

Development Control Committee
Meeting to be held on 2 March 2016

Electoral Division affected:
CHORLEY RURAL NORTH,
CHORLEY NORTH, LEYLAND
CENTRAL

Chorley Borough: application number 09/13/1075
Environment Act 1995 - application for the determination of conditions for
permission 09/98/0049 for the winning and working of minerals at Clayton Hall
Landfill Site, Dawson Lane, Whittle le Woods

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Executive Summary

Application – Environment Act 1995 - application for the determination of conditions for permission 09/98/0049 for the winning and working of minerals at Clayton Hall Landfill Site, Dawson Lane, Whittle le Woods.

The application is accompanied by an Environmental Statement and Non-Technical Summary for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Recommendation – Summary

That, after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, for the purposes of Section 96 and Schedule 14 of the Environment Act 1995 conditions be imposed on planning permission 09/98/0049 controlling time limits, working programme, hours of working, site operations, highway matters, noise, restoration and aftercare.

Legislative Background Information

Section 96 and Schedules 13 and 14 of the Environment Act 1995 provide for the initial review and updating of old mining permissions granted between 30 June 1948 and 22 February 1982 and the periodic review of all mineral planning permissions thereafter as a means of protecting the environment and amenity, and to provide equal treatment between sites and mineral operators.

Initially the County Council as Mineral Planning Authority (MPA) was required to prepare a list of all relevant mineral permissions and then divide the sites between those permitted between 1948 and 1969 (Phase 1 sites) and those permitted

between 1969 and 1982 (Phase 2 sites). Applications for the determination of new conditions for active Phase 1 sites had to be submitted within a period of time set by the MPA, which was between 1 and 3 years of the date of publication of the MPA's list and within the following 3 years for active Phase 2 sites. Periodic Reviews typically take place every 15 years unless the MPA is satisfied that the existing permission provides sufficient controls. The purpose of periodic reviews is to ensure that the conditions attached to mineral permissions do not become outdated with the passage of time.

The MPA can either approve the applicant's proposed schedule of conditions as submitted or impose their own set of conditions. The conditions imposed by the MPA should meet all the tests of planning conditions and should not restrict working rights nor prejudice adversely, or to an unreasonable degree, the economic viability of operating the site or asset value of the site. If the application is determined on terms different from those set out in the application, the applicant has a right of appeal to the Secretary of State and if his working rights are restricted he may be entitled to compensation. It is not open to the MPA to refuse a valid application.

Applicant's Proposal

The old mining planning permissions relevant to this site were reviewed under the provisions of the Environment Act 1995 and new planning conditions were determined on 6 April 1998 (permission reference number 09/98/049). The reviewed conditions provide for the extraction of minerals followed by progressive restoration of the site involving the importation of non-hazardous waste materials until the end of 30 years from the date of the permission i.e. 6 April 2028. An application has been submitted for the periodic review of permission 09/98/049.

Based on figures derived from the status of the site at the end of 2012 (prior to the application being submitted), the operator estimated that 29,000m³ of sand and gravel remained (approximately 58,000 tonnes) and this relates to an area of some 1.2 hectares within the wider site. The area of landfill operations is some 8.1 hectares and the remaining capacity was approximately 423,000m³, or 5-6 years.

With the passage of time and the continuation of operations at the site the applicant has indicated that the remaining mineral reserves are below 6000m³ and the landfill capacity has fallen to below 320,000m³, with a life of some 4 years.

The area of the site still to be worked comprises Cells 3A, 3B, 3C, 4A and 4B shown on drawing no 08469/99 – *Working Plan*. Cells 3A and 3B are largely complete and await capping and final restoration.

At the time the application was submitted it was considered that the development was a Schedule 1 Project under the Town and Country Planning (Environmental Impact Assessment) Regulations 2015. The application was first submitted without an Environmental Statement and consequently the application could not be determined. The applicant subsequently submitted an Environmental Statement (ES) and Non-Technical Summary. The ES provides details of the site history and the proposed development before examining the impacts associated with the proposal. It assesses key identified potential environmental impacts in respect of

hydrology and hydrogeology, landscape and visual impact, landfill gas, ecology, cultural heritage, and other matters including noise, air quality and highways matters.

