

For: PLANNING AND REGULATION COMMITTEE – 9 JULY 2012

By: DEPUTY DIRECTOR FOR ENVIRONMENT & ECONOMY (GROWTH & INFRASTRUCTURE)

Development Proposed:

Application to continue importing leachate for treatment at Ardley Leachate Treatment Plant

Division Affected: Ploughley

Contact Officer: Mary Thompson **Tel:** Oxford 815901

Location: Ardley Landfill Site

Application No: MW.0084/12

Applicant: Viridor

District Council Area: Cherwell

Date Received: 4 May 2012

Consultation Period: 17 May- 11 June

Contents:

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
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Recommendation

The report recommends that the application (MW.0084/12) be approved.

• **Part 1 – Facts and Background**

Location (See Location Plan 1)

1. The leachate treatment plant is located within Ardley Landfill Site, 900 metres south of Ardley and 2.5 kilometres (1.55 miles) north of Middleton Stoney. The wider site incorporates landfill with associated leachate treatment plant, a household waste recycling centre (HWRC) and a waste transfer building. An energy from waste (EfW) plant is currently under construction.

The Site and Setting (See Location Plan 2)

2. The leachate plant area covers an area of 0.22 hectares (0.54 acres) and is located near the entrance to the landfill site, to the north of the offices and weighbridge and the HWRC.
3. The leachate plant area is within the boundaries of the landfill site, close to the western boundary which abuts the B430. The wider site is bounded by a railway line to the north and open countryside to the east and south.
4. The nearest properties are Ashgrove Cottages, approximately 400 metres to the south west of the application site on the other side of the B430.
5. No footpaths are affected by the proposal.
6. There is a geological and biological SSSI 250m to the north east of the application site.

Background & Planning History

7. Permission for limestone working on the site was granted in 1951 and continued until 2007. Working is continuing to the south of the site.
8. Permission for the landfilling of household and commercial and industrial waste was first granted in 1978 and permission for significant amendments, including the extension of the HWRC, was granted in 2003. The leachate plant was permitted under a condition on that consent. Permission for plant for utilisation of landfill gas for electricity was granted in 1996.
9. Permission for an energy from waste (EfW) plant (08/02472/CM) was granted on appeal in 2011. This consent incorporated the landfilling operations and therefore superseded the previous consent.

Details of the Development

10. The site contains a leachate treatment plant, which is permitted to treat leachate generated by the adjacent landfill site. It has also been used, for a number of years, for the treatment of leachate imported from other landfill sites. There was no condition to prevent this under the previous landfilling consent. However, the EfW consent contains a specific condition preventing the importation of leachate from other landfill sites.
11. This is a retrospective application as the importation of leachate has been ongoing since the implementation of the new permission which specifically prevents it.
12. Leachate is predominantly imported from landfill sites in Finmere (Oxfordshire), Gerrards Cross (Buckinghamshire) and Ware (Hertfordshire).
13. This application has now been made to allow the continued importation of leachate.

Traffic and Access Details

14. The importation of leachate generates an average of 8 vehicle movements per day. The total daily and annual tonnage of waste to the site is limited by conditions 3 and 4 on the energy from waste consent 08/02472/CM. The imported leachate would be part of this total and so this proposal would not be permitted to generate traffic above the total levels already permitted.
15. There is an existing routeing agreement which requires that vehicles use a route following the B3040 to the north of the site to the M40/A43 junction. A new agreement would be needed to ensure that vehicles associated with this development also follow the approved route.

• Part 2 – Other Viewpoints

Third Party Representations (copies of the letters are available in the Members' Resource Centre)

16. Three letters of objection have been received to these applications. They express concern that the leachate plant may be contributing to drainage problems in the Bucknell sewer and ask whether this application can be determined by Oxfordshire County Council given that would override a condition imposed by the Secretary of State. Full details of the representations can be found at Annex 1.

Consultation Responses

17. Details of consultation responses can be found at Annex 2. There have been objections from local Parish Councils. However, the District Council and other statutory consultees including the Environment Agency have not objected.

