

## **Item No. 12**

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| <b>APPLICATION NUMBER</b>                | <b>CB/14/00134/MW</b>   |
| <b>LOCATION</b>                          | <b>Sundon Landfill Site, Common Lane, Sundon, Luton, LU3 3PF</b>  |
| <b>PROPOSAL</b>                          | <b>Variation of condition 17 of planning permission CB/12/03266/MW to permit an increase in the number of HGVs entering the site from 111 to 175 per day.</b> |
| <b>PARISH</b>                            | <b>Toddington</b>   |
| <b>WARD</b>                              | <b>Toddington</b>   |
| <b>WARD COUNCILLORS</b>                  | <b>Cllrs Costin &amp; Nicols</b>  |
| <b>CASE OFFICER</b>                      | <b>Georgina Toye</b>  |
| <b>DATE REGISTERED</b>                   | <b>24 January 2014</b>  |
| <b>EXPIRY DATE</b>                       | <b>25 April 2014</b>  |
| <b>APPLICANT</b>                         | <b>Central Bedfordshire Council</b>   |
| <b>AGENT</b>                             |   |
| <b>REASON FOR COMMITTEE TO DETERMINE</b> | <b>Parish Council Objection</b>   |
| <b>RECOMMENDED DECISION</b>              | <b>That Planning Permission be granted subject to the following:</b>  |

### **Site Location:**

The site lies within Green Belt land and is bounded to the south by Sundon Chalk Pit County Wildlife Site. The village of Harlington lies approximately 700 metres to the north with the village of Upper Sundon approximately 500 metres to the south. Sundon Hills Country Park lies approximately 1km to the east and a grade 2 listed building (Hill Farm House) approximately 400 metres to the east. Access is gained from the A5120 via a roundabout.

Sundon Landfill is operated by a contractor under the direction of the Council's as a Waste Disposal Authority. It is the contractor's responsibility to ensure suitable material is brought on to site for restoration.

### **The Application:**

Currently Sundon Landfill is undergoing final restoration with permission until the 30th September 2017. The applicant suggests that as of the 1st October 2013 there was approximately 230,000m<sup>3</sup> of material left to be imported.

The operator is reliant on the development market to provide the types of material suitable for restoration and can often receive limited notice when large quantities will be available. Previously the Planning Authority allowed a temporary increase in the number of HGVs from 111 movements to 175 movements per day entering the site in order that one of these large contracts could be accommodated.

The applicant is now anticipating that several large contracts will be available in the forthcoming year which will provide the site with suitable soils and progress the

restoration at a quicker rate.

Therefore the applicant seeks to vary condition 17 of planning permission CB/12/03266/MW which states:

Except as may be approved in advance and in writing by the Local Planning Authority the maximum number of heavy goods vehicles movements to and from the site in any one day shall be as follows:

Monday to Friday (inclusive): 111 Movements each way (222 total Movements)  
Saturday : 50 Movements each way (100 total movements)

A log of daily heavy goods vehicle movements shall be maintained and made available to the Local Planning Authority for inspection within seven days of written request.

To:

Except as may be approved in advance and in writing by the Local Planning Authority the maximum number of heavy goods vehicles movements to and from the site in any one day shall be as follows:

Monday to Friday (inclusive): 175 Movements each way (350 total Movements)  
Saturday : 50 Movements each way (100 total movements)

A log of daily heavy goods vehicle movements shall be maintained and made available to the Local Planning Authority for inspection within seven days of written request.

## **RELEVANT POLICIES:**

### **National Planning policy Framework (NPPF)**

Green Belt Section 9

### **Central Bedfordshire and Luton Borough Councils Minerals and Waste Local plan: Strategic Sites and Policies adopted January 2014,**

Policy MWSP3 - Determination of Planning Applications

### **Saved General and Environmental Policies of the Minerals and Waste Local Plan 2005.**

GE5 - Protection of Green Belt Land

GE18 - Disturbance

GE23 - Transport: suitability of local road network.

### **Planning History**

SB/TP/76/1017

May 1991

10/1995

19/2002

CB/12/03266/MW

Infilling of 41 HA of a used Chalk Quarry with refuse

Extension to Sundon Landfill

Installation of electricity generation plant, flare and substation

Capping and restoration works

Proposal to vary condition 9 and 18 to allow for an extension of time.

