Bath & North East Somerset Council

COMMITTEE REPORT

Application No: 10/05199/EFUL **Case Officer: Chris Herbert**

Details of location and proposal and Relevant History:

Stowey Quarry, Stowey Road, Stowey, Bristol, Bath And North East Somerset

Introduction

Members will recall that planning permission was granted for a stable non reactive hazardous waste landfill at Stowey in August 2011. This permission was subsequently quashed in the High Court because of a failure to advertise it in accordance with the EIA Regulations. The application has now been advertised in accordance with the regulations and the consultations completed so it has come back to committee for re-determination

Details of Location and Proposal and Relevant History:

Stowey Quarry is located approximately 1.5km south east of Bishop Sutton and 550m from Stowey House Farm on the edge of the escarpment overlooking the Chew Valley. Access to the site is via the A37 at Clutton, onto the Stowey Road and then Nanny Hurn Lane, which also forms the southern boundary to the site. The site is bounded by agricultural land to the north, east and west with the nearest residential property approximately 250m to the west.

The site is a regionally important geological site and is within a groundwater source protection area. Nearby designations include the Mendip Hills AONB and the Chew Valley Special Protection Area.

The proposed development is for the restoration of Stowey Quarry using stable non reactive hazardous waste (SNRHW) including asbestos and inert wastes. There are three main types of asbestos; chrysotile (white), crocidolite (blue) and amosite (brown). It is anticipated that the main form of asbestos to be disposed of at the site will be cement bonded asbestos, which would predominantly contain white asbestos, but may also contain small quantities of other types of asbestos. Any asbestos and other non reactive hazard wastes accepted on site would have to be handled in accordance with the regulations e.g. any non bonded asbestos would have to be double bagged and clearly labelled. The Environment Agency will not grant a permit unless they are satisfied waste will be handled in accordance with the regulations and will regulate the landfill to ensure compliance during operations.

The proposed development will also involve the processing of the quarry waste stockpiles that are currently on site with a crushing and screening plant in order to recover usable aggregate and for the remaining soils and clay to be used in the restoration of the site. It also provides for the creation of a screening bund along the western boundary of the site, limits vehicle movements to a maximum of 100 (50 in, 50 out) a day and limits the depth of the quarry to 150m AOD as required by the existing planning permissions for the site.

It is proposed to import up to 150,000 tonnes a year of waste over a ten year period. However the maximum void of the quarry is estimated at 430,000m3 which, based on a conversion factor of 1.5 tonnes to a m3, would require approximately 645,000 tonnes of material to infill the quarry. Therefore if the maximum infill rate of 150,000 tonnes a year were to be achieved the restoration would be completed in less than 10 years. Based on a 10 year life the site would receive an

average of approximately 64,500 tonnes a year. A conversion factor of 2 tonnes to a m3 would increase this to approximately 86,000 tonnes a year. It is therefore likely that actual tonnages into the landfill will be well below 100,000 tonnes a year over the proposed 10 year life or that the life will be shorter. It is estimated by the applicant that the proportion of inert waste to SNRHW will be approximately 8 to 1, which amounts to an approximate split of 573,333 tonnes of inert waste to 71,666 tonnes of SNRHW. Over a 10 year life this gives average inputs of 57,333 tonnes of inert waste and 7,166 tonnes of SNRHW a year.

The landfill cells will be designed in accordance with Environment Agency Guidance and will not be able to accept waste until they have been inspected and signed off by the Environment Agency. The base and walls of the landfill cells will be lined with a mineral liner (typically compacted clay). A permeable, flexible lining membrane will be placed on top of the mineral liner. These membranes are used in landfills across the country to prevent leachate from leaving the landfill cell. Each cell will also have a built in leachate extraction point to allow leachate to be drained to a collection tank. To avoid dispersion of asbestos fibres and any other non reactive hazardous elements, the deposited waste shall be sprinkled with water and immediately covered with a 250mm layer of inert material and coverage of up to 1m of inert fill will be applied at the end of each working day. A dust and leachate monitoring scheme for the site will also be a requirement of the Environmental Permit.

A thick layer of clay is then placed on top of the waste to seal the cell. Inert fill, subsoils and topsoils are then placed on top of the clay.

