

**Development Control Committee**  
Meeting to be held on 22 July 2022

Electoral Division affected: Burnley Rural
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**Burnley Borough: application number LCC/2022/0026**  
**Retrospective application for retention of perimeter litter fencing at Deerplay Landfill Site, Bacup Road, Cliviger.**

Contact for further information:  
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### **Executive Summary**

Application – Retrospective application for retention of perimeter litter fencing at Deerplay Landfill Site, Bacup Road, Cliviger.

### **Recommendation – Summary**

That planning permission be **granted** subject to conditions controlling duration of development and working programme.

### **Applicant's Proposal**

This application is for the retention of an existing litter fence. The fence is constructed from wooden poles piled into the ground at approximately 5.5m to 6m intervals and 5.5m high, with mesh netting attached in between. The fence is approximately 300m in length and runs around the north western and north eastern sides of the landfill site.

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

Deerplay landfill site covers an area of approximately 14 hectares within an open moorland setting that is being restored with non-hazardous waste to create a final landform of grassland and woodland. The site is accessed from the A671 Bacup Road via a dedicated entrance and access road. The site also includes a site infrastructure area including a netted waste tipping bay, portacabins, a landfill gas flare, wheel washer and leachate treatment plant.

The nearest residential properties are Long Shay Farm House and Cottage, a garden of which is located adjoining the western site boundary, and the houses themselves some 70m from the lined tipping area. There are no other residential properties in close proximity to the site.

The fence is located at an elevated position on the upper eastern, northern and western flanks of the site.

## **Background**

Mineral extraction was established at the site in 1947 when the site was operated as a quarry with an associated brickworks. The brick works closed, and the buildings were demolished in the late 1970's. Planning permission was subsequently granted on 7 September 1981 to reopen the quarry and to deposit household, industrial and commercial non-hazardous waste until 31 December 1996. Further time extensions allowed mining and landfilling operations to continue to the present day. The landfill site was mothballed to waste imports in 2006 and landfilling operations have only recently recommenced. Quarry operations have now ceased.

More recently, in June 2021 planning permission was granted for a netted tipping bay for the temporary containment of waste and the installation of two portacabins for the duration of landfilling and associated activities. (ref. LCC/2021/0016). This permission expires on 31 December 2023.

An application for a time extension of the landfill itself is the subject of a separate report on this agenda (ref LCC/2022/0025).

## **Planning Policy**

*National Planning Policy Framework*

*Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document*

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 – Site Allocation and Development Management Policies – Part One*

Policy NPPF1 Presumption in Favour of Sustainable Development  
Policy DM1 Management of Waste and Extraction of Minerals  
Policy DM2 Development Management  
Policy LF1 Sites for non-hazardous landfill

*Burnley Local Plan*

Policy SP1 Achieving Sustainable Development  
Policy SP5 Development Quality and Sustainability  
Policy NE5 Environmental Protection

## **Consultations**

Burnley Borough Council – No objection.

Cliviger Parish Council - Concern over the cleaning of the net on the litter fencing, height of landfill and potential problems of waste materials contaminating local water supplies.

Lancashire County Council (LCC) Highways Development Control – No comments received.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. One representation has been received with comments on this application and application LCC/2022/0025. The resident comments that Cliviger has a natural beauty which will be blighted by the landfill site being opened.

### **Advice**

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework sets out the Government's planning policies and is a material consideration in planning decisions.

National Planning Policy for Waste sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. A key part of this is to drive waste management up the waste hierarchy, this principle being derived from the Waste Framework Directive, which is the European Union legislation that governs waste management. The waste hierarchy sets out the following order of preference in waste prevention and management legislation and policy: a) prevention; b) preparing for re-use; c) recycling; d) other recovery, (for example energy recovery); and e) disposal as the least preferable option. This includes helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment and recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal.

Policy LF1 of the Joint Lancashire Minerals and Waste Local Plan refers to sites for non-hazardous landfill and states that long term landfilling of non-hazardous waste will only be supported at Whinney Hill Landfill Site in Accrington. Elsewhere, landfilling of non-hazardous waste will be supported at existing permitted sites.

The National Planning Policy Framework and the Joint Lancashire Minerals and Waste Local Plan recognise that minerals and waste developments have the potential to give rise to adverse impacts on the quality of life of people for a variety of reasons including noise, dust and vibration. More specifically, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan supports development for minerals or waste management operations where it can be demonstrated that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. In assessing proposals, account should be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts could be controlled in accordance with current best practice and recognised standards.

As part of improved waste management controls at the site, the site operator has installed a new, temporary, high level litter fence subject of this application. The application is made under section 73A of the Town and Country Planning Act 1990, which allows for applications for the grant of planning permission for development that has already been carried out. The fencing supplements a recently approved and installed netted tipping bay within the site compound area (see ref. LCC/2021/0016).

Netting systems are not a new concept at Deerplay Landfill Site given the exposed location. A similar proposal was previously permitted and installed in October 2000 and 2003. Those large structures were dismantled following the temporary cessation of tipping activities. The netted tipping bay is an alternative smaller scale solution to managing imported waste before the waste is transferred to the permanent tipping area and it allows the site to continue to accept waste during windy conditions where normal tipping activities may have to be suspended to avoid litter problems. An Environmental Permit for the site may dictate that further netting systems are required in future within the wider site along with other environmental controls.

Paragraph 188 of the National Planning Policy Framework states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

Given the location of the fencing within an active landfill site, there are no particular planning concerns so long as the structures are removed following completion of landfilling. The fencing would allow the better control of litter when waste is tipped on the site which is a risk at this site given the exposed upland location and proximity to two properties. A condition is recommended to control the duration of the development, which ties in with planning application LCC/2022/0025 for a time extension for landfilling at the site.

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

The development complies with the policies of the National Planning Policy Framework and the development plan.

## **Recommendation**

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

### **Time Limits**

1. The development authorised by this permission including all foundations shall be removed from the site by 31 December 2028 and the land thereafter be restored in accordance with the approved restoration scheme for the Deerplay Landfill Site.

*Reason: To provide for the completion and progressive restoration of the landfill site within a reasonable timescale in the interest of local amenity and the*

*local landscape and to conform 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:

Submitted Plans:

Figure 1 - Site Location Plan  
Drawing no. 3112-02-01- Statutory Plan  
Drawing no. 3112-02-02 - Fence Elevations

*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 of the Joint Lancashire Minerals and Waste Local Plan and Policy NE5 of the Burnley Local Plan.*

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

Paper	Date	Contact/Ext
LCC/2022/0026	July 2022	R Hope Planning and Environment (01772) 534159

Reason for Inclusion in Part II, if appropriate

Not applicable.