## **Representations: (Parish & Neighbours)**

|                           |   |
|---------------------------|---|
| Sundon Parish Council     | No comments were received   |
| Harlington Parish Council | Do not object but have seen lorries entering the village from Sundon Road.  |
| Toddington Parish Council | Object to the proposal and require to see no disruption to the village. The Parish Council would like to see it in writing that 100%% of these vehicles will be going to and from the site via the M1 Junction 12.  |
| Neighbours                | The planning application was publicised in accordance with Article 8 of the Town and Country Planning (General Development Procedures) Order 2010, comprising an advertisement in a local newspaper and the display of a site notice. No response was received. |

## **Consultations/Publicity responses**

|                       |                                |
|-----------------------|--------------------------------|
| Environment Agency    | Have no comments to make       |
| CBC Public Protection | Has no objections              |
| Highways Agency       | Do not object to the proposal. |
| CBC Highways          | Do not object to the proposal. |

## **Determining Issues**

The main considerations of the application are;

1. Green Belt
2. If the proposal will cause disturbances to nearby sensitive receptors
3. If the proposal will cause a detrimental impact on the highway.

## **Considerations**

The development plan comprises the Bedford Borough, Central Bedfordshire and Luton Borough Councils Minerals and Waste Local Plan: Strategic Sites and Policies (MWLPSSP) (adopted January 2014), the saved General Environmental Policies in the Bedfordshire and Luton Minerals and waste Local Plan 2005 and the saved policies in the South Bedfordshire Local Plan Review 2004 (SBLP). National guidance can be found within the National Planning Policy Framework (NPPF). Therefore, the applicable policies in this case are the NPPF Paragraph 9 - Green Belts, Policy MWSP3 - determination of Planning Applications, MWLP Policy GE1 - Matters to be addressed, GE5 - Protection of Green Belt Land, Policy GE18 - Disturbance and Policy GE 23 - Transport: suitability of local road network.

### **1. Green Belt**

Sundon Landfill is located within the South Bedfordshire Green Belt and was previously a Landfill site which is now undergoing final restoration by the importation of inert waste. Therefore the principle use of the site has already

been established. The increase in HGV movements will help to ensure that the restoration will be completed at an earlier date. The variation sought is not considered to be inappropriate development in the Green Belt.

## **2. Disturbance**

The purpose of MWLP Policy GE18 is to minimise disturbance from waste operations which can at times be intrusive and cause disturbance. This can be by noise, dust, litter odour, illuminations and vibration. Therefore the impact of any anticipated disturbances must be reduced as far as practicable and the proposal outweighed by other planning benefits. The main considerations arising from the proposal is mud and debris depositing on to the highways from lorries and dust.

Almost all of the HGVs that deliver to the site arrive from the M1 Junction 12 and therefore do not pass through any local villages in the area. The site does have a wheel wash which is positioned so that all HGVs have to pass through it before leaving the site. Further to this if the main road is found to have debris on it then a mechanical road sweeper is deployed to remove any material. To control and minimise dust, all vehicles are sheeted unless they are tipping and hauls roads and operational areas that have the potential to cause dust are dampened down. The haul road has a 10mph speed limit which also helps to minimise dust as HGVs move along it. There have been no dust issues reported to the Planning Authority in the past. With the measures above it is unlikely that there will be any significant dust issues or mud and debris on the highway. Therefore the proposal accords with MWLP Policy GE18.

## **3. Transport**

MWLP Policy GE23 states that where access to a proposed development site can only be achieved by road the Local Planning Authority will only grant permission if the material is capable of being transported to and from sites via the strategic highway network. The suitability and capacity of available access routes must be taken into account. Proposals which use significant lengths of unsuitable roads to gain access to the strategic highway network will not be permitted, unless suitable improvements can be agreed with the developer.

It is envisaged that a majority of the HGVs carrying material to Sundon Landfill will leave the M1 at J12 and heading straight to Sundon Landfill. However Toddington Parish council are concerned regarding HGVs travelling through the village of Toddington. There has been a general problem with HGVs not associated with the Sundon operation travelling through the village and using Leighton Road as a rat run to get to the A5. The applicant has however stated that there is no need for any of the hauliers going to Sundon Landfill to enter the village as they come from the M1. The applicant has a contract with the operator which states that:

*All highways restrictions will be observed on local roads to access the site entrance. Access routes to and from the site will be focussed on the M1 and its Junction 12. Vehicle movement through any local towns or villages will be avoided to minimise disruption to these local communities. Should complaints arise regarding HGVs travelling to/from the site the contractor or sub contractor will engage with CBC to review particular cases to ensure that the least disruptive access routes are used. In some instances alternatives may need to be used.*

Toddington Parish Council maintain their objection and comment that they

appreciate that it is not envisaged that these vehicles will come through the village of Toddington, but the statement has a clause to say will avoid minimum disruption to local villages. The Parish Council wish to see no disruption to the village, and would like to see it in writing that 100% of these vehicles will be coming to and from the site using Motorway Junction 12 only.