The landfill would be filled and restored in a phased manner. Ten phases are proposed with the majority of the western part of the landfill being completed early in the process. In order to operate the landfill will also require an Environmental Permit from the Environment Agency which will contain strict guidelines for the handling and disposal of asbestos in accordance with the Control of Asbestos Regulations 2006 and the Hazardous Waste Regulations 2005.

The application also proposes to demolish the existing industrial building on the site which was used for cutting the quarried stone and replacing it with a much smaller portacabin to provide office and welfare facilities

Access to the site would be via the existing site access and concrete haul road. Wheel washing facilities will be installed.

Hours of operation would be 0700 to 1800 Monday to Friday and 0800 to 1300 on Saturdays with no operations on Sundays and Bank Holidays.

The site would be restored to nature conservation/agricultural after use with access to a retained geological face in the north east corner of the site. Restoration contours would link into the part of the site previously tipped to a height of approximately 165m AOD and would slope down from 164m AOD to 154m AOD from south to north. Existing boundary vegetation would be retained and new planting is proposed together with a wetland area/pond.

The site is a long established quarry with planning permission first being granted in the 1950s but recently there has only been limited or no activity on the site. Planning permission (07/02328/var) was granted in 2008 to extend mineral extraction until November 2012 but it is understood that no extraction has been undertaken pursuant to it. At the same time a second permission (07/02326/minw) was granted for an inert recycling facility and restoration of the quarry using inert materials by November 2028. Limited operations in respect of creating an area of hardstanding and the formation of a proposed screening bund have been carried out but no recycling has occurred. Both these permissions are subject to the same conditions which require restoration of the site by November 2028, the creation of a bund along the western boundary of the site, a limit

of 50 lorries (100 movements) a day, a tonnage limit of 125,000 tpa and no extraction below 150m AOD.

The principle change from the approved restoration scheme is that this planning application proposes the total infilling of the quarry over a reduced timescale and the use of SNRHW as well as inert waste.

Summary of Consultation/Representations:

HIGHWAYS: No objections subject to conditions and financial contribution towards signage and weight restriction.

ENVIRONMENTAL PROTECTION: I have considered the representations in respect of the noise assessment submitted by the applicants and acknowledge the apparent anomaly in the assessment of background noise. Given that consent has been issued previously which contains a limit of 46dBA, noise could be emitted from the site at present at this level with no breach of planning control and the same applies with respect to the comments made on vehicle noise. I have no further comment to make on these aspects of the application.

ENVIRONMENTAL PROTECTION (Contaminated Land): As the development will be operated under an Environmental Permit issued by the Environment Agency, I therefore trust that the EA have been consulted to provide their opinion on the application and the reports submitted including the Conceptual Site Model and its recommendations, and place conditions where necessary.

LANDSCAPE: Comments the same as previously. The principle of the proposed restoration landform is considered acceptable but a more detailed landscape plan is required, so a detailed Landscape Management Plan should be submitted providing details of the proposed planting, wetland area, geological exposure and restoration afteruse details.

ECOLOGY: Object, The Environment Agency concerns need to be addressed in order to demonstrate there would be no harm to ecology and to Chew Valley Lake SPA and there is a population of white clawed crayfish very close to the site so the assessment of impacts on water quality must include an assessment of impacts on this species to demonstrate they would not be harmed.

NATURAL ENGLAND: No objection. Satisfied that the birds on Chew Valley Lake SPA will not be disturbed by the proposals. It is for the Council to satisfy themselves that there will be no adverse impacts on water quality before granting planning permission. Natural England does not have detailed information on hydrology and we defer to the comments of the Environment Agency who we note have submitted an objection based on lack of information.

ENVIRONMENT AGENCY: Holding Objection. Three principal issues govern the risk the site poses to ground and surface water. These are leachate generation potential, the amount of unsaturated ground below the floor of the quarry and the proximity to water interests and how the site complies with the EA landfill location policy. In order to be satisifed on these matters the EA require the following additional information:

Addiitonal assessment work to clarify the geological strata underlying the quarry and the location and depth of limestone units;

Further boreholes are required outside the quarry void to characterise the geology and groundwater monitoring, these will also be required to to comply with subsequent landfill permit groundwater monitoring;

Long term monitoring of on site boreholes is required to characterise on site conditions, the period of monitoring would include both low and high recharge for a minimum of one year;

Surface water feature survey should be repeated a number of times during wet conditions to assess and confirm outfalls of limestone groundwater; and

A quantified assessment to demonstrate the acceptability of the site in relation to the Agency's landfill location policy supported by site specific data demonstrating the surface and groundwater conditions present.

