

**AGENDA MANAGEMENT SHEET**

**Name of Committee** Regulatory Committee  
**Date of Committee** 7<sup>th</sup> September 2006  
**Report Title** Bubbenhall Landfill: Reasons for Refusal

**Summary** This report asks the Committee to adopt detailed reasons for refusing the application for amended profiling and restoration at Bubbenhall Landfill.

**For further information please contact:** Ian Marriott  
 Community and Environment Legal Services Manager  
 01926 412018  
 ianmarriott@warwickshire.gov.uk  
 Matthew Williams  
 Planning Officer  
 01926 412822  
 matthewwilliams@warwickshire.gov.uk

**Would the recommended decision be contrary to the Budget and Policy Framework?**  
 No

**Background papers** Environmental Statement and previous committee reports

**CONSULTATION ALREADY UNDERTAKEN:-** Details to be specified

- Other Committees
- Local Member(s)
- Other Elected Members
- Cabinet Member
- Chief Executive
- Legal
- Finance
- Other Chief Officers
- District Councils
- Health Authority
- Police

Other Bodies/Individuals

**FINAL DECISION YES**

**SUGGESTED NEXT STEPS:**

Details to be specified

Further consideration by  
this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

## Agenda No

### Regulatory Committee – 7<sup>th</sup> September 2006.

#### Bubbenhall Landfill: Reasons for Refusal

### Report of the Strategic Director of Performance and Development and the Strategic Director for Environment and Economy

#### Recommendation

That the Regulatory Committee approve the Reasons for Refusal in Appendix A and the Statement of Main Considerations and Reasons in Appendix B.

#### 1.0 Introduction

- 1.1 At your meeting on 11<sup>th</sup> July, you decided to refuse an application the effect of which would be to vary the profile and other details of the restored Bubbenhall landfill site. The purpose of varying the profile would be to improve surface drainage, thereby protecting the integrity of the cap and reducing the build up of leachates. However, the proposal would have extended landfilling operations by at least ten more years and increased the doming of the final landform.
- 1.2 The minutes of your meeting are presented for confirmation elsewhere on the agenda. The concluding part of the minute sets out and explains your decision:

*During discussion of the application, Members indicated that they were not persuaded that adverse environmental impacts of the nature and duration likely to result from the proposed scheme could be justified by the requirements of the settlement problem. The Committee took advice from Ian Marriott on whether their objections to the application were valid planning reasons for refusal and considered the suggestion of deferring a decision in order to obtain expert independent advice.*

*Councillor Barry Longden, seconded by Councillor Michael Doody, moved and it was Resolved, seven Members voting in favour and one against:-*

*That the Regulatory Committee refuse the application on the basis proposed and that the officers draw up a detailed reason for refusal for its approval.*

1.3 Your officers have prepared a draft reason for refusal, which is Appendix A. In addition, although there is some degree of duplication, Regulation 21 of The Town and Country Planning (Assessment of Environmental Effects) (England and Wales) Regulations 1999 requires that you approve a statement of the contents of your decision and the main reasons and considerations on which it is based. Therefore, your officers have also prepared a draft statement which is Appendix B.

## 2.0 **The Reasons for Refusal**

2.1 The reasons for refusal give detail of the adverse environmental consequences which concerned Members. They also refer to relevant planning policies. Although not all of the policies cited were expressly mentioned in the report and discussion on 11<sup>th</sup> July, they support the reasoning of the Committee.

2.2 Particular attention is drawn to the reference to Green Belt policies. As Members will be aware, inappropriate development in the Green Belt should be permitted only if justified by very special circumstances (weighing the harm to Green Belt policy and other planning interests against the factors said to constitute very special circumstances and any other material considerations in favour of a proposal). Your officers consider that landfilling is capable of being acceptable in the Green Belt if it represents the best means of restoring mineral workings to a beneficial after-use that does not conflict with the purposes of including land in the Green Belt and promotes the objectives of land use in the Green Belt. It is implicit in your rejection of the application that you do not consider the extension of landfilling as proposed to be either appropriate or justified by very special circumstances.

2.3 Members are asked to consider whether the reasons for refusal accurately express their judgment of the application and fairly enable the applicant to decide its response.

## 3.0 **The Statement**

3.1 Members are asked to consider whether the Statement is a full and accurate account of the main considerations – both for and against refusal – which weighed with them when making their decision. The reasons for the decision are verbatim the reasons for refusal.

