

11 DCNC2004/0388/N - CHANGE OF USE TO A WASTE TRANSFER STATION FOR BIODEGRADABLE, ORGANIC, AQUEOUS, LIQUID WASTES, PARKING OF PLANT VEHICLES AND EQUIPMENT, ERECTION OF 5 NO. TANKS AND ASSOCIATED EARTH SCREEN BANK, REMOVAL OF 1 NO. EXISTING TANK. LAND AT MARLBROOK FARM, MARLBROOK, LEOMINSTER, HEREFORDSHIRE, HR6 0PE

**For: Messrs M.S. & E.M. Patrick per Mr. S.L. Willetts,
35 Bishops Cleeve, Austrey, Atherstone, Warwicks,
CV9 3EU**

Date Received:
11th February, 2004

Ward:
Hampton Court

Grid Ref:
51082, 54055

Expiry Date:
7th April, 2004

Local Member: Councillor K.G. Grumbley

1. Site Description and Proposal

- 1.1 The site lies in open countryside approximately 0.5 kilometres north of the Marlbrook roundabout opposite the Cadbury-Schweppes building, accessed from the B4361. The site is a wedge-shaped strip between the B4361 and the railway with the A49(T) Leominster by-pass beyond.
- 1.2 The River Lugg Site of Special Scientific Interest and candidate Special Area of Conservation, and the Marl Brook which feeds into the Lugg, lie approximately 400m to the east and north respectively. The application site area is approximately 0.23 of a hectare, the margins having been planted up with shrubs and trees in the past to screen the A49. A deciduous hedge runs along the margin of the B4361.
- 1.3 The site lies just outside the Area of Great Landscape Value (LDC Local Plan) and Area Least Resilient to Change (UDP Deposit Draft).
- 1.4 The nearest house is approximately 175 metres to the west, and there are properties in the hamlet of Newton to the east and on the A49 to the west within 500 metres of the site, although not obviously visible from it. In addition to the Cadbury-Schweppes factory complex on the A49, there is an ornamental stone and paving manufacturer and a veterinary eye hospital within 500 metres of the site.
- 1.5 Part of the site plus some of the adjoining land to the north is currently being used by Dwr Cymru Welsh Water as a temporary depot during water main replacement works, using the same access.

- 1.6 The applicant operates a domestic, commercial and agricultural septic tank emptying service, using an existing yard and agricultural hardstanding at the site to contain waste in mobile tankers prior to final disposal. The proposal is to erect up to five cylindrical tanks on the site, each of 3.6 metres height and of 18,000 gallons (approx 82,000 litres) capacity. Collection tankers would transfer their contents to the proposed tanks, prior to bulk shipping to final destination (sewage treatment works, landspreading etc). The proposal includes a concrete apron, bunding, and drainage sump to contain any spillage. The applicant wishes to retain parking for 10 cars and 10 lorries on an area of hardstanding to the north of the proposed storage tanks. The proposal does not fall within the criteria of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999, so an Environmental Statement has not been necessary.

2. Policies

Hereford and Worcester County Structure Plan

Policies E14 and E15 – Disposal of Waste Materials
Policy T6 – Role of Highways
Policies CTC3 and CTC4 – Nature Conservation
Policy CTC9 – Development Requirements
Policies WD2 and WD3 – Waste Disposal

Leominster District Local Plan (Herefordshire)

Policy A1 – Managing the District's Assets
Policy A2 – Settlement Hierarchy
Policy A4 – Sites of Special Scientific Interest
Policy A9 – Safeguarding the Rural Landscape
Policy A10 – Trees and Woodlands
Policy A12 – New Development and Landscape Schemes
Policy A13 – Pollution Control
Policy A14 – Safeguarding Water Resources
Policy A15 – Development and Watercourses
Policy A16 – Foul Drainage
Policy A24 – Scale and Character of Development
Policy A28 – Development Control Criteria for Employment Sites
Policy A35 – Small Scale Development for Rural Businesses
Policy A54 – Protection of Residential Amenity
Policy A70 – Accommodating Traffic from Development

Herefordshire Unitary Development Plan (Deposit Draft)