The A5120 is a major link from the motorway to the A5 and from the M1 to Flitwick. There are no weight restrictions stopping HGVs from using this road and the village of Toddington does offer services such as a petrol station. However it has been recognised that HGVs entering the village and using Leighton Road have done so to connect to the A5 and have not been connected with the operations at Sundon Landfill.

The site was allowed a short term temporary increase in HGV movements to 175 from July 2013 to November 2013, this has now expired. During this period there was one occasion when queuing had taken place on the A5120 near the site access. This was because vehicles were turning up to the site before the site had opened. This issue was promptly resolved by the operator and has not occurred since. There have been no other issues involving HGVs that the authority is aware of and therefore the proposal accords with MWLP Policy GE23.

The proposed condition to be varied contains the phrase 'Except as may be approved in advance and in writing by the Local Planning Authority'. This is commonly referred to as the tailpiece to the condition. Case law that has emerged subsequent to the 2002 permission makes clear that allowing for material changes to a planning permission by negotiation with the council, in effect sidestepping the formal planning process and the need for consultation is likely to be unlawful<sup>1</sup>. In order to render the condition lawful, it is necessary to delete the 'tailpiece'.

## **Equality Act 2010**

The Equality Act 2010 came into force on 1st October 2010 and has effect of making it lawful to discriminate against people who are disabled or associated with a disabled person. The Act sets out the Equality Duty which public bodies must fulfil when carrying out their functions. It is considered that determination of the proposal has no impact on equalities.

## **Human Rights**

It is considered that no human rights implications arise from the proposal and the decision to grant permission.

## **Conclusion**

It is considered that the principle use of the site as a landfill which is now undergoing final restoration has been previously assessed. This includes the impact on the Green Belt. There is no additional impact on the Green Belt as a result of this development.

It is considered that the site has sufficient existing mitigation measures to minimise dust disturbance and material being deposited on the road and therefore accords

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<sup>1</sup> R(Warley) v Wealdon DC [2011] EWHC 2083 (Admin) and R (Mid Counties Co-operative Ltd) v Wyre Forest DC [2009] EWHC 964 (Admin) (see ID 38 and 39), the latter case flowing from Henry Boot Homes Ltd v Bassetlaw DC [2002] EWCA Civ 2003, [2003] 1 P and CR23

with MWLP Policy GE18.

It is likely that the majority of vehicles will be leaving the M1 Junction 12 and going straight to Sundon Landfill. There is no reason for these HGVs to enter the village of Toddington. It is also considered that the A5120 is a main highway from the M1 and this does not have a vehicle restriction placed on it. Therefore it is unlikely that significant numbers of HGVs connected with the operations at Sundon Landfill will go through the village of Toddington and the proposal accords with MWLP Policy GE23.

### **Recommendation**

That Planning Permission be granted subject to the following:

### **RECOMMENDED CONDITIONS / REASONS**

- 1 The permission hereby granted shall extend to the area edges with a thick black line on the attached plan no. BC/CM/2001/7/X.

Reason: To define the permission.

- 2 Except as may be approved in advance and in writing by the Local Planning Authority or as required in terms of the conditions of this permission, the development hereby authorised shall not take place otherwise than in complete accordance with the application numbered BC/CM/2001/7 as amended by the agent's letter of modification dated 9 June 2001 (with accompanying revised method statement for surface water management) and agent's letters of modification dated 20 June 2001 and 3 July 2001, the further modifications presented in the agent's report dated October 2002 and as further amended by the planning application dated 17 October 2012 and application number CB/14/00134/MW dated 17th January 2014.

REASON: To define the permission, whilst allowing for a degree of flexibility in exceptional circumstances.

- 3 The development hereby permitted shall be begun within one year of the date of this permission. Written notification of the date of commencement shall be given to the Local Planning Authority within five working days of the event.

REASON: To require commencement of operations within a reasonable timescale, to define the date of commencement, and to prevent the accumulation of unimplemented permissions.

- 4 No waste materials other than uncontaminated inert waste shall be brought into the site.