3.2 The main considerations include a duty under Regulation 5 and paragraph 1(1) of The Landfill (England and Wales) Regulations 2002 to consider the following requirements in connection with the location of a landfill proposal:

- (a) the distances from the boundary of the site to residential and recreational areas, waterways, water bodies and other agricultural or urban sites;
- (b) the existence of groundwater, coastal water or nature protection zones in the area;

- (c) the geological or hydro geological conditions in the area;
- (d) the risk of flooding, subsidence, landslides or avalanches on the site;  
and
- (e) the protection of the natural or cultural heritage in the area.

This duty gives effect to the EU Landfill Directive. Although the duty was not expressly mentioned in the committee report on 11<sup>th</sup> July, the requirements were substantially addressed insofar as material to the application.

David Carter  
Strategic Director of Performance  
and Development

John Deegan  
Strategic Director for  
Environment and Economy

Shire Hall  
Warwick

## Appendix A

### Reason for Refusal

The proposed development would extend landfilling operations by at least ten years until approximately 2026. These operations are unsightly in an otherwise attractive landscape enjoyed by the public and have unavoidable adverse environmental impacts in the locality by reason of smell, dust, noise, pests, vermin, litter and vehicle movements. These impacts can be mitigated but not eliminated and would be cumulative with the effects of previous landfilling and mineral extraction beginning in 1979. In addition, the resulting landform would be unsympathetic to the topography of the local landscape. These adverse impacts have particular weight by reason of paragraph 21 of PPS 10: Planning for Sustainable Waste Management; Policy QE6 of RPG11: Regional Planning Guidance for the West Midlands; paragraphs 3.13 and 3.15 of PPG2: Green Belts; Policy ER4 of the Warwickshire Structure Plan; Policy 1 of the Waste Local Plan and Regulation 5; Policy C1 of the Warwick District Local Plan 1995; and Schedule 2 of The Landfill (England and Wales) Regulations 2002.

The extension of landfill operations would allow the deposit of an additional 1.15 million tonnes of waste, which would conflict with paragraph 25 of PPS10 by undermining national and local waste strategies through prejudicing movement up the waste hierarchy. There is no need for additional landfill capacity and Policy WD3 of RPG11, Policy ER9 of the Warwickshire Structure Plan and Policy 3 of the Waste Local Plan oppose new or extended landfill facilities unless (so far as applicable) they are necessary for the restoration of mineral workings. Paragraph 71 of MPG1: General Considerations and the Development Plan System and Policy IC27 of the Structure Plan Alterations 1989-2001 (preserved by Policy ER8 of the Warwickshire Structure Plan and paragraph 6.15 of the Minerals Local Plan) require that restoration take place as quickly as possible.

The site is an industrial encroachment in the Green Belt, where in accordance with paragraph 3.1 of PPG2 and Policy ENV1 of the Warwick District Local Plan development should be permitted only if it is appropriate or justified by very special circumstances.

The development is capable of overcoming policy objections, and being acceptable, only if it is necessary in order to achieve the restoration of the site and represents the quickest and least environmentally harmful means of doing so. The County Council is not satisfied that these criteria have been met and considers there to be no other material consideration capable of rendering the proposed development acceptable.

## Appendix B

### Warwickshire County Council

#### Decision

The decision of the Regulatory Committee on 11<sup>th</sup> July 2006 to refuse planning permission to vary the profile of the site to ensure adequate post-settlement gradients are achieved to promote surface water drainage across the site and to alter the restoration scheme at Bubbenhall Landfill Site, Western Lane, Bubbenhall pursuant to Application W118/06CM007 (“the Application”).

#### Notice of Environmental Information

In accordance with Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (“the EIA Regulations”) notice is hereby given that the County Council in deciding the Application has taken into consideration an environmental statement and other environmental information (“the Environmental Information”).