The application includes a schedule of proposed new planning conditions regarding site area, updated drawings, time limits, development schemes, site operations, restoration and aftercare.

Description and Location of Site

The site is a largely worked out sand and gravel quarry, which is being restored through the deposit of non-hazardous waste. The site also has an associated waste management and recycling centre. The site is accessed from Dawson Lane and is located between Whittle-le-Woods and Leyland, on the western flank of the River Lostock Valley. The existing waste sorting and recycling centre is located in the service yard to the south of the site.

Open agricultural land extends beyond the site to the north and east. Buckshaw Village is to the south. An established residential estate is located to the north-west.

This site is located within Green Belt.

Background

Site History

Clayton Hall Quarry is a long established sand quarry, which is currently being restored by landfilling. The old mining planning permissions relevant to this site were reviewed under the provisions of the Environment Act 1995 and new planning conditions were determined on 6 April 1998 as part of permission ref. 09/98/049. The reviewed conditions provide for the extraction of minerals followed by progressive restoration of the site involving the importation of waste materials until the end of 30 years from the date of the permission i.e. 6 April 2028.

Planning permission for a waste baling and recycling centre was granted in February 1991 (ref 09/90/0690).

Planning permission for an extension to existing facility to provide new recycling shed weighbridge and office cabin and inert/green waste sorting bays was granted in March 2003 (ref 09/02/1268).

Planning permission for the demolition of existing workshop building and erection of new building on same site for use as transfer station was granted in April 2005 (ref 09/05/0150).

Planning permission for the erection of a concrete leachate tank and landfill gas flare was granted in August 2007 (ref. 09/07/0640).

Planning permission for the erection of 3 leachate tanks was granted in June 2008 (ref. 09/08/0478).

Planning permission for the erection of a landfill gas generator for the generation of electricity from landfill gas, gas flare, plant, switch/meter room and ancillary offices and stores was granted in March 2009 (ref. 09/09/0009).

Planning permission for a proposed additional gas engine, revised layout of renewable electricity generation compound used to generate electricity, and retention of meter and switch/substation cabinets was granted in April 2011 (ref. 09/11/0058).

Planning permission for the construction of a leachate tank, heat exchange unit, pipework and bridges to be used to treat landfill leachate was granted in November 2011 (ref: 09/11/0794).

Planning permission was granted on 30 November 2012 for an extension to the waste sorting and recycling centre building to connect with the existing waste transfer station, increase in the roof height of the existing building to create continuity, additional external water tanks, electrical cabinets and the creation of additional car parking spaces (ref. 09/12/0868).

Planning permission was granted on 19 February 2015 for the construction and use of a new tank for storage of water for fire-fighting, with association pump house and concrete foundation (ref. LCC/2015/002).

Planning Policy

National Planning Policy Framework

Paragraphs 6 – 16, 79 - 92, 109 – 125, 142 -148 are relevant with regard to the definition of sustainable development and the operation of the planning system, protecting green belt land, conserving and enhancing the natural environment and facilitating the sustainable use of minerals respectively.

Planning Practice Guidance accompanying the NPPF (PPG)

Minerals

Waste

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD (JLMWDF)

- Policy CS1 Safeguarding Lancashire's Mineral Resources
- Policy CS3 Meeting the demands for New Minerals
- Policy CS5 Achieving Sustainable Mineral Production
- Policy CS7 Managing our Waste as a Resource
- Policy CS8 Identifying Capacity for Managing our Waste
- Policy CS9 Achieving Sustainable Waste Management

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy NPPF1	Presumption in Favour of Sustainable Development
Policy DM1	Management of Waste and Extraction of Minerals
Policy DM2	Development Management
Policy DM4	Energy from Waste
Policy LF1 –	Sites for Non-Hazardous Waste
Policy M1	Managing Mineral Production

Central Lancashire Core Strategy

Policy 22	Biodiversity and Geodiversity
Policy 29	Water Management

Chorley Local Plan 2012-2026

Policy ST1	New Provision or Improvement of Footpaths, Cycleways, Bridleways and their associated facilities in existing networks and new development.
Policy V1	Model Policy
Policy BNE9	Biodiversity
Policy HW3	Valley Parks

Consultations (summary)

South Ribble Borough Council – No observations received.

