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Date: 2 August 2012

Our ref: 2055-126-JIW-018
Your Ref:

Dear Chris,

Re: Planning Application 10/01599/EFUL - Stowey Quarry SNRHW Landfill

Thank you for your letter of 12 July 2012 with regard to the above application and for forwarding the Environment Agency (EA) letter dated 28 June 2012 concerning the same.

Given the options outlined in your letter, we are of the opinion that there would be no value in withdrawing the application in order to facilitate a resubmission following the collection of additional information. We are disappointed that the additional information that was provided in response to statutory consultee comments was not forwarded to all relevant parties by Bath and North-East Somerset (BaNES) Council when submitted. If circulation of information had been better addressed at the initial stages of the application's consideration, there may have been a swifter resolution to the application's determination that would have avoided the need to expend additional if not excessive cost on our client's part.

We also wish to raise certain issues in regard to the EA position in this matter and to point out what we believe to amount to a lack of consistency on its behalf in this matter. We also have issues with comments the EA have made in their latest response, which are addressed below.

Forwarding of Additional Information (Conceptual Site Model – April 2011)

In its letter of 28 June 2012, the EA states that it was not consulted on the Conceptual Site Model (CSM) Report dated 20 April 2011. Given that the document was prepared in response to concerns raised by other statutory consultees it is understandable that the document was passed on to these bodies for consultation on its content. However, given the EA remit and obvious interest in a document of this kind, it is surprising that the EA was not included in this consultation. Additionally, as the application in question was Environmental Impact Assessment (EIA) development, we would value your observations as to whether the report constituted additional information under the relevant part of the EIA Regulations and should have been publicised by the Local Planning Authority (LPA) and circulated to all those who were sent the original Environmental Statement (ES) as part of the initial consultation exercise in any event. If the report constituted additional information under the Regulations, then it should have been forwarded to the EA for comment.

Comments on Environment Agency Responses Dated 28 June 2012

Environment Agency Change of Position

The EA originally made no objection to the application, neither did it object following the submission of the document responding to other consultation responses, such document being submitted in March 2011. The EA letter of 28 June 2012 comments that they were not consulted on the CSM report. For the reasons given above, we feel that this should have been done as a matter of course. However, regardless of this, we fail to understand that given the level of objection to the application, particularly that displayed by Bristol Water, the EA would not have asked for copies of any additional information that may have been submitted to further investigate the veracity of the claims made by objectors. Furthermore, the EA raised no objection to the original application. As there had been no fundamental changes to the proposals between the original submission and the subsequent re-consultation, it is concerning that the EA changed their position. As a key statutory regulatory consultee with responsibility for ground and surface water protection, it is unclear why they did not raise such concerns at the stage of the original application and it is worrying that they can show such inconsistency on such a major application. The EA were clearly content with the original proposals subject to submission of a detailed Environmental Permit (EP) application and they have failed in our opinion to provide adequate justification as to why their position has changed. This is addressed further below.

The EA claims that the original submission highlighted the landfilling of asbestos and inert wastes, whilst in fact the application was entitled “Restoration of Stowey Quarry by landfilling of stable non-reactive hazardous waste and inert waste”. Whilst acknowledging the correct title of the application in both of their original consultation responses dated 2 February 2011 and 19 April 2011, the EA should have been alerted to the fact that the application was indeed for this waste stream and not just restricted to asbestos and inert wastes. Although asbestos may be highlighted in the documentation, the application was submitted for Stable Non-Reactive Hazardous Waste (SNRHW) and inert wastes and did not confine the SNRHW to asbestos alone. The EA response in this case should have been focused on SNRHW as opposed to what appears to be a response to the landfilling of asbestos and inert wastes. The EA letter of 28 June 2012 appears to confirm the EA focus in this regard particularly where it comments that it now understands “that the intention of the planning application is to accept SNRHW waste” whereas it “had previously been thought that the nature of the SNRHW was solely asbestos and hence there would be limited potential for leachate generation”. This reasoning is considered inexcusable as the application made the nature of the intended waste stream quite clear and the EA response should have been commensurate with that being proposed, which is also subject to scrutiny by the EA at the permitting stage.

In their response dated 28 June 2012, the EA states that the submission of a Hydrogeological Risk Assessment (HRA), whilst not essential, would nevertheless be advantageous to have been submitted with the planning application, although conceding that a HRA would be something to be submitted at the permitting stage. This appears to be at odds with its initial consultation response. In its response of 19 April 2011 it is made abundantly clear by the EA that they “would expect a HRA to be prepared as part of the environmental permitting process”. No reference is made to the benefit of such an assessment at the planning stage. In addition to the EA’s response of 19 April 2011, the notes of a pre-permit application meeting held on 14 March 2012 between EA officers, site operator and my colleague Richard Sims confirm this position. In his email of 21 March 2012 (recipient – Robin Draper of Oaktree Environmental Ltd), summarising the points raised and discussed during

this meeting, the EA's Kevin Nicholls confirmed that "Full site HRA will be submitted with the permit application." In not requesting the submission at an earlier stage, this note confirms the position that it is accepted practice to submit the HRA at the permitting stage and that it should not be necessary to do so at the planning stage.

