

**Development Control Committee**  
Meeting to be held on 20<sup>th</sup> January 2021

Electoral Division affected: Skelmersdale West
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**West Lancashire Borough: Application number. LCC/2020/0030**  
**Application for the retention of 3 no. silos. Whitemoss Landfill Site, White Moss Road South, Skelmersdale**

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### **Executive Summary**

Application - Application for the retention of 3 no. silos. Whitemoss Landfill Site, White Moss Road South, Skelmersdale

### **Recommendation – Summary**

That planning permission be **granted** subject to conditions controlling time limits, working programme, colour of elevations and dust controls.

### **Applicant's Proposal**

The application is for the retention of three silos. Each silo measures 12.1 metres in height with a diameter of 3.1 metres and are green in colour. The silos are used for the storage of imported waste materials prior to them being deposited in the applicant's adjacent landfill facility. The types of waste stored include air pollution control residues, fly ash and other similar materials that arise from the operation of energy from waste facilities.

### **Description and Location of Site**

The silos are located within the operational area of Whitemoss Landfill site, located off Whitemoss Road South, 500 metres south of Skelmersdale. The silos are located adjacent to the access road running between the site entrance and the landfill area.

To the north of the landfill beyond Whitemoss Road South and the M58 are various industrial estates and residential areas immediately north of the motorway. To the south and west is the applicant's landfill site whilst land to the east is open land beyond which is the West Lancashire Investment Centre Business Park. There are a small number of residential properties located off Whitemoss Road South, the closest of which is 150 metres to the north west of the silos.

The site is located within the Green Belt.

## **Background**

### History

Whitemoss Landfill site has a long planning history associated with waste management operations. In 2015 a Development Consent Order was made by the Secretary of State for Communities and Local Government for a westerly extension of the landfill site.

## **Planning Policy**

National Planning Policy Framework: The following paragraphs are relevant to this proposal: - 8- 11 (achieving and definition of sustainable development), 127 (design), 143 – 146 (Green Belts), 180 – 181 (noise and air quality) and 182 (relationship with pollution control regime)

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy DM2 – Development Management

West Lancashire Local Plan

Policy GN3 – Criteria for Sustainable Development

## **Consultations**

West Lancashire Borough Council: No objection.

Environment Agency: No objection. The operations at the landfill site are regulated by the Environment Agency under the Environmental Permitting Regulations. The Environment Agency are aware that the silos have been in use for some time without any issues arising.

LCC Highways Development Control: No comments received.

Lathom South Parish Council: Object to the application. The Parish Council are concerned about the air pollution impacts as the ash being stored consists of fine particles and contains multiple pollutants including heavy metals that can result in many lung and immune disorders. The Parish Council are concerned that the application is retrospective and does not have any supporting documents from the Health and Safety Executive or any COSHH risk assessment. They also consider that the ash materials could be recycled.

Bickerstaffe Parish Council: Question why they have not been consulted on the application.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Five representations have been received objecting to the application on the following grounds:-

- Large plumes of black smoke have been circulating in the area with implications for the health of local residents. The proposal is a breach of the rights of residents to live in a clean and safe environment.
- The application was made during lockdown which reduced effective consultation.
- Fly ash consists of fine particles containing toxic metals and soluble salts which are corrosive and abrasive which will be harmful if inhaled. Dust issues from the loose tipping of ash have been an issue on this site in the past. The ash must be wetted and contained in sealed bags or containers before it is tipped in the landfill.
- The ash and dust materials could be recycled.
- The silos should have been planned for as part of the larger landfill project. The retrospective application demonstrates a lack of control and management by the Company.
- What is the transfer method and how will it affect air quality?
- There is a lack of information and the applicant should submit a fly ash management plan. Whitemoss is windy location and there are residential and business uses and agricultural land being used to grow vegetables down wind of the site. Ash contamination would be harmful to public health.
- The delivery of ash materials to the site is resulting in releases of dust.

The CPRE West Lancashire Branch consider that the County Council does not have the authority to make changes to the scope of works associated with a Development Consent Order and that the application should be made to the Secretary of State. The CPRE consider that the proposal represents a material change to the Development Consent Order as it is a proposal that would require the Environmental Statement that supported the original Development Consent Order to be revisited. The CPRE also draw attention to the impacts of tipping loose hazardous dust materials at the landfill but consider that the unsheltered roadside location for the silos is unsuitable as there is no sheltering bunding or covering building.