BRISTOL WATER: On the basis of the evidence put forward by the applicant, we object to the proposals to develop the quarry void as a landfill site. We consider that the applicant has not fully comprehended the link between shallow ground water in the strata in which the quarry sits and the surface waters that supply the reservoir. We do not have confidence that the conceptual model represents the true situation as no survey or quantitative data has been presented in support of the model. We believe that the application is based on an inaccurate depiction of the hydrogeology. A landfill constructed as proposed by the applicant would result in an engineered liner being the only barrier between the leachate in the cells of the landfill and shallow groundwater contributing to reservoir inflows. We consider this is both a situation that may not comply with required design standards and is an unacceptable long term risk to a major public water supply. In the light of the possibility of further evidence being presented, we reserve the right to modify or strengthen our view.

CLUTTON PARISH COUNCIL: The whole principle of a landfill which would release infinitesimal amounts of asbestos on top of a hill directly above and adjacent to the main drinking water supply for all Chew Valley and most of Bristol is both inappropriate and irresponsible. It will also import hundreds of thousands of tonnes of waste from all over the West Country and further afeild via large lorries travelling down small lanes and minor A roads, which only adds to the unsuitableness.

This application must be stopped forever irrespective of whether it is for asbestos or other waste materials, the risks are simply too great.

STOWEY SUTTON PARISH COUNCIL: Objects as follows:

Risk of contamination of water courses;
Limited ongoing monitoring;
No need for this facility;
Quarry was not identified in the Waste Core Strategy;
Strong local objection;
Concerns about the effect such a facility will have on tourism in the area.

HINTON BLEWETT PARISH COUNCIL: Object as follows:

Curent bunding contravenes planning permission and traffic movements would have a significant impact on character and appearance of the area;

Asbestos would not degrade and at some point the liner would degrade allowing hazardous materilas to leach out;

A drainage sysytem to soakway on a hill top is irresponsible and uncontrolled;

There is no mains water at the site for dust suppression;

The use of a hill top location for landfilling any hazardous materials is an unacceptable risk. The risk to future generations is not acceptable;

If permitted the landfilling of raw asbestos should be ecluded;

The local highway infrastructure is entirely unsuitable.

CHEW MAGNA PARISH COUNCIL: Oppose scheme because of potential serious impact on water from springs which feed Chew Valley lake, air pollution and traffic impacts.

CHEW STOKE PARISH COUNCIL: Object on the following grounds:

Traffic;

Long term harmful consequences of dumping hazardous waste above a major reservoir;

Asbestos will be imported from large areas of the UK contrary to the Council's localism policy on waste disposal.

FARINGTON GURNEY PARISH COUNCIL: Object because of potential contamination of water supplies and traffic.

WEST HARPTREE PARISH COUNCIL: Object for the following reasons:

- Possible contamination of drinking water in Chew Valley Lake;
- Huge increase in lorry movements;
- Noise and dust pollution.

CAMELEY PARISH COUNCIL: Object because the site is on an unstable hillside above springs that lead to Chew Valley Reservoir; the consequences of an escape of asbestos would be extremely serious; and the risk of asbestos fibres escaping in to the air and the level of traffic proposed.

BLAGDON PARISH COUNCIL: Object on the following grounds:

- Quarry on an unstable hillside;
- Liner will not provide long term protection and could be damaged by landslip;
- Escape of asbestos would be disastrous;
- There is a risk that other unauthorised wastes will be disposed of;
- No need for such a facility;
- Risk of particulates on health;
- Noise and dust impacts.

AVON WILDLIFE TRUST: Object on the grounds of potential risk to their Folly Farm business which is a successful residential environmental learning and conference centre as there is considered to be safe levels for asbestos emissions.

In respect of the ecological information provided it is considered that the site could have potential to hold a reptile population and this would require surveying and possible mitigation if permission were granted.

