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Your Ref: 10/05199/EFUL
Our Ref: APP/F0114/A/13/2195706
Date: 1 October 2013

Dear Ms Clarke

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

During the adjournment the Inspector has considered the evidence that has been heard to date. He would however be grateful if the advocates could address the following matters in their closing remarks.

1. All of the development plans relevant to this Inquiry were adopted prior to the publication of the National Planning Policy Framework. Paragraph 215 of that now applies. To what extent are the adopted policies consistent with the Framework?
2. Paras 8.11 and 8.12 of the Companion Guide to PPS10 contain the same requirements as paras 2.2 and 5.2.3 of what has been called the EA landfill location guidance which is at Appendix 3 of Mrs Keenan's proof. However, both these documents pre-date the Environmental Permitting Regulations of 2010, as subsequently amended, which he understands to revoke the 2002 Landfill Regulations. Guidance is sought therefore as to whether he is still bound by the previous requirements. This also impacts upon the request for guidance on the detail required to make the planning decision. How much is required now and how much can reasonably be deferred to permitting?
3. The above Appendix to Mrs Keenan's proof also says that the EA is not bound to issue a permit even if planning permission has been granted. However, the grant of planning permission suggests that the planning authority considers the location to be acceptable. If on the more detailed information provided with the permit application the EA comes to a better view, can the permit be refused for that reason or has it been settled by the planning authority?
4. How then should Mrs Keenan's evidence that, in principle, the proposal is acceptable be interpreted? And given that her remit is restricted to hydrogeological

matters what can be said about the EA view about the dispersion to air of asbestos fibres?

The following may enable more focussed evidence in-chief and cross examination when Mr Harper gives his evidence. As the Inspector understands Mrs Keenan's evidence the EA position now is that there is no objection in principle to the amended proposal that he has agreed to consider subject to the detailed design of the engineered landfill. This would be settled at permitting stage. Dr Boreland's view on this is that whatever design might be permitted by the EA, there is always a risk of failure and at this site the consequences of such a failure are too great for planning permission to be granted. The ES states in section 2.6 that, in effect, landfill design is deferred to the permitting stage as the suitability of the materials on site has not been established. Drawing 2055/126/10 needs to be read in that context and the implied artificial membrane viewed accordingly. The conceptual site model report of 20 April 2011 deals with this at 3.3.3 again implying an artificial geotextile component to the liner. Paragraph 6 (j) of the Addendum CSM Report may or may not add to this. In the Initial Hydrogeological Risk Assessment Report (20 May 2013) the conclusions in section 6 appear to be purely LandSim derived with few if any inputs to the model from original data at the site collected by the appellant (see for example comment 'pending site data on groundwater levels' in table 3.3.9). The whole section is headed '...initial (hypothetical) design of the landfill...' which seems to confirm that no further assessment of the suitability of the on-site materials for landfill engineering has been undertaken. Indeed, the caveat at section 6.2 strongly suggests that once the required site analysis has taken place the nature of the engineering design could alter considerably. In all these circumstances the Inspector wonders what assistance he will gain from further examination of the hydrogeological evidence when the real issue appears to be how, and how successfully, the site can be engineered to accept the waste types now proposed. Is the issue not whether this needs to be clear at planning or whether it can be deferred to permitting? This is a matter the Inspector has already highlighted as one on which he requires submissions (see also 2 above). Alternatively, since it has been acknowledged that Mr Harper is not an expert in either slope stability or landfill design, is the key issue for his evidence his view of the geological sensitivity of the site and the implications for failure of the landfill liner? Clearly Mr Fraser must present his case as he considers best and Mr Stookes must examine that case in the best interests of his client. However, the Inspector sees potential to take the evidence of Mr Harper quite briefly thus making best use of Inquiry time. All are reminded that there remains a considerable amount still to get through including the site visit. If this cannot be completed on Friday it may have to be deferred until November given the Inspector's other commitments.

Yours sincerely

Michael Joyce

211B(BPR)

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