In the concluding paragraphs of the EA letter dated 28 June 2012, it is stated that the "overall risk to surface waters including Chew Valley reservoir is considered to be low" as is that of the "risk of contaminant migration via the groundwater to springs and reservoir... due mainly to the significant thickness of low permeability mudstone beneath the site." In our opinion, this puts the proposal in the context of being of low risk potential for contamination of water features in the area as initially outlined in the ES. It would seem prudent therefore, given the EA comments in this regard and the necessity to progress matters further through the permitting process before such a development could proceed, to condition the requirement for the collection of data as part of any consent that may be granted in this regard.

Landfill Location Policy

The EA's concerns (as outlined in its comments dated 28 June 2012) appear to be based on the proposed landfill being below the watertable in an aquifer that provides an important contribution to river flow or other sensitive water receptors (i.e. under the terms of the Landfill Location Policy (LLP)).

However, even if the site is below the watertable in the Lias Limestone (to be determined during site monitoring prior to the Permit application), it is considered that the groundwater in these strata does not form any such "important contribution" to local surface water receptors.

Two potential pathways exist for the migration of landfill-derived chemicals via groundwater:

- a) Leakage through the engineered landfill liner system and through underlying mudstone strata (Penarth Group and Mercia Mudstone) to a watertable and then further downgradient.
- b) Leakage through the engineered landfill liner system and into the Lias Limestone strata, flow northwards along the base of these strata (shown to dip North-Eastwards), seepage into the southern flank of the East-West valley north of the site and overland flow downhill into the small stream which currently emerges from a spring some 300 m north of the site at NGR ST 5966 5916.

Potential pathway a) is considered not feasible and has been acknowledged as such by the EA and Bristol Water.

Potential pathway b) appears to be considered by the EA as the potentially significant route through which the site poses an unacceptable risk to the water environment. The EA seems to be suggesting, by its citation of the LLP, that the small tributary resulting from the spring North of the site (which appears to emerge from the Mercia Mudstone strata, probably at the outcrop of a minor siltstone band) does form an important contribution to stream flow further downstream and subsequently into the Chew Valley Reservoir. It is considered that this view is wholly incorrect – the extremely small flow at the spring cannot be considered significant in terms of total flow into local surface waters. The stream enters a small man-made reservoir some 10m downstream and from there flows North-Westwards to be met by at least three larger streams before the combined watercourse enters the Reservoir some 2.5 km North-West of the site. Furthermore, the run-off catchment area of this

stream is considered negligibly small in comparison to the catchments of the other local streams draining towards the Reservoir.

It should be remembered that the predominantly inert nature of the waste is not expected to produce significant volumes of leachate of potentially polluting quality. The proposed engineered SNRHW cell will be encapsulated within the inert waste (soils) and will contain a leachate collection system that will be of principal use (in accordance with EA-specified conditions) while the cell is operational. Once the cell is full and capped, and then further encapsulated by inert waste, topsoil and landscaped to promote run-off, it is considered highly unlikely that there will be any significant accumulation of leachate within the cell. Monitoring of leachate occurrence within the cell will nonetheless be continued under the terms of the Environmental Permit until such a time as the landfill is clearly shown to pose a negligible environmental risk.

Landfill Leachate

The EA state that the CSM Report indicates “poor quality leachate generation is anticipated”. The CSM outlines “tentative” leachate pollutant concentrations, which are based upon the likely leaching limit values for SNRHW, not necessarily what is going to arise from the proposed landfill, hence why the concentrations have been described as “tentative”.

Conclusions

In conclusion, we do not believe the EA have provided sufficient justification for changing their position from ‘no objection’ to ‘objection’ when nothing fundamental has changed since the original application and further clarification is still required from the EA on certain issues, as outlined above.

It is also considered that the LLP is not applicable to this proposed site as there is no apparent viable direct groundwater pathway to surface waters. The closest potential surface water receptor is sufficiently small that it cannot be considered to provide an important contribution to other surface water receptors further downstream. Furthermore, all necessary detailed assessment of potential risk to controlled waters should be undertaken as part of the application process for an EP for the proposed landfill.

Whilst we do not believe that a quantitative HRA should be required as part of the planning process, as indeed confirmed by the EA, the applicant would be content to accept monitoring as a condition should planning consent be granted.

Yours sincerely

John Williams Dip EM MSc MA MRTPI
Principal Planner