MENDIP HILLS AONB UNIT: Council need to take into account any adverse impacts on the landscape setting of the AONB from the propsoed development including important views, traffic, noise, dust and impacts on tranqulity and dark skies through increased light pollution.

BATH AND NORTH EAST SOMERET LOCAL INVOLVEMENT NETWORK: Object, the location is not approriate for toxic waste, including asbestos, as it is too close to Chew Valley reservoir and the water courses that feed it. Can the Council guarantee no contamination of local water supplies, local farmland and that there will never be any risk to local people. Who will monitor and pay for this. Increase in traffic and noise.

CHEW VALLEY CHAMBER OF COMMERCE: Object as the proposal will have a negative impact on business in Chew Valley.

REPRESENTATIONS: At the time of writing this report 1,140 individual letters of objection had been recived on this application, together with pro forma letters and petitions totalling over 2000 signatures.

The main areas of objection relate to:

- Impacts on health from asbestos;
- Pollution of Chew Valley Lake;
- The stability of the hillside on which the quarry is located;
- There is no need for the facility and it is not allocated in the Waste Core Strategy;
- The unsuitability of the local highway network for the level of traffic proposed;
- Noise and dust impacts;
- Impacts on local wildlife;

Impacts on tourism and local businesses; and
The risk of other unauthorsied materials being deposited and the track record/experience of the current operator.

In adidtion the Stowey Action Group has made detailed submissions on hydrogeology/water interests, stability, need, traffic, wildlfie, noise, lighting, air quality, impact on local businesses, restoration, fracking and coal mining and the track record of the operator.

Policies/Legislation:

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF confirms that it does not contain specific policies on waste but advises that local authorities should have regard to it so far as it is relevant. Key policies considered relevant to this application include the need to prevent development from contributing to or putting at unacceptable risk from water pollution and the need to prevent unacceptable risks of pollution and instability by ensuring that development is appropriate to its location.

WEST OF ENGLAND JOINT WASTE CORE STRATEGY 2011

Policies 8, 9, 11 and 12 on Landfill, Planning Designations and General Considerations

BATH AND NORTH EAST SOMERSET LOCAL PLAN, INCLUDING MINERAL AND WASTE POLICIES, 2007 (the Local Plan):

ES.5 on Drainage; ES 9, 10 and 12 on pollution, nuisance, health and noise; ES14 on stability; NE1 and NE2 on landscape; NE9 and NE10 on ecology; NE13 on groundwater and NE14 on flooding; M9 and T24 on highways.

Officer Assessment:

INTRODUCTION: The key change in circumstances from when members last considered this application is that previously the Environment Agency (EA) had no objections, whereas now they have a holding objection and are seeking further information as set out in their consultation response, see above. As this information is likely to take up to 12 months to obtain the applicant has been invited to withdraw the application in order to allow time to gather the information requested by the EA. However the applicant has chosen not to withdraw the application and therefore the application will be determined on the basis of the information currently available and the EA comments on it as they currently stand.

The main reason for the change of position of the EA, as stated in their letter of the 20 April 2012, is that it was previously understood that the wastes intended to be landfilled at the site were only asbestos and inert fill. If stable non-reactive hazardous waste other than asbestos is proposed to be landfilled there is presently insufficient information to confirm the acceptability of the site in accordance with the Environment Agency's landfill location policy. Therefore the possibility of the site receiving other types of stable non reactive waste was not originally considered by the EA. When that is considered new issues arise which are not adequately addressed in the information provided.

The applicant's position is that the current application is no different from the one previously considered by the EA, which was clearly described as a stable non reactive hazardous waste landfill, and that the information they are now seeking at the planning stage would be more properly provided as part of the Hydrogeological Risk Assessment required at the permitting stage. They do not therefore consider that the EA has provided sufficient justification for their change in position. They further consider that the EA landfill location policy is not applicable to the proposed

site and that all necessary detailed assessment of potential risk to controlled water should be undertaken as part of the permitting process.

In respect of what is relevant to be considered at the planning stage and what matters can be left to the permitting regime by way of summary and just to allow members to understand the different roles, the planning system is there to consider whether this is an appropriate location for the proposed landfill and the permitting system is there to ensure that it is built and operated in a safe manner. Members must assume that the permitting regime will be properly applied and enforced.