Policy S1 – Sustainable Development
Policy S2 – Development Requirements
Policy S6 – Transport
Policy S10 – Waste
Policy S11 – Community Facilities and Services
Policy DR1 – Design
Policy DR2 – Land Use
Policy DR3 – Movement
Policy DR6 – Water Resources
Policy DR14 – Lighting

Policy LA6 – Landscape Schemes
Policy NC3 – Sites of Special Scientific Interest/Candidate Special Area of Conservation
Policy W1 – Waste Management
Policy W3 – Waste Transportation and Handling
Policy W4 – Temporary Permissions
Policy C12 – Foul Drainage
Policy CF1 – Utility Services and Infrastructure

Government Guidance

PPG7 – The Countryside, Environmental Quality and Economic and Social Development
PPG9 – Nature Conservation
PPG10 – Planning and Waste Management
PPG13 – Transport
PPG23 – Planning and Pollution Control

Waste Strategy 2000

3. Planning History

NC2003/3559/N - Earlier application similar to this resubmission application, withdrawn 23 January 2004, following highway objections.

NC2002/0381/N - Extension to existing agricultural hardstanding to park machinery, construction of earth and hardcore bund flanking. Approved 26 March 2002.

4. Consultation Summary

Statutory Consultations

- 4.1 English Nature - acknowledges that the site is some few hundred metres from the River Lugg SSSI/cSAC, but originally (on the earlier application) expressed concern that field drains from the site might directly connect with the River Lugg. Subsequently the applicant supplied details of a "Scheme of surface water management and tank bunding arrangements" which has allayed concerns and the objection is withdrawn.
- 4.2 The Environment Agency - makes no objection in principle, but recommends conditions to control disposal of surface waters and contain any spillage. The proposal would be subject to a Waste Management Licence, application for which has been made.
- 4.3 Network Rail - raised no objection, conditions being recommended to protect the railway from any effects of trees planted on the site.
- 4.4 The River Lugg Internal Drainage Board raised no objection, noting that the development is "unlikely to impact on the adjacent surface water system".

Internal Consultation Advice

- 4.5 Chief Conservation Officer does not object in principle but recommends a number of landscaping requirements to screen the site
- 4.6 Head of Engineering and Transportation (Transportation) originally recommended refusal on highway safety grounds on the earlier withdrawn application, insufficient information having been provided to ensure that all vehicles would be able to enter and leave the site in a forward gear. The revisions on the resubmission allow for an increased turning area and the highways objections have been withdrawn subject to conditions.
- 4.7 Head of Engineering and Transportation (Engineering) - states:
"I have concerns over the maintenance regime whereby the contents of the (spillage) sump would simply be removed on an 'as and when' basis. There is no technical approach to the monitoring of the sump other than by visual inspection"
followed by a request for some form of audible or visual alarm to be fitted. Subsequently, The Environment Agency has stated that a condition would be applied to the Waste Management Licence requiring the operator to carry out daily inspections on the sump and to ensure its regular maintenance. Therefore the request for an alarm has been verbally withdrawn.
- 4.8 Head of Environmental Health and Trading Standards does not object in principle, subject to Waste Management Licence control. Recommends conditions to control potential odour nuisance, but this matter also will be addressed by the Waste Management Licence.

5. Representations

- 5.1 Hope-Under-Dinmore Group Parish Council (including Newton) objects on the following grounds:
- Access - the entrance to the site is in a dangerous position, being near the bridge on the Hereford side and a bend on the Leominster side. The access is through a bus-stop pull-in.
 - The application states that the owner will be the nearest property to the site should there be a smell. This is not true as at least 20 properties are nearer the proposed site
 - It is assumed a Waste Licence will be necessary
 - The Parish Council would appreciate proof that the proposed scheme has been tested in a commercial environment and that this is not a pilot scheme.
 - We wish to remind you that this site is near food processing units as well as a veterinary practice. It is considered that a more appropriate site should be found.. as this site contravenes PPG23 para 1.31 and the County Structure Plan (Policy W3)
 - No account appears to have been taken of the exterior lighting. This will be necessary for the operation during the short winter days
 - This site is entered from a highway within a 7.5 ton weight restriction area. Concern was expressed about the increased traffic of these HGV s.
 - The site should be adequately screened, particularly from the Newton Lane area which overlooks this site.