Chorley Borough Council – No observations received.

Clayton-Le-Woods Parish Council – No observations received.

Whittle-Le-Woods Parish Council – No comments.

LCC Developer Support (Highways) – No objection. Conditions are recommended for wheel cleaning facilities, condition of road, sheeting and travel plan.

County Landscape Service – No observations received.

County Ecology Service – No objection. Retaining overburden mound preferable. Conditions recommended for better control of restoration and aftercare.

County Archaeology Service – No observations received.

Environment Agency – There are existing environmental permits for this site issued under the Environmental Permitting (England and Wales) Regulations 2010. Controls are already in place particularly in terms of monitoring groundwater.

Natural England – No objection.

Ramblers Association – Potential impact on public rights of way should be addressed within the Environmental Statement.

United Utilities - No observations received.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. No representations have been received.

Advice

Clayton Hall Quarry and Landfill site has a long history of mineral extraction and tipping of waste materials for restoration purposes. The applicant has submitted a proposed scheme of continued working at the site, together with an Environmental Statement and a proposed schedule of conditions under the provisions of Section 96 and Schedule 14 of the Environment Act 1995.

The applicant has provided details of a proposed scheme of working and restoration for the remaining operations at the site, which reflects the approved development. Working cells have been reorganised to be consistent with the approved programme of works through the Environmental Permit issued by the Environment Agency. A large overburden mound at the southern end of the site has become vegetated over the passage of time and now represents a valuable ecological asset. With this in mind the applicant has proposed to retain this element, which is reinforced with a proposed condition. There are no other significant changes to the scheme of working or restoration.

The number of HGV movements varies depending on market conditions and there are currently no planning conditions restricting numbers. There is one permitted access route into the site off Dawson Lane, which will continue to be used. A wheel cleaner is located adjacent to the existing waste management buildings and would continue to be used to clean the wheels of HGVs leaving the site via a long internal access road. There would be no additional effect on any public rights of way.

Overall, the applicant's proposed schedule of conditions are reasonable and appropriate and provide a modern update to reflect the current status of the site and scheme of working. The applicant's proposed conditions in relation to restoration and aftercare are recommended to be made more precise with reference to the current approved scheme. Additionally, a condition is recommended to seek to ensure that tipping of waste materials does not take place above accepted pre-settlement levels.

The applicant has submitted an Environmental Statement to assess any likely significant effects of the existing site and the remaining development. It is accepted that subject to the proposed conditions and protection that is afforded under the terms of the existing Environmental Permit, there should be no detrimental impact on local amenity, the environment or the highway network as a consequence of continued operations.

A draft set of proposed conditions was issued to the applicant who confirmed agreement.

Human Rights Act

In view of the location and nature of the development in relation to the existing environment and permitted rights of the developer it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Conclusion

Clayton Hall Quarry and Landfill site has had a long history of mineral extraction and tipping of waste. Current operations are undertaken in accordance with a number of existing planning permissions. Under the provisions of Section 96 and Schedule 14 of the Environment Act 1995 the applicant submitted a proposed scheme of continued working and restoration and a schedule of proposed conditions. It is recommended that the proposed scheme of working and restoration be approved subject to a number of minor changes as referred to above. It is considered that the recommended conditions set out below would meet all the tests for planning conditions, they would not restrict working rights in respect of the site and would not prejudice the economic viability of the applicant's working of the minerals at the site or the asset value of the site.

It is considered that continued operations at the site, carried out in accordance with the submitted scheme of working and conditions set out below, would not give rise to any unacceptable adverse impact on local amenity, the Green Belt, the environment or the landscape and would comply with the policies of the NPPF and the development plan.