• Part 3 – Relevant Planning Documents

Relevant Development Plan and other policies (see Policy Annex attached to this Agenda)

18. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
19. The Development Plan for this area comprises:
- The South East Plan (SEP)
 - Oxfordshire Minerals and Waste Local Plan (saved policies) (OMWLP)
 - Cherwell Local Plan (CLP)
20. Other documents that need to be considered in determining this development include:
- Non Statutory Cherwell Local Plan (NSCLP)
 - Oxfordshire Minerals and Waste Core Strategy Proposed Submission Document (OMWCS)
 - National Planning Policy Framework (NPPF)
21. The South East Plan (SEP) forms part of the Development Plan. However, the Government has made it clear that it intends to abolish regional strategies. The Localism Act enables the Secretary of State to revoke the whole or any part of a regional strategy by order. Whilst no such order had been made at the date this report was drafted, the published intention to revoke is a material consideration to which substantial weight should be given.
22. The Oxfordshire Minerals and Waste Core Strategy has not yet been adopted, however the Proposed Submission Document was agreed by Oxfordshire County Council Cabinet on 13 March 2012 and Full Council on 3 April 2012. Now that it has been agreed by the Council it will be published for public comment and then submitted to the Government for examination. The independent examination of the plan by a government appointed inspector is expected to take place later in 2012. When the inspector's report is received, the Council will be able to adopt a final plan. As this plan is now at an advanced stage, significant weight should be given to its policies.

23. The Government's National Planning Policy Framework was published on 27 March 2012. This is a material consideration in taking planning decisions. However, it does not contain specific waste policies as these will be published as part of the National Waste Management Plan for England. Key extracts of the NPPF are highlighted in the planning policy annex.

Relevant Policies

24. The relevant policies are:
- NPPF – Sections in this document refer to promoting sustainable transport.
 - SEP – W4, W17, T1,
 - OMWLP – W2, W5
 - CLP – ENV1, ENV7
 - NSCLP – EN3, EN12
 - OMWCS - W6, C8

• Part 4 – Assessment and Conclusions

Comments of the Deputy Director for Environment & Economy (Growth and Infrastructure)

25. The key planning issues to consider in deciding these applications are:
- (i) Acceptability of the proposed waste development in this location
 - (ii) Traffic impacts on local roads and residents
 - (iii) Pollution/flooding
 - (iv) Restoration
- (i) Acceptability of the proposed waste development in this location**
26. Waste management policy generally supports the expansion of existing suitable sites (SEP Policy W17) and allows for encourages provision to be made for some waste from outside the county to be treated in Oxfordshire (OMWLP W2 and SEP W4). Waste treatment plant should be well screened (OMWLP Policy W5).
27. The site has an existing waste management use and is permitted for the treatment of leachate produced on the adjacent landfill. Therefore, I consider that it is suitable for the treatment of leachate. Waste would be brought in from outside the county however the quantities are relatively limited (4 tankers per day total for leachate from both inside and outside Oxfordshire) and policy does allow for the treatment of waste from outside Oxfordshire. The leachate plant is already well screened.
28. I consider the proposal to import waste to this site accords with waste policy.

(ii) Traffic Impacts

29. Policy requires facilities to be well located in relation to the transport network and not to cause nuisance from traffic generation (OMWLP Policy W3, SEP Policy W17 and OMWCS policy C7).
30. Ardley with Fewcott Parish Council have objected on the basis that the condition was originally put on in order to minimise road traffic and ensure restoration could take place. The letter from the Secretary of State which accompanied the schedule of conditions suggested that the reason for the condition was a result of concerns raised by Bucknell Parish Council and two individual objectors. In any case, the traffic and restoration impacts must be considered.
31. The site has direct access off the B4030. The number of vehicle movements involved in the importation of leachate (8 per day) is considered to be insignificant. There is a limit on the EfW permission on the total amount of waste that can be imported to the site and a condition or informative could be added to any consent granted for the importation of leachate to ensure that these vehicle movements are included in that total. Therefore, there would be no increase in the permitted vehicle movements as a result of the import of leachate. There has been no objection from the Highways Authority.
32. The importation of other waste to the site is covered by a routeing agreement to ensure that HGVs access the site from the north and do not travel through the village of Middleton Stoney. It is recommended that if permission is granted for this development there should also be a routeing agreement limiting vehicles to that same route.
33. I consider the development to be acceptable in terms of traffic policy.