5.2 Humber Ford and Stoke Prior Group Parish Council objects on the following grounds:

- There are many residents close by in Marlbrook, Wharton, Ford, Lower Stoke Prior and near the Cadbury's factory, who might be adversely affected by the proposal.
- These very large tanks and increased number of tankers are likely to have a serious visual impact on the area. It is likely to be an eyesore
- There will be a much increased amount of traffic, causing hazard on the highway. Will (the tankers) have a deleterious effect on the roads themselves?
- Noise, dust, possible water and light problems. There will be the necessity for lighting on the site contributing to light pollution. The Council remains unconvinced that run-off liquid could not affect underground water. Does Cadbury's draw water from local underground sources?
- There would need to be in place mechanisms and procedures to prevent anaerobic reactions, not merely to alleviate them, should they occur
- This Council is well aware of the impact of escape of foul gases on a community of highway safety, potential odour nuisance and inappropriate site choice.

5.3 Leominster Town Council - recommend approval, subject to consideration of concerns regarding highway safety and visual intrusion. Suggestions are made to enhance screening.

A total of 14 letters of objection have been received from:

(Name not given), Little Newton, Newton, Leominster
Mr. & Mrs. Bethell, White Lodge, Newton, Leominster
Mrs. D.J. Cox, Fair View, Newton Lane, Hope Under Dinmore, Leominster
Mrs. S.E. Dakin, Sunnybank Cottage, Newton Lane, Leominster
Mr. & Mrs. Daw, Rosecroft, Newton Lane, Hope Under Dinmore, Leominster
Mr. & Mrs. Francis, Hillcrest, Newton Lane, Leominster
Mr. A.B. Goodwin, Spindle Cottage, Newton, Leominster
Mrs. L.M. Goodwin, Spindle Cottage, Newton, Leominster
Mr. & Mrs. D Greaves, Rose Cottage, Hope Under Dinmore, Leominster
Mrs. D. Horlock, Wayland's Seat, Newton, Leominster
Mr. & Mrs. J.E. Mosedale, The Beeches, Newton, Leominster
Mr. P. Royle, Hill View, Newton Lane, Leominster
Mr. R. Royle, Hill View, Newton Lane, Leominster
Mr. & Mrs. G. Wilkerson, Hill House, Newton, Leominster

Several objectors have expressed similar concerns. The points raised are summarised as follows:

- The tanks will be an ugly blot on the landscape.
- I find it hard to believe that this operation will not generate unpleasant odours.
- Access is across a bus stop on a long bend close to a narrow bridge and visibility is poor in both directions.
- The proximity of the site to a food manufacturer.
- Why allow development on this site when there is an industrial estate 5 miles away.
- The proposal is inappropriate in this location and does not accord with Leominster District Local Plan.
- The proposal will adversely affect the quality of life for the residents of the area.

- There are more than 20 properties along Newton Lane all of which will be sensitive to dust, smells, noise and visual intrusion.
- The site is within fields in the Lugg Valley which is bordered by an Area of Great Landscape Value, several Special Wildlife Sites and within a mile of the major tourist attraction of Queenswood.
- There will be an increase in the volume of traffic to the site and the noise level from vehicles.
- Lighting would be of considerable intensity.
- We are fed up with the infill of industry that is being allowed between Cadbury's and the industrial estate.
- The siting and scale of the development in this position is inappropriate in terms of its proximity to neighbouring houses and increased road usage.
- The information supplied by the applicant is inaccurate and misleading.
- The site is agricultural not industrial.
- There must be a risk of liquids spilling or gases escaping with consequent damage to the environment.
- The area is rural and any industrialisation/development would be detrimental to the character of the area.

5.4 Campaign for the Protection of Rural England - welcomes the amended arrangements for on-site management of vehicles, but expresses concern that the proposal may conflict with PPG23 para 1.31 and County Structure Plan policy WD3 by possible effects on residential amenity due to odour nuisance.