Recommendation

That, after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2015, for the purposes of Section 96 and Schedule 14 of the Environment Act 1995 the following conditions be imposed on permission 09/98/0049:

Time Limits

1. The mining operations authorised by this permission shall cease not later than 6 April 2028 and the site shall be progressively restored in accordance with the conditions of this permission and shall be finally restored by 6 April 2029.

Reason: To provide for the completion and progressive restoration of the site within the approved timescale in the interest of local amenities, the visual amenity and to secure the proper restoration of the site in accordance with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Working Programme

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 on 28 October 2013 (as amended)

b) Submitted Plans:

Drawing no. 08469/97 - Site and Planning Permission Boundary
Drawing no. 08469/99 - Working Plan
Drawing no. 08469/101 - Access and Parking
Drawing no. 08469/103 - Pre-settlement Restoration Contours
Drawing no. 08469/105 - Proposed Revised Post Settlement Contours
Drawing no. 08469/106 - Cross Sections
Drawing no. 08469/112 - Cross section Location Plan
Drawing no. 08469/113 - Cross Sections - Sheet 1 of 3
Drawing no. 08469/113 - Cross Sections - Sheet 2 of 3
Drawing no. 08469/113 - Cross Sections - Sheet 3 of 3
Drawing no. 08469/127A - Current Scheme- Base of Waste Contours
Drawing no. 08469/133 - Current Scheme Pre-Settlement Levels (in relation to Cells 4A and 4B)
Drawing no. 08469/137A - Basal Layout - Cross Sections
Drawing no. T239-001, Rev 1 - Final Landscape Proposals
Drawing no. T239-002, Rev 1 - Landscape Phasing Plan
Drawing no. 11.171/11 - Site Layout - Sprinkler tank

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 Joint Lancashire Minerals and Waste Local Plan.

3. No material shall be excavated from the 'overburden mound' shown on drawing no 08469/95.

Reason: To safeguard biodiversity interests and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

4. A copy of the conditions and all documents referred to in this permission, shall be made available at the site office at all times throughout the development.

Reason: to ensure all site operatives can readily make themselves aware of the planning conditions.

5. A topographical survey of the site shall be submitted annually to the County Planning Authority within one month of the anniversary of the date of this permission until the end of the aftercare period referred to in the conditions to this permission. The survey shall have been carried out within two months preceding the date of the anniversary of this permission and shall consist of a plan drawn to a scale not less than 1:1250 which identifies all surface features within the site and a 10 metre grid survey identifying levels related to ordnance datum over all the land where wastes have been deposited.

Reason: To enable the planning authority to monitor the site and to ensure compliance with the planning permission.

6. The provisions of Part 17, Class A and B of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amendment, replacement, or enactment thereof are excluded and shall not apply to this development. Any development referred to in that part shall only be carried out pursuant to a planning permission granted under Part III of the Town and Country Planning Act 1990 or any amendment replacement or re-enactment thereof.

Reason: To maintain the County Planning Authority's control of the development and to safeguard the local landscape and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

7. No waste or restoration materials shall be deposited permanently on any part of the site at a higher level than the levels shown on drawing no. 08469/103 - 'Pre-settlement Restoration Contours' and drawing no. 08469/133 - 'Current Scheme Pre-Settlement Levels' (in relation to Cells 4A and 4B). Any waste previously tipped above these levels shall be regraded to comply with the levels shown on drawing no. 08469/103 within 6 months of the date of this permission. Restoration materials may be stored temporarily in the area shown hatched on drawing no. 08469/99 up to a height of 3 metres above the pre-settlement levels shown on drawing no. 08469/103.

Reason: To ensure satisfactory restoration of the site and safeguard the amenity of the local residents and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

8. Waste materials arising from the wining, working or processing of minerals under this permission shall not be deposited outside the excavated area except in the formation of approved landscape mounds, or areas shown for the storage of site materials on the submitted plans referred to in condition 2.