In addition to the revised EA position, consultants advising the Stowey Action Group have made a number of technical objections on water, stability and noise.

NEED: In respect of representations made during the preparation of The West of England Joint Waste Core Strategy (JWCS) for the allocation of Stowey as a landfill, it should be noted that it was not the purpose of the JWCS to allocate sites for landfill, instead its principal purpose was to allocate sites for the treatment of residual waste. It is noted that ERM, consultants engaged by the West of England Partnership to prepare the JWCS, discounted the Stowey representation because of their views on the access to the site but this was done without consultation with the Highway Authority or apparent regard to the existing planning permissions that have been granted at the site. In any event the JWCS is now adopted and it is the policies in that document that must now be followed in the determination of this planning application.

The JWCS recognises that there are no hazardous waste landfill facilities in the West of England and goes on to state that there is no identified strategic need for new hazardous waste landfill capacity within the plan area. However the Inspector in his report advised that the on-going availability of facilities outside of the West of England cannot be relied upon and in any event, in order to meet the needs of the West of England, provision needs to be made within the plan area. That is why the relevant paragraph (6.10.10) in the JWCS goes on to advise that policies 8 and 9 provide the relevant framework to enable the sub region to meet its own needs. As the West of England is considered to be a significant generator of this waste stream the provision of such a facility within this area would therefore contribute to a reduction in the waste miles this waste has to travel and would be considered to be the nearest appropriate facility in accordance with waste management policy. In respect of inert waste, which would be the more significant waste input in to the landfill by a factor of 8 to 1, the JWCS (6.10.9) identifies that inert disposal capacity is all but exhausted within the sub region but that there a number of quarries that will require such waste to secure their restoration. Stowey is considered to be such a quarry and the currently approved restoration scheme for the site relies on the use of imported inert material.

Given the lack of disposal facilities within the West of England there is therefore considered to be a need for this type of facility to meet the needs of the sub region but that such applications need to be considered against policies 8 and 9 of the JWCS, as explained in the supporting text to the Plan.

GROUNDWATER: Policy NE13 deals with the protection of groundwater and development within source protection areas will need to demonstrate that it will not have an adverse impact. Policy 8 of the JWCS indicates that landfills should not be located within major aquifers/source protection zones unless it can be demonstrated that relevant legislative requirements can be met. Policy 12 of the JWCS requires that applications demonstrate that impacts will not have a significant adverse impact on the contamination of groundwater and surface water.

Bristol Water continues to object to the proposed development because of the proximity of the site to Chew Valley, which is a public water supply and the lack of information contained within the application. A review of the hydrogeologial information has also been carried out by consultants acting on behalf of the Stowey Action group which concludes that the information submitted with

the application does not present an accurate picture of the ground conditions and the risk the proposed development therefore poses to water interests in the area

In their latest response the Environment Agency (EA) identify their areas of concern as follows: the potential for leachate generation, the extent of the unsaturated zone beneath the quarry floor and the proximity to water interests – Chew Valley reservoir. They go on to identify the additional information they require to be satisfied that this form of landfill can be appropriately located here: additional assessment work to clarify the geological strata underlying the quarry floor, the need for further boreholes outside of the quarry void to characterise the geology and groundwater monitoring; long term monitoring of the existing on site boreholes to characterise site conditions and survey of surface water observations to be repeated during wet conditions to assess and confirm outfalls of limestone groundwater.

As previously stated it remains the applicant's view that the information sought by the EA would be provided at the permitting stage following the grant of planning permission. It is accepted that in terms of the construction and operation of any landfill granted permission here, members should proceed on the basis that the EA consenting regime provides appropriate protections. However there remains the logically prior question as to whether this is an appropriate location for landfill of this nature. In that regard, it is appropriate to have regard to the EA landfill location policy (RGN3 – Locational Aspects of Landfills in planning consultation responses and permitted decisions. December 2002). In very broad summary where there is a lechate generating potential, it may be necessary to refuse permission to protect the groundwater sources dependent on the level of the water table at the site and the possible routes from the site to any surface waters or groundwater source. The applicants say that the EA approach is not applicable to this site as there is no apparent viable direct groundwater pathway to surface waters and 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. They maintain that because of the predominantly inert nature of the waste it is not expected to produce significant volumes of leachate and what leachate does arise will be monitored, collected and managed in accordance with the requirements of the EA permitting system.