(iii) Pollution and flooding

34. Policy states that development that would cause unacceptable levels of environmental pollution will not be permitted (CLP policy ENV1 and NSCLP EN3).
35. In addition, development which will directly adversely and materially affect water quality of surface or underground water bodies, such as rivers and lakes, will not be permitted (CLP policy ENV7 and NSCLP EN12).
36. There has been some concern about pollution and flooding, as set out in the summary of representations at Annex 1. These state that since Viridor connected their leachate discharge to the Bucknell sewer there have been a number of incidents of flooding. This includes a particular occasion in 2010 when sewer water was running over the road and into a ditch. However, included in the application is correspondence from

Thames Water which confirms that this incident was investigated and no link was found between the blockage and the discharge of treated leachate from the landfill site.

37. As neither Thames Water nor the Environment Agency has objected to this application, there is no evidence that the importation of leachate is likely to cause any adverse impact through flooding, drainage or pollution issues. Viridor have a consent to discharge trade effluent and this discharge consent imposes limits on the volume and nature of the discharge. Regular audit sampling is carried out by Thames Water to ensure compliance. In addition to the regulation by Thames Water, if the discharge of leachate was causing water pollution the Environment Agency has statutory powers to impose fines.
38. I consider this application accords with planning policy on environmental protection. Other systems are in place to protect the environment and human health from pollution incidents, including the waste permitting procedure handled by the Environment Agency and the sewer discharge procedure handled by Thames Water.

(iv) Restoration

39. Ardley with Fewcott Parish Council have stated that the original condition preventing leachate importation was added to ensure that restoration could take place in accordance with the timescales agreed for the restoration of the site. Cherwell District Council have also commented that this development should not allow the restoration of the site to be delayed.
40. I agree that this development should not delay the restoration of the site. If permission is granted it is recommended that a condition should be added to ensure that the timescale for the importation of leachate is linked to the timescale of the treatment of leachate generated on site. When the adjacent landfill ceases to create sufficient quantities of leachate to keep the treatment plant operational it will no longer be appropriate to bring leachate from other sites for treatment at this location.

v) Process

41. Objectors have suggested that Oxfordshire County Council is not able to deal with this application as the condition preventing leachate import was imposed by an inspector.
42. This is not the case. Oxfordshire County Council is the body with statutory responsibility for determining waste planning applications, regardless of the fact that a previous related consent was granted on appeal.

43. The Secretary of State considered a request from Viridor to change the condition preventing the importation of leachate, but did not accept them due to the concerns raised by local residents and Bucknell Parish Council.¹ However, this planning application has provided the opportunity to establish whether those concerns have any basis.
44. In light of new information contained in this application in the form of correspondence from Thames Water confirming that there is no evidence to link the sewage problem at Bucknell to leachate discharge from the site, it is appropriate to reconsider whether the restriction on import is still necessary.
45. A representation has been received stating that this application should have been accompanied by an Environmental Impact Assessment (EIA). The application was screened to determine whether it required an EIA in accordance with proper process. The conclusion of this exercise was that EIA was not needed.
46. There has been concern that the import of leachate has continued without planning consent for some months since the implementation of the EfW consent. Oxfordshire County Council has advised Viridor that this is contrary to a planning condition. Viridor have sought to rectify the planning position by submitting this application. The decision on what if any enforcement action should be taken can be made once this application has been determined.

Conclusion

47. Although there has been local concern in relation to this application, the proposals are considered to accord with development plan policies relating to waste, traffic and pollution.
48. There is no evidence that the importation of leachate is linked to the drainage problems described by objectors. The restriction preventing the import of leachate is not considered necessary.
49. Therefore, it is recommended that this application be approved subject to conditions and a routeing agreement.

Recommendation

50. **It is RECOMMENDED that subject to a routeing agreement to ensure that vehicles associated with this development follow the same route as waste vehicles associated with the EfW and landfill (avoiding Middleton Stoney) that planning permission be approved for application MW.0084/12 to continue importing leachate for treatment at Ardley Leachate Treatment Plant at Ardley Landfill Site subject to conditions to be determined by the Deputy Director for**

¹ Letter dated 17 February from Julian Pitt, Communities and Local Government

Environment & Economy (Growth & Infrastructure) but to include the matters listed below:

Heads of Conditions

- 1. Complete accordance with application**
- 2. End date for importation to coincide with the end of the treatment of leachate generated onsite**
- 3. Standard working hours for deliveries**
- 4. Maximum annual import of 180 000 tonnes, as proposed**
- 5. Leachate to be delivered in sealed tankers only**
- 6. White noise on reversing beepers**

Informative

Conditions 3 and 4 of permission 08/02472/CM sets out annual and daily maximum tonnages of waste to be imported to this site. Imported leachate permitted under this consent is included in those totals.