REASON: To maintain proper regulation of the operation - MWLP Policy GE17

- 5 Except as may be approved in advance and in writing by the Local Planning Authority, no wastes or processed inert materials shall be taken off the site other than for disposal at an appropriate licensed facility.

REASON: To maintain proper regulation of the operation, whilst allowing a degree of flexibility in exceptional circumstances - MWLP Policy GE17

- 6 Capping materials and restoration soils shall not be placed otherwise than in such a manner as to prevent slippage or erosion. Any slippage or erosion that does occur shall be rectified by immediate and appropriate remedial action.

REASON: To ensure stability of containment -- MWLP Policy GE26

- 7 Notwithstanding the provisions of the General Permitted Development Order, details of all buildings, fencing, fixed plant and fixed equipment shall be submitted to and approved by the Local Planning Authority prior to installation.

REASON: To enable the Local Planning Authority to retain appropriate regulatory control of the development and prevent the installation of buildings, fencing, plant or equipment that may be insensitive to the surrounding environment.

- 8 Except as may be approved in advance and in writing by the Local Planning Authority, no operations authorised or required by this permission shall take place other than within the following times:

Monday to Friday (inclusive): 07:00 hrs to 19:30 hrs  
Saturday: 07:30 hrs to 12:00 hrs

Except as may be approved in advance and in writing by the Local Planning Authority, no operations shall take place on Sundays or Public Holidays.

REASON: To minimise disturbance to local residents, whilst allowing for a degree of flexibility in exceptional circumstances - MWLP Policy GE18

- 9 The phasing of the development in terms of importation and placement of restoration soils and subsequent landscaping shall take place in accordance with:

- drawing no. A0716021\_PHA\_01 (dated July 2011) and the 'Phasing Schedule of Works' contained within the application dated 17 October 2012; and  
- the scheme reference BC/CS/2006/1, as approved by formal letter on 3 May 2006, with the exception that implementation of the approved landscaping works shall proceed on the basis of the 6 phases shown on drawing number no. A0716021\_PHA\_01 (dated July 2011) rather than in the phasing manner shown in that scheme.

All restoration works, including landscaping, shall be completed by 30 September 2017.

REASON: To control the duration and phasing of the operations hereby permitted - MWLP Policy GE26.

- 10 No vehicles used for transport of clay, aggregate, minerals or inert waste materials for the capping and restoration works shall enter or leave the site other than by means of the new haul road constructed from the junction of the A5120 and Harlington Road as OSGR 502426 230504 to the rail underpass located at OSGR 503472 228882, as identified on attached drawing number BC/CM/2001/7/X.

REASON: To control access to the site in the interests of highway safety and public amenity - MWLP GE23.

- 11 The haul road referred to in condition 10 shall not be constructed otherwise than in accordance with scheme reference BC/CS/2003/13 approved by formal letter dated 29 January 2004. The scheme shall be carried out in full.

REASON: To ensure appropriate access arrangements in the interests of highway safety and local amenity - MWLP Policy GE23.

- 12 Construction of the haul road referred to in condition 10 shall not be undertaken other than in accordance with the scheme reference BC/CS/2003/19 as approved by formal letter dated 8 July 2003. Any necessary mitigation measures shall be implemented in full before construction of the haul road commences.

REASON: To ensure appropriate protection of a protected species - MWLP Policy GE13.

- 13 Construction of the haul road referred to in condition 10 shall not be undertaken other than in accordance with the scheme reference BC/CS/2003/19 as approved by formal letter dated 8 July 2003. Any necessary mitigation measures will be agreed in writing by the Local Planning Authority and implemented in full before construction commences within 500 metres of the pond.

REASON: To ensure appropriate protection to a protected species - MWLP Policy GE13.

- 14 Construction of the haul road referred to in condition 10 shall not be undertaken other than in accordance with the scheme reference number BC/CS/2003/9 as approved by formal letter dated 21 July 2003 so as to ensure the appropriate preservation of any archaeological finds encountered during construction.

REASON: To ensure appropriate archaeological preservation - MWLP Policy GE14.

- 15 No waste or other capping or restoration materials shall be brought onto the site unless the appropriate signage and other appropriate safety measures have been installed to protect users of Public Rights of Way in accordance with the scheme reference BC/CS2003/13 as approved by formal letter dated 21 July 2003. The signage and any measures so installed shall be maintained for the duration of the operations hereby permitted.

REASON: In the interests of public safety.