A letter has also been received from Borough Councillors Pryce – Roberts, Cummins and West objecting to the application. The Councillors state that they have been contacted by a number of residents who are concerned about the impacts of the silos. It is acknowledged that the silos were installed before the present applicant acquired control of the site but their due diligence should have revealed the absence of any permission and the fact that they have remained in situ and operational for 18 months despite visits from the Environment Agency and the County Council is a cause for concern. The councillors are also concerned about the lack of comment from the Environment Agency and that silos would result in dust emissions which have serious health implications. The councillors consider that the application should be refused and that the health and safety of residents is the priority.

County Councillor Julie Gibson raises objection on the grounds that the applicant has not conformed to the terms set out in the Development Consent Order for this site and that there has been inadequate monitoring of the site by LCC leading to the applicant being able to develop the site without obtaining the necessary consents. The applicant should be respectful of their duty to the local community.

## Advice

Whitemoss Landfill Site is an established landfill facility and operates specifically for the disposal of hazardous wastes. In 2015 a Development Consent Order was made by the Secretary of State for a westerly extension of the site. The extension area covers an area of around 16 hectares which would be developed over the period until 2035 at an input rate of up to 150,000 tonnes per annum. The application for the extension area was the subject of a Development Consent Order rather than a planning application to the county council as landfill proposals for hazardous waste are one of the development types that are identified as a nationally significant infrastructure project within the Planning Act 2008, therefore requiring a Development Consent Order application. The extension of the site under the terms of the Development Consent Order commenced in 2018.

The main waste types that are accepted at the site are contaminated soils and also dust and ash materials which are generated by energy from waste sites including the residues that arise from the air pollution control equipment that is used at such sites. These ash and dust materials contain metals and other contaminants which mean that they are classed as hazardous wastes and therefore must be disposed of at landfill facilities which are specifically permitted to accept such materials.

Whitemoss has accepted these materials for a considerable period of time and were transported to the site by tanker and tipped in the open on the tipping face. These waste streams are likely to increase in future as more household waste is managed through energy from waste facilities rather than by landfill.

In 2019 the silos subject to this application were installed. They were installed by the previous operators of the landfill site. Their presence on the site and the need to obtain planning permission was identified during a site monitoring visit undertaken by the County Council in July 2019 and the new operators have therefore applied to regularise the situation. Section 73A of the Town and Country Planning Act 1990 provides for an application to be made for development that has already been carried out.

The silos are used to handle the finer ash and dust materials that are imported to the site. Some of the bottom ashes which are imported to site are heavier and therefore less likely to cause dust impacts are transported direct to the landfill area. The fine ashes and dusts are transferred into the silos from tankers using sealed pipework. The ash / dust is then transferred into large bags (similar to those used to hold stone and sand for building uses) from the base of the silo via an auger. The bags have a neck which allows them to be clamped onto the feed pipe from the auger and ensures a tight fit with no dust leakage during filling. The bag is then tied off and transported to the landfill where they are used as fill or placed above the landfill liner to act as a protection layer prior to other more angular materials being tipped.

Although the concerns regarding dust emissions and associated health impacts are acknowledged, the use of the silos allows these materials to be contained within sealed containers and reduces the potential for dust emissions compared to the loose tipping that was previously lawfully undertaken. The health impacts arising from the tipping of hazardous waste at this site were investigated as part of the Development

Consent Order for the extension of the site and no overriding health impacts were identified, provided that mitigation measures to reduce dust impacts are employed. The use of the silos is one such method of mitigation.

In one of the representations, photographs have been produced showing dust emissions from one of the silos during the filling process. The applicant has reported that a problem occurred on a pressure relief valve on silo 1 during the spring 2020 lockdown. The equipment was repaired but then developed a further fault so was taken out of use on 10<sup>th</sup> December. The faulty equipment was then replaced on 21<sup>st</sup> December. This issue does not appear to have occurred on the other two silos and there is no reason to conclude that there is a fundamental design issue that cannot be overcome. The silos are sealed containers and there is no need to erect bunds or have a building over the silos to provide further dust mitigation. Subject to a condition requiring dust mitigation measures to be fitted to the silos and maintained in operational condition, it is considered that dust can be controlled to acceptable levels.

