council please note that this will be the third event that the Inspector has conducted at this venue. In his experience where, as in this case, public interest is likely to be considerable it is vital that microphones are available for each advocate, the witness and the Inspector. He would be very grateful if the Council could have this set up and operating before the Inquiry opens.

Yours sincerely

Michael Joyce

211B(BPR)

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<http://www.pcs.planningportal.gov.uk/pcsportal/casearch.asp>

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