6. Officers Appraisal

6.1 The main issues relevant to this site are considered to be as follows:

1. Transportation matters
2. Creeping industrialisation of land along the A49 and B4361 roads between Marlbrook and Leominster
3. The potential for pollution,
4. Residential amenity and odour nuisance
5. Visual intrusion of the storage tanks
6. Regularisation

1. Transportation matters

6.2 Access to the site crosses a bus lay-by on the inside of a wide bend immediately north of the railway bridge and directly opposite Newton Lane, with limited visibility in both directions. However, the applicant has operated from this site for a number of years and no accidents or complaints are known as a result of vehicles using the site, despite the current intensification of activity due to the temporary contractor's depot.

6.3 The Head of Engineering and Transportation has withdrawn his objections to the earlier application as this revised application ensures that all vehicles may enter and leave in a forward gear, and a condition could be imposed reinforcing this. The applicant submits that he currently runs 9 vehicles of varying size, and does not anticipate more than 12 movements in and out per day, excluding any vehicles that might be parked overnight. This does not constitute an increase over current arrangements, nor is there any proposal to alter the existing access, so Policy A70 of the Leominster District Local Plan may be satisfied with a condition to restrict vehicle movements, as there would be no additional impact.

- 6.4 With a more efficient use of vehicles to tanker out full loads for disposal, as opposed to partial loads as at present, it is possible that fewer journeys would be necessary than currently.

2. Creeping industrialisation

- 6.5 While there is no question but that the operation is a most necessary service, it could be suggested that the new area of industrial estate at Leominster would be a more fitting site for this proposal. However, the operation would be a *Sui Generis* use and there is no guarantee that permission would be granted, as indicated by Local Plan policy A27. It might therefore be unreasonable to expect the applicant to incur the significant cost of feasibility studies and relocation, in the light of his having used the existing site for many years without attributable incident, and the fact that some industrial estate sites may actually be closer to residential areas than the application site. It is not considered that policy A35 applies as it specifically refers to new sites.
- 6.6 The cumulative effects of various developments along the B4361 may be cause for concern, but in this case remediation would be difficult because the existing site is already established, and other premises of an industrialised nature also already exist nearby. If this application were refused, the applicant could simply continue his unregulated operation as it is now. The test is, whether that would be preferable to an authorised, fully equipped and regulated site.

3. Potential for pollution

- 6.7 Concerns have been expressed as to the likelihood of pollution occurring, and the importance of protecting the River Lugg Site of Special Scientific Interest and candidate Special Area of Conservation (SSSI/cSAC). The applicant's submitted "*Scheme for Surface Water Management and Tank Bunding Arrangements*" provides for an impermeable pavement and sealed drainage system. The main pollution risk is of spillage due to faulty hose coupling, valve leakages split hoses or drainage from uncoupled hoses. Any spillage would be most likely to occur during tanker discharge or filling, which would necessarily be supervised. This potential already exists on the site, without any mitigation. Under the scheme, a concrete apron would contain and direct any spillage into a collection sump to be emptied regularly, and details of the capacity are given. The Environment Agency is confident that this scheme combined with its recommended conditions to control surface water run-off and bunding capacity would be adequate to prevent pollution and is currently considering the Waste Management Licence application.
- 6.8 Environment Agency advice is that a condition will be applied to the Waste Management Licence requiring the sump to be inspected daily by the operator and emptied as necessary. It is considered that these measures would be sufficient to satisfy the requirements of Local Plan policies A13, A14, A15, A16.

4. Residential amenity, possible odour nuisance

- 6.9 Many of the residents objecting to this proposal fear that the site will generate unpleasant odours, a sentiment supported by the CPRE. However, since the application is for storage only, not treatment, it would not entail processes that might result in obnoxious odours. The lined steel tanks would be pipe vented down to ground level to equalise pressures but would otherwise be sealed. The applicant

states that storage times at the site would be minimised, probably no more than overnight.