Having regard to the information submitted by the applicant, representations received and the latest position of the EA it is considered that there is not currently sufficient information for the Council to reach the conclusion that no adverse impacts are likely on surface water receptors in the area. Whilst, as acknowledged by the EA, the overall risk to surface waters including Chew Valley reservoir may be considered to be low it is clear from the current position of the EA that insufficient information has been submitted to support this conclusion and further quantitative assessment is required at the planning stage.

It is therefore considered that the proposed development does not comply with the requirements of policy NE13 of the Local Plan and policies 8 and 12 of the JWCS.

ECOLOGY: In respect of ecology the site is a regionally important geological site and therefore covered by policy NE9 of the Local Plan. However discussions between the applicant and the local RIGs group have secured the preservation of a section of the quarry face as part of the proposed restoration scheme. The development is therefore considered to comply with policy NE9 and the proposed after use and landscaping will provide additional benefits for ecology in the area.

However the site is also within 2km of the Chew Valley reservoir which is a designated European site of nature conservation importance (SPA) and the Council is required by legislation to consider whether the proposed development is likely to have a significant effect on the nature conservation interest of this designation. Given the latest position of the EA the Ecology officer has confirmed that they are currently unable to conclude that this proposal does not present a risk to the water quality of the lake and the risk of a "likely significant effect" on the SPA cannot be excluded in relation to this project and planning permission cannot be granted. The proposal is therefore

considered to conflict with policy NE10 of the Local Plan and policies 8 and 11 of the JWCS in respect of ecology interests.

STABILITY: Policy ES14 deals with unstable land and requires that development does not adversely affect the stability of the site or adjoining land. Representations that have been received from the adjoining landowner have raised the concern of potential impacts on their land from both the existing quarry and the proposed landfill and from consultants acting on behalf of the Stowey Action Group.

Hillslopes in the Bath and North Somerset can be subject to instability and movement that is triggered by groundwater. Softening of the clay below more competent strata can result in instability and activation (and re-activation) of slip surface. This process requires a driving head, or supply, of groundwater to cause the softening and this would come from a large geographical area and flow towards a slope. In the context of this site, excavation of the quarry has effectively cut off this groundwater source by removing the material groundwater would flow through to reach the slopes. The development of a landfill with a full engineered containment system (low permeability clay and geomembrane composite liner) would maintain the cut off effect of the quarry and would not allow flow pathways for groundwater to reform, thereby limiting the potential for future instability.

The evidence of the instability described in the representations and observed during previous site visits is considered to be historic and the surrounding slopes are well vegetated and are stable at present. In addition with regard to the proposed landfill a stability risk assessment will be required as part of the Environmental Permitting process and having regard to the proposed contours and cross sections it is considered that a long term stable landform is being proposed with no excessively steep slopes. The development does not therefore conflict with policy ES14.

HIGHWAYS: Policy M9 requires that applications for minerals and waste development will only be permitted where the highway is adequate for the type and volume of traffic proposed or that it can be upgraded without harm to the environment. It also requires that alternatives to road are used unless they are not commercially or environmentally suitable. Policy T24 provides similar tests, requiring a high standard of highway safety for all road users and avoiding the introduction of excessive traffic on unsuitable roads. The existing planning permissions at Stowey currently have a limit of 50 HGVs a day (100 movements) and tonnage limits of 125,000tpa and 2,500tpw a week. The applicant is proposing to retain the 50 HGV a day limit but is proposing 150,000tpa with no weekly limit.

Representations confirm that operations at Stowey have been significantly below the currently approved limits for many years and that an increase in traffic of up to 50 vehicles a day would have a significant impact. However this has been considered by the Highways Authority who still maintain they have no objection subject to conditions.

Taking into account the representations received and the conditions proposed by the Highways Authority, improvements to the highway network are not considered necessary as the type and volume of traffic will be adequately controlled by condition. In respect of peak hour flows at the A37 junction it is a feature of waste development that it does not generate high peak hour flows and so adds very little to any congestion at these times. Having regard to the location of the site alternative forms of transport to road are not considered commercially viable. The development is therefore considered to comply with policies M9 and T24.