The silos are located within the Green Belt. Paragraph 144 of the National Planning Policy Framework states that inappropriate development (which includes most new buildings including the proposed silos) is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In this case, the silos are located within a landfill site which itself is located within the Green Belt and for which very special circumstances were considered by the Secretary of State to be demonstrated. The silos are only used in association with the operation of the landfill and help to reduce dust emissions from some of the waste materials that are deposited at this site. The silos therefore have some environmental benefits and it is considered that very special circumstances exist for their retention in the Green Belt.

The silos are located close to the site entrance from where limited views can be gained from Whitemoss Road South. However, the boundaries of the site are generally comprised of trees and hedgerows which provide effective screening for the silos. The visual impacts of the silos are therefore acceptable. A condition should be attached to any permission requiring their removal following the cessation of landfill operations at the site.

The silos are sufficiently distant from the nearest properties that noise impacts should not occur at the nearest properties. The Development Consent Order contains controls on the hours of operation for the landfill site as a whole and which would apply to operations associated with the silos.

The CPRE have questioned whether this proposal represents a modification of the original Development Consent Order proposal which would have to be the subject of a further application to the Secretary of State rather than a planning application to the County Council. Section 14 of the Planning Act 2008 designates the 'construction or alteration' of a hazardous waste facility as being a Nationally Significant Infrastructure Project. The construction of a hazardous waste facility is defined in Section 30(1) and the meaning of an alteration of a facility is defined in Section 30(3) as, among other requirements, having the effect of increasing, by more than 100,000 tonnes per year, the capacity of the facility (where the facility is a landfill or deep storage facility). The application will have no such effect and therefore does not constitute the construction or alteration of a hazardous waste facility. Instead, the application is only for ancillary

infrastructure associated with that process and therefore it is appropriate for the County Council to determine the planning application.

With regard to the recycling of ash and dust residues, it is the case that these materials can sometimes be used in the manufacture of concrete. However, reuse depends on the chemistry of the ash and the end use of the concrete. The chemistry of some ash and dust materials from energy from waste facilities is such that they would not normally be suitable or in demand for the manufacture of concrete and therefore landfill is the best option for these materials.

With regards to other issues raised in the representations, the application was advertised between 17<sup>th</sup> June and 8<sup>th</sup> July by newspaper advertisement, site notice and by letter to local residents which exceeds the publicity requirements set out in legislation and in the relaxations which were introduced due to COVID 19. In relation to the comments from Bickerstaff Parish Council, the site is not located within any parish council area and therefore no formal consultations were undertaken with any parish council. Following the enquiry from Bickerstaff PC, they were advised of the ability to make comments but no further communication was received.

In conclusion, the use of the silos assists in reducing dust emissions arising from the disposal of certain waste materials at this site. The silos do not have any unacceptable impacts on local amenity or the Green Belt and therefore their retention should be supported.

In view of the scale, location or nature of the development, it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

## **Recommendation**

That planning permission be **Granted** subject to the following conditions:

### **Time Limits**

1. The silos shall be removed from the site by not later than 31st December 2035 or within 12 months from the cessation of landfilling operations as defined in this permission, whichever is the earlier.

*Reason: To ensure the progressive restoration of the site in the interests of visual amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.*

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

- a) The Planning Application received by the County Planning Authority on 28th April 2020

- b) Submitted Plans and documents:

Drawing WL/WL/04-20/21720 - Layout

Drawing WL/WL/04-20/21721 - Elevations  
Drawing 45CMGS03 - Dimensions

*Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan and policy GN3 of the West Lancashire Local Plan.*

3. The external elevations and supporting framework of the silos shall be painted olive green (RAL colour code 6003) and retained in that colour throughout the duration of the development.

*Reason : In the interests of the visual amenities of the area and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy GN3 of the West Lancashire Local Plan.*

4. Measures shall be taken to minimise dust impacts during the filling and emptying of the silos including the regular inspection, maintenance or replacement of all pressure relief valves, hose connection points and emptying pipes to prevent unregulated emissions of dust.

*Reason: In the interests of local amenities and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and policy GN3 of the West Lancashire Local Plan.*

### **Definitions**

Cessation of Landfill operations: The date when landfill operations cease under the terms of the Development Consent Order made on 19<sup>th</sup> June 2015 or any successor consent or permission to that Order.

### **Local Government (Access to Information) Act 1985 List of Background Papers**

None

### **Reason for Inclusion in Part II, if appropriate**

N/A