MARTIN TUGWELL
Deputy Director (Growth & Infrastructure)

June 2012

Annex 1 Representations

Third Party Representations (copies of the letters are available in the Members' Resource Centre)

38 letters of objection have been received to these applications. The following concerns have been expressed. The points raised are addressed in the main body of the report.

Drainage

- Danger to community from pollution.
- There were no problems with flooding of the Bucknell sewer until Viridor connected the leachate discharge.
- The email from Thames Water may confirm that one particular flooding incident was not due to leachate, but there have been many other flooding incidents.
- A proper investigation should take place into the gel and possible fungal growth in the sewer. The email from Thames Water does not suggest a thorough scientific investigation or attempt to explain the gel.
- The completion of the EfW plant and in particular the IBA maturation system will lead to an increase in leachate generated onsite and an overload of the sewer.
- Drains have often had to be cleared late at night, causing disturbance.
- There has not been so much of a problem in the last two years but this is because of the unusually low rainfall. Once it returns to normal the flooding will return.
- The sewer is linked to a stream to relieve flow in storm conditions. This same stream features as an important part of public open space in the Eco Town proposal.
- Further details of the source of the leachate should be provided in order to determine toxicity.

Process

- Oxfordshire County Council should not be able to determine an application that would have the effect of superseding a condition imposed by the Secretary of State.
- Viridor should have put their case to the inspector at the appropriate time – they agreed to this condition.
- Oxfordshire County Council should take enforcement action against the continued importation of leachate.
- Double standards – if a householder had been in breach of a condition for this length of time action would have been taken.

- An Environmental Impact Assessment should have been carried out.

Traffic

- Development would cause additional vehicle movements on unsuitable rural roads.

Annex 2 – Consultation Responses

1. Cherwell District Council – No objection subject to vehicle movements remaining within the permitted limits and the restoration of the site not being delayed as a result of the proposed use.
2. Ardley with Fewcott Parish Council – Object. Condition 38 was agreed by all parties at appeal. The reason given for the condition on the consent is not related to sewer flooding but to minimise road traffic and ensure that the area can be restored within the agreed timescale. Supports this reason as traffic on the B430 should be minimised. This condition should not be changed retrospectively by the planning authority as it was agreed at a public inquiry after several days of expert evidence.
3. Middleton Stoney Parish Council – Object. There was sufficient concern over the impact of the discharge of treated leachate for the Planning Inspectorate to impose a condition preventing leachate import. As this was agreed at the inquiry this is not a matter which should now be overturned by the planning authority.
4. Bucknell Parish Council –Object. This should not be allowed given that it contradicts a condition attached by the Secretary of State. Concerned that leachate import is ongoing without permission. Development would increase traffic on the B430. As the gel that has blocked the Bucknell sewer only started after Viridor started discharging leachate, an in-depth investigation should take place and this has not happened. More detail is needed of the source of the imported leachate to judge its toxicity. Flooding has caused a great deal of expense and concern to Bucknell residents.
5. Environment Agency – No objection. The environmental permit already authorises leachate treatment.
6. Natural England – No objection subject to the development being carried out as proposed. The site is in close proximity to the Ardley Cutting & Quarry Site of Special Scientific Interest.
7. Thames Water – No further comment to add beyond those comments communicated to Henry Austin and annexed within the application. Ardley Landfill have a consent to discharge trade effluent and as part of this consent certain limits are imposed on the volume and nature of their discharge. Thames Water regularly carry out audit sampling to monitor and ensure compliance. Cannot see anything in the results available that would suggest a direct link between their discharge and any blockages.
8. County Ecologist Planner – No objection. Understand that the existing hard-surfacing and plant equipment already has planning consent.

9. Highways Authority – No objection, subject to the traffic generation being as proposed.
10. County Drainage Officer – No objection. There would be no problem with the existing highway drainage systems surrounding the site. Any leakage at the site would be contained within the site.

Annex 3 – Protected Species

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation & Habitats Regulations 2010 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS.
2. Deliberate taking or destroying of EPS eggs.
3. Deliberate disturbance of an EPS including in particular any disturbance which is likely
 - a) to impair their ability –
 - i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

These regulations have been considered and it has been concluded that the proposed development would not affect any European Protected Species.