- 16 No waste materials or other capping materials shall be brought onto the site unless the wheel cleaning facilities detailed in the scheme reference BC/CS/2003/13 as approved by formal letter dated 23 June 2003 have been installed. Thereafter, no heavy goods vehicles shall leave the site in such condition as to deposit mud or debris on the highway.

REASON: To prevent transmission of mud and debris onto the highway in the interests of highway safety and local amenity - MWLP Policies GE18 and GE23.

- 17 The number of heavy goods vehicle (above 7.5 tonnes) movements to and from the site in any one day shall not be more than as follows:

- Monday to Friday (inclusive): 175 movements each way (350 total movements);
- Saturday: 50 movements each way (100 total movements)

A log of daily heavy goods vehicle movements shall be maintained and made available to the Local Planning Authority for inspection within seven days of a written request.

REASON: In the interests of highway safety and local amenity - MWLP Policy GE23.

- 18 The Local Planning Authority shall be notified in writing of the date of completion of the capping and restoration works within 7 days of the event. Within 12 months of the date of completion of the capping and restoration works, and in any event no later than 30 September 2017, the haul road referred to in condition 10 shall be removed and the ground restored in accordance with a detailed scheme which has first been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the satisfactory restoration of the site - MWLP Policy GE26.

- 19 Except as may be approved in advance and in writing by the Local Planning Authority, no vehicles shall use the haul road referred to in Condition 10 other than such vehicles as may be directly engaged in landfill site capping/restoration operations or the normal agricultural business of the New Manor Farm landholding.

REASON: In the interests of highway safety, to prevent intensification of haul road use beyond that identified in the application.

- 20 All site accesses shall be secured at their junctions with the public highway against unauthorised entry by means of appropriate gating and physical barriers in accordance with the scheme reference BC/CS/2003/32 as approved by formal letter dated 12 August 2003.

REASON: To safeguard against potential fly-tipping or nuisance - MWLP Policy GE18.

21 No works relating to the control and management of surface water at the site shall take place other than in accordance with the scheme reference BC/CS/2003/6 as approved by formal letter dated 1 July 2003.

REASON: To ensure satisfactory pollution control - MWLP Policy GE17.

22 No works for the management of leachate shall be undertaken other than in accordance with the scheme reference BC/CS/2003/6 as approved by formal letter dated 1 July 2003.

REASON: To ensure satisfactory pollution control - MWLP Policy GE17.

23 No works for the control and management of landfill gas shall be undertaken other than in accordance with the scheme reference BC/CS/2003/6 as approved by formal letter dated 1 July 2003.

REASON: To ensure satisfactory pollution control - MWLP Policy GE17.

24 There shall be no leachate re-circulation.

*REASON: To prevent the risk of pollution*

25 No operations authorised or required by this permission shall take place within 10 metres of the railway property boundary other than in accordance with the details approved by letter on 23 June 2003.

REASON: To ensure the railway is not adversely affected during or after execution of the development.

26 No crushing or screening plant or other equipment for processing of inert materials shall be used on the site otherwise than in such a manner as to prevent the transmission of odour, dust, vibration or noise to neighbouring properties.

REASON: In the interests of public health and local amenity - MWLP Policy GE18.

27 No crushing or screening plant or other equipment for processing of inert materials shall be used on the site otherwise than for purposes that are directly related to the development hereby authorised.

REASON: To prevent inappropriate use of the site for processing of materials for use elsewhere.

**Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31**

Planning Permission has been granted for this proposal. The Council acted pro-actively through the positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (development Management procedure) (England) (amendments No.2) order 2012.

**Reasons for Granting**

It is considered that the principle use of the site as a landfill which is now undergoing capping and restoration has been previously assessed under the permitted landfill application.

The site currently carries out dust mitigation measures by having HGVs sheeted unless tipping and the dampening down of areas that can produce dust. Further to this mechanical sweeping takes place of the A5120 when any material is seen on the road. It is therefore considered that the site has sufficient mitigation measures to minimise dust disturbance and material being deposited on the road and accords with MWLP Policy GE18.

It is likely that the majority of Vehicles will be leaving the M1 Junction 12 and going straight to Sundon Landfill. There is no reason for these HGVs to enter the village of Toddington. It is also considered that the A5120 is a main highway from the M1 and that the road does not have vehicle restrictions. It is unlikely that HGV's connected with the operations at the Sundon Landfill will go through the village of Toddington and the proposal accords with MWLP Policy GE23.

**DECISION**

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