#### Statement under Regulation 21(1) of the EIA Regulations

##### **Main Reasons and Considerations on Which the Decision is Based**

The main considerations on which the decision was based were derived from the following sources:

- (i) The Waste Strategy 2000 and in particular the waste hierarchy;
- (ii) PPS 10: Planning for Sustainable Waste Management and in particular paragraphs 21 and 25;
- (iii) RPG 11: Regional Planning Guidance for the West Midlands and in particular Policies QE6 and WD3;
- (iv) PPG2: Green Belts and in particular paragraphs 1.5, 1.6, 3.1, 3.23.11-3.13 and 3.15;
- (v) MPG 1: General Considerations and the Development Plan System and in particular paragraph 71;
- (vi) the Warwickshire Structure Plan 1998-2011 and in particular Policies GD1, ER4, ER8 and ER9;
- (vii) the Waste Local Plan for Warwickshire 1995-2005 and in particular Policies 1 and 3;
- (viii) the Warwick District Local Plan 1995 and in particular Policies C1 and ENV1;
- (ix) Policy IC27 of the Structure Plan Alterations 1989-2001;

- (x) the Environmental Statement submitted by the applicant and other environmental information provided by objectors and consultees;
- (xi) observations made on a site visit;
- (xii) the other considerations set out in the report to the Regulatory Committee on 11<sup>th</sup> July 2006;
- (xiii) the requirements of paragraph 1(1) of Schedule 2 to The Landfill (England and Wales) Regulations 2002.

The main considerations were:

- (a) the continuation for at least ten more years of the adverse environmental impacts on residents of the area resulting from landfill operations in the form of smell, dust, noise, pests, vermin, litter and vehicle movements;
- (b) the visual impact of extended landfilling in an otherwise attractive and intact Green Belt landscape containing several public footpaths and enjoyed by the public for recreation;
- (c) the cumulative effect of those additional impacts with the impacts sustained since mineral extraction began in the late 1970s and landfilling began in the early 1980s;
- (d) the extent to which those impacts could be mitigated, offset or avoided by conditions and obligations and the measures proposed by the applicant;
- (e) the desirability of securing the successful restoration of the site and a beneficial after-use as soon as possible;
- (f) the enhanced biodiversity offered by the revised restoration scheme;
- (g) the unsympathetic appearance of a domed landform in the landscape;
- (h) whether an extended landfill operation of this nature, scale and duration conflicted with Green Belt policies;
- (i) the potential benefits of achieving a landform that requires no subsequent remediation of settlement;
- (j) whether the proposal is a necessary and proportionate response to the environmental risks associated with inadequate drainage;
- (k) whether the proposal represented the fastest means of achieving the restoration of the site;
- (l) whether it had been demonstrated that no less environmentally intrusive schemes should be considered as alternatives.

Following consideration the application was refused for the following reasons:



*The proposed development would extend landfilling operations by at least ten years until approximately 2026. These operations are unsightly in an otherwise attractive landscape enjoyed by the public and have unavoidable adverse environmental impacts in the locality by reason of smell, dust, noise, pests, vermin, litter and vehicle movements. These impacts can be mitigated but not eliminated and would be cumulative with the effects of previous landfilling and mineral extraction beginning in 1979. In addition, the resulting landform would be unsympathetic to the topography of the local landscape. These adverse impacts have particular weight by reason of paragraph 21 of PPS 10: Planning for Sustainable Waste Management; Policy QE6 of RPG11: Regional Planning Guidance for the West Midlands; paragraphs 3.13 and 3.15 of PPG2: Green Belts; Policy ER4 of the Warwickshire Structure Plan; Policy 1 of the Waste Local Plan and Regulation 5; Policy C1 of the Warwick District Local Plan 1995; and Schedule 2 of The Landfill (England and Wales) Regulations 2002.*

*The extension of landfill operations would allow the deposit of an additional 1.15 million tonnes of waste, which would conflict with paragraph 25 of PPS10 by undermining national and local waste strategies through prejudicing movement up the waste hierarchy. There is no need for additional landfill capacity and Policy WD3 of RPG11, Policy ER9 of the Warwickshire Structure Plan and Policy 3 of the Waste Local Plan oppose new or extended landfill facilities unless (so far as applicable) they are necessary for the restoration of mineral workings. Paragraph 71 of MPG1: General Considerations and the Development Plan System and Policy IC27 of the Structure Plan Alterations 1989-2001 (preserved by Policy ER8 of the Warwickshire Structure Plan and paragraph 6.15 of the Minerals Local Plan) require that restoration take place as quickly as possible.*

*The site is an industrial encroachment in the Green Belt, where in accordance with paragraph 3.1 of PPG2 and Policy ENV1 of the Warwick District Local Plan development should be permitted only if it is appropriate or justified by very special circumstances.*

*The development is capable of overcoming policy objections, and being acceptable, only if it is necessary in order to achieve the restoration of the site and represents the quickest and least environmentally harmful means of doing so. The County Council is not satisfied that these criteria have been met and considers there to be no other material consideration capable of rendering the proposed development acceptable.*