POLLUTION, NUISANCE, NOISE AND HEALTH: Policy ES9 deals with pollution and development will not be permitted where it poses an unacceptable risk of pollution. Because this is a waste management development it is important to understand the relationship between the planning system controlled by the Council and the pollution control system administered by the Environment Agency. This is because the development will require both a planning permission

from the Council and an environmental permit from the Environment Agency in order to operate. An environmental permit cannot be issued until planning permission is granted and in addition Government policy advises (NPPF) that planning authorities should focus on whether the development itself is an acceptable use of land and the impact of the use rather than the control of processes and emissions which are subject to approval under the pollution control regime, which local authorities should assume will operate effectively. Given the nature of the proposed waste stream there is also additional legislative requirements on how it should be managed to ensure that people and the environment are adequately protected. Based on the information received to date it is therefore considered that the proposed development, other than in regard to the water environment which has been covered above, does not pose an unacceptable risk of pollution, and it therefore complies with policy ES9.

Policy ES10 deals with air quality including dust, odour and health. Because of the nature of the waste concerns have been raised over possible health impacts, however, as stated above there are specific regulations covering the management of this waste stream and as landfill is the only option available for this waste the requirements of legislation and the environmental permitting system have been designed to minimise these effects. An outline of asbestos handling procedures was provided within section 5 of the planning, design and access statement which provided a general overview of acceptance and tipping procedures. In addition as part of the Environmental Permit application process, the site operator will have to submit a detailed method of working statement and separate regulations cover the safe transport of asbestos. It is noted that the Environment Agency objection is in relation to impacts on the water environment and not potential health impacts and a permit will not be issued unless and until the Environment Agency are satisfied that there will be no risk of adverse dust, odour or health effects on the environment or communities. The site would be regulated and inspected by the Environment Agency during operations.

As previously stated landfill is the only disposal option for this waste stream and the monitoring results of similar landfills elsewhere in the country demonstrate they have no adverse impacts on air quality or where breaches have occurred they have been enforced and prosecuted by the Environment Agency. There is therefore considered to be no evidence to support the view that these facilities have an adverse impact on health of people or animals. In respect of dust a management plan to be controlled by condition has been provided and because of the nature of the waste stream it will not generate any adverse odours. The development is therefore considered to comply with policy ES10

Policy ES12 deals with noise and vibration and existing conditions already set appropriate noise limits at the nearest property, require that it is monitored on a regular basis and no blasting is permitted. Objections on noise have questioned the validity of the previous noise assessment as it was carried out whilst some quarrying activities were in operation and the limits derived from it are considered to be too high.They propose that a much lower noise limit of 37dBA should be applied to the nearest noise sensitive property. These representations have been considered but their proposed daytime limit of 37dBA is below what are considered to be acceptable night time noise limits of 40-42dBA and has been derived by selecting the lowest values from the background noise monitoring work rather than an average of all the different background levels recorded during the period of monitoring. The EHO has considered both sets of noise data and has had regard to guidance to ensure levels are reasonable and on balance has concluded that the current noise limits are reasonable and therefore the reliance of the EHO on the previous noise limits as still being acceptable is appropriate.

Therefore having regard to the representations received, the comments of the EHO and the previous noise assessment it is considered that the existing limit of 46dBA remains appropriate and would not lead to significant adverse effects on the amenities of the nearest residential property. The development is therefore considered to comply with policy ES12.

LANDSCAPE: Policy NE1 requires that proposals conserve or enhance the character and local distinctiveness of the landscape and policy 9 of the JWCS requires that proposals incorporate finished levels that are compatible with the surrounding area and ensure satisfactory restoration of the site. Representations have commented that as the proposed landform will be above the original ground contours it will not be in keeping with the local area. The landscape officer has no objections in principle to the proposed landform and it will achieve the complete restoration of the site. Previous historic tipping at the site has left levels of 165mAOD and the proposed development goes no higher than this. Instead it seeks to tie in with this level and then slope down to the north. This will result in a landform that is higher than the surrounding land but it is not considered to be out of character. The proposed 6m high bund along the western boundary has previously been approved as part of the existing planning permissions for the site and is considered necessary to screen the operations from the nearest property. It will be removed as part of the final restoration of the site to nature conservation/agricultural after use and detailed landscaping and restoration conditions are proposed to achieve this. Having regard to the need to restore the quarry and the current levels on the site the proposed contours are considered to create an acceptable landform and are in accordance with the requirements of policy NE1 of the Local Plan and policy 9 of the JWCS.