Reason: 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 Joint Lancashire Minerals and Waste Local Plan.

9. No mining operations, landfill operations or restoration works shall be carried out and no movement of heavy goods vehicles from the site shall take place except between the hours of 7.30am and 6.30pm Monday to Friday inclusive, 8.00am to 12.00 noon on a Saturday, and at no time on a Sunday or Public Holiday. For the purposes of this permission a heavy goods vehicle shall be defined as a vehicle designed to carry a payload of 1,500kg or more.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

10. All plant and machinery shall be silenced effectively in accordance with the manufacturer's specification and shall be maintained in that condition at all times.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

11. Where reversing alarms are employed on site on mobile plant and equipment, only broadband multi-frequency sound alarms (white sound) shall be used.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

12. Within 6 months of the completion of restoration works as provided for in condition 1 of this permission, a scheme and programme shall be submitted to the County Planning Authority for approval in writing to include the following matters:

- a) a plan showing the position of all plant, equipment, buildings and structures which are to be retained beyond the period required to complete the restoration of this site in accordance with condition 18, and a timeframe for that retention;
- b) the works necessary to make good any subsidence of or damage to the land brought about by the repair or provision of the control equipment involved in the management of leachate or landfill gas;
- c) details of all additional plant, equipment, buildings, structures, pipelines or similar which involve disturbance of the land and will be required in addition to those shown on the plan referred to in a) above; and
- d) details of the final restoration of the land following the removal or cessation of the use of the plant, equipment, buildings, structures and pipelines referred to in a), b) and c) above.

The approved scheme and programme shall be carried out.

Reason: To ensure satisfactory restoration of the site and to comply with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

13. All buildings, structures, plant and equipment other than those referred to in the preceding condition shall be removed from the site by 6 April 2030.

Reason: To ensure satisfactory restoration of the site and to comply with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

14. The site shall be the final place of deposit for waste and no waste shall be removed from the site once it has been used in the restoration of the site.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to prevent the pollution of adjacent land and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

15. No machinery, plant or equipment, which is not directly concerned with the actual mining or restoration operations, shall be stored on the site.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

16. The existing wheel cleaning facilities shown on drawing no. 11.171/11 - 'Site Layout - Sprinkler tank' shall be retained and shall remain available for use at all times during the operational life of the site so as to ensure no mud or other materials from the site are deposited on the public highway. Such facilities shall be used and maintained in full working order at all times and shall be used by all vehicles leaving the site.

Reason: In the interest of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

17. All vehicles transporting minerals of a size less than 100 mm in any dimension from the site shall be securely sheeted.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Restoration

18. Restoration and aftercare of the site shall be carried out in accordance with the details approved under condition 10 of permission 09/98/049 as set out in the approval letter dated 20 December 2011.

Reason: To secure the proper restoration of the site

19. If the approved pre-settlement levels have not been achieved within the permitted time limit of this permission, details for revised lower restoration levels utilising existing materials on the site and a revised landscaping scheme shall be submitted to the County Planning Authority for approval in writing within 1 month of the expiry of the permitted time period to this permission. The approved details shall be completed within 12 months of the date of approval. All landscaping works including the planting of trees and shrubs approved as part of the approved scheme and programme shall be implemented within the first planting season, as defined in this permission,

following the completion and restoration of the site and shall thereafter be maintained for a period of five years including replacement of dead and dying species and maintenance of protection measures.

Reason: To secure the proper restoration of the site.

Aftercare

20. Upon certification in writing by the County Planning Authority of the completion of restoration, as defined in this permission, aftercare of the site to promote the agricultural/amenity after use of the site shall be carried out in accordance with the conditions of this permission for a period of five years.

Reason: To secure the proper aftercare of the site and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Definitions

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration have been completed satisfactorily.

Planting Season: The period between 1 October in any one year and 31 March in the following year.

Notes

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

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

Paper	Date	Contact/ext.
09/13/1075	Feb 2016	R Hope/34159

Reason for Inclusion in Part II, if appropriate