

West Sussex County Council
Development Control
County Hall Tower Street
Chichester
West Sussex
PO19 1RH

Our ref: HA/2020/121986/01-L01

Your ref: WSCC/004/20

Date: 14 February 2020

Dear Sir/Madam

Restoration of the former Standen landfill site with a woodland and pasture landfill cap system

Evergreen Farm, West Hoathly Road, East Grinstead, RH19 4NE

Thank you for consulting the Environment Agency on the above application.

Environment Agency Position

The Environment Agency requests that the following conditions be attached to any planning permission granted, and that the details in relation to these conditions be submitted and approved by the Local Planning Authority.

The proposed development will only be acceptable if planning conditions are included requiring the submission of a restoration strategy, carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without these conditions we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will cause or be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

The previous use of the proposed development site as a landfill presents a high/medium risk of residual contamination that could be mobilised during restoration works to pollute controlled waters. Controlled waters are sensitive in this location because the proposed development site is located near a controlled water.

The reports submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required **before the development is undertaken**.

Environment Agency
Environment Agency Depot Canal Walk, Romsey, Hampshire, SO51 7LP.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

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Condition 1

No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and restoration strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the restoration strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework

Condition 2

Prior to any future use of the permitted development a verification report demonstrating the completion of works set out in the approved restoration strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework

Condition 3

No infiltration of surface water drainage into the landfill or adjacent land is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

Condition 4

The development hereby permitted shall not commence until an environmental management plan in respect of; noise, odour, dust, gas, leachate and surface water drainage, including a timetable of monitoring and submission of reports to the local planning authority, has been submitted to, and approved in writing by the local planning authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the local planning authority at the required intervals indicated in the EMP and agreed by the LPA.

Reason

To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 170 of the National Planning Policy Framework.

Advice to Local Planning Authority/Applicant

Issues related to harm to human health should be discussed with the LA EHO.

Any clay or soil that is imported for restoration works may be a waste derived material. Therefore, its handling, transport, treatment and disposal may be subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all imported materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment, recovery or disposal activity is clear.

If materials are to be imported as soils under the definition of waste code of practice this may be acceptable providing that the DoWCoP is followed in full. We have no objections in principle to materials re-use if work is undertaken in accordance with our position statement J8 in the Environment Agency's approach to groundwater protection (GP3).

A declaration must be submitted by a Qualified Person registered with CL: AIRE before any use of materials on site or transfer is permitted. A verification report is required to be completed at the end of the project and a copy submitted to CL: AIRE.

We recommend that the Environment Agency should be contacted for advice at an early stage to agree whether a permit is required or DoWCoP is applicable to avoid any delays.

Please note:

- materials illegally deposited or deposited at inappropriate sites may be subject to relevant landfill taxes, payable by all parties. Only robust due diligence is a defence against joint liability
- materials not used in accordance with the DoWCoP process in full may be deemed waste and will require a relevant permit for deposit

The decision to use the DoWCoP is the responsibility of the holder of the materials. The project manager should collate all relevant documents such as permissions, site reports, Materials Management Plan and consult with an independent QP to confirm that the site meets the requirements and tests for use of the DoWCoP.

Please note that this development may require an Environmental Permit, a variation of an existing permit or an exemption from an Environmental Permit form the Environment Agency. The applicant must ensure that the operations at the site are in accordance with the Environmental permitting regulations 2008. The applicant is advised to contact the national Customer contact centre on 03708 506 506.

The need for an environmental permit is separate to the need for planning permission. The granting of planning permission does not necessarily lead to the granting of a permit.

Should you have any further queries please do not hesitate to contact me.

Yours faithfully

Miss Hannah Brothwell
Sustainable Places Advisor

Direct dial 02084745865

Direct e-mail hannah.brothwell@environment-agency.gov.uk

cc Fluid Planning Ltd