Policy NE2 of the local plan seeks to prevent adverse impacts on the AONB and whilst comments have been received from the Mendip Hills AONB Unit, the proposed development whilst visible from the nearby AONB is not considered to have an adverse impact on it and in the longer term it is considered that the restoration of the site will improve views from the AONB. It is also considered that the impacts of noise and lighting would be limited and could be adequately controlled by condition.

FLOODING: Policy NE14 deals with flooding but the development is not within a flood risk area and is not considered to increase the risk of flooding elsewhere. Therefore subject to a condition to manage surface water run off there is no conflict with policy NE14.

DRAINAGE: Policy ES5 deals with surface water drainage and requires that development should not be permitted where there is inadequate surface water infrastructure and it would result in surface water problems off site. Foul drainage is only required for the site offices and leachate management from the landfill will be controlled by the Environment Agency via the Environmental Permitting system. It is therefore considered to comply with policy ES5.

OTHER MATTERS: Representations have also made reference to the identity of the proposed operator, the reliability of the current owners and previous non compliance with conditions at the site. However as planning permissions run with the land the identity of who may operate the site is not considered relevant, as who ever operates the site will have to comply with the proposed conditions. The enforcement of conditions will be a matter of judgement if or when a breach may occur and is not an automatic action. The Council will continue to monitor and take what actions it considers necessary at the site. The proposed conditions do however provide a comprehensive means for regulating future activities at the site and additional contribution to local amenity are not considered to be necessary. With regard to concerns expressed about the site subsequently taking a wider range of wastes this would require an entirely new planning application which would be considered on its merits if it were ever submitted but it is not considered relevant to the determination of this application.

In respect of comments on fracking and former coal mining in the area the Council is not aware of any current proposals or evidence of former activities at Stowey.

Concerns have also been raised by objectors about the potential impact of the proposed development on businesses and tourism in the area. However no evidence to support these concerns has been provided and experience from landfill sites which receive asbestos elsewhere

in the country does not support the view that these sites have a negative impact on the surrounding area once they are operational.

CONCLUSION: The revised position of the Environment Agency is the key change in circumstances from when members previously considered this application. The current EA position means that the proposed development is no longer considered to comply with policies 8, 11 and 12 of the JWCS which is the up to date development plan policy for landfill development. Whilst there remains a need for the West of England to make provision to manage its waste arisings this need is not considered to outweigh the conflict with development plan policy. In addition, because of the EA's revised position the Council's ecologist is now of the view that there is insufficient information to enable an assessment of the likelihood of significant effects on the Chew Valley Reservoir SPA to be undertaken.

Representations and consultee comments in respect of need, traffic, stability, noise, dust, health, landscape, flood risk and drainage have all been taken into account but are not considered to be reasons for the refusal of the proposed development.

Recommendation:

REFUSE

1 It has not been demonstrated that this is an appropriate location for the disposal of the non asbestos stable non reactive hazardous waste stream because there is insufficient information on the leachate generation potential of the proposed waste streams, the extent of the unsaturated zone below the quarry floor and the contribution to the flow regime and potential pathways for groundwater discharge from the landfill to determine the likelihood of significant adverse effects on the water and ecology interests of the Chew Valley Reservoir Special Protection Area. The proposed development is therefore contrary to policies 8, 11 and 12 of the West of England Joint Waste Core Strategy and policies NE10 and NE13 of the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007.

PLANS LIST:

205/126/02 rev B date stamped 10 December 2010; 205/126/03 rev A date stamped 6 January 2011; 2055/126/04 rev A date stamped 10 December 2010; 2055/126/05 rev A date stamped 10 December 2010; 2055/126/06 date stamped 10 December 2010; 2055/126/07 rev A date stamped 4 March 2011; 2055/126/08 date stamped 10 December 2010; 2055/126/10 date stamped 6 January 2011; 2055/126/11 dated 17 February 2011; and 2055/126/12 dated 4 March 2011.