- 6.10 There is nevertheless some risk of smell during transfer from tanker to storage tank and vice versa, but any concerns would be conditioned and regulated by the Environment Agency through the Waste Management Licence, and by Environmental Health Officers through their own powers, thus ensuring compliance with Hereford and Worcester County Structure Plan policies E14 and E15.
- 6.11 Members should bear in mind that the general practice of spreading or injecting waste on farmland does cause offensive odours, but this is not relevant to this particular application.

5. Visual intrusion of the storage tanks

- 6.12 Policy A9 seeks to protect visual landscape characteristics, but it would be difficult to refuse the application on these grounds in this general locality. The prospect of 5 cylindrical tanks of 3.6m height would undeniably have a visual impact on the vicinity, but the question is - if they were of an unobtrusive plain colour, well maintained and the site kept clean and tidy, would this be worse or better than the existing arrangements of temporary mobile tanks?
- 6.13 Significant tree planting has been undertaken in the past to screen the site from the A49, although there are views into the site from the north and the boundary along the B4361 is relatively open. An approved tree-planting scheme, possibly incorporating some native evergreen species, could mitigate the visual impact in accordance with policies A10 and A12, subject to measures to protect the railway line for safety reasons. The rising ground between the site and the hamlet of Newton is quite thickly tree-covered, offering adequate existing screening and distance from nearby properties, and thereby satisfying Local Plan policy A28.

6. Regularisation

- 6.14 This enterprise has existed for many years, the applicant providing a necessary and useful septic tank emptying service to householders, farmers and some industrial premises. The service fulfils sustainability, siting and recycling aims detailed in the Unitary Development Plan Deposit Draft, PPG10 and Waste Strategy 2000.
- 6.15 This originally agricultural enterprise has developed over time, but existing permissions have been piecemeal and unsatisfactory, hitherto with inadequate control.
- 6.16 The current proposal offers an opportunity for a comprehensive and properly conditioned consent, and thereby allowing the Environment Agency to consider granting the appropriate licence. If this were to proceed, any nuisance could then be controlled by the combined powers of the Environment Agency and the Council's Environmental Health and Trading Standards Section.

Conclusion

- 6.17 Taking all the issues into account, it is considered preferable for the site to be operated and licensed under an approved and appropriate management scheme rather than on the present rather unsatisfactory ad-hoc basis. Arguably the site as it is at present poses more of a potential pollution hazard than if the application were to be approved and the site tidied up.

- 6.18 Amenity concerns are recognised however, and there may be a case for a probationary period or "trail run" permission in line with UDP policy W4 and PPG10. This could reasonably restrict the number of tanks to three for, say, a period of 12 months after which the permanent permission as applied for would become fully effective, subject to the site having caused no nuisance in the meantime.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 (Time limit for commencement (full permission))**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. Within one month of the tanks hereby permitted being first used, the applicant shall notify the local planning authority in writing of the date of that commencement of use.**

Reason: In order to clarify the date of commencement of use.

- 3. Notwithstanding the submitted application, the number of tanks shall be restricted to three for a trial period of 12 months from the date of first use as notified under Condition 2 above, and the remaining two tanks shall not thereafter be installed unless or until the local planning authority has confirmed in writing that the Council's Environmental Health Officer has determined that a period of 12 months has passed without his identification of nuisances arising from the use hereby permitted.**

Reason: To safeguard the amenity of the locality.

- 4. A06 (Development in accordance with approved plans)(Drawing nos. 03453/02 and 03453/01c and the "Supporting Statement" received on 11 February 2004.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

- 5. When the tanks hereby permitted have been installed and brought into use, all existing temporary and mobile holding tanks and other materials not needed shall be permanently removed from the site within six months of the date of commencement of use as notified under Condition 2 of this permission.**

Reason: In the interests of visual amenity.

- 6. G01 (Details of boundary treatments)**

Reason: In the interests of visual amenity and to ensure security of the site.

- 7. G04 (Landscaping scheme (general) (and shall include some semi-mature trees and native evergreens to accelerate screening).**

Reason: In order to protect the visual amenities of the area.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the date of commencement of use as notified under Condition 2 of this permission, and any trees or plants that dies, are removed, or become seriously damaged or diseased which within a period of 5 years from planting shall be replaced in the next planting season with others of similar size and species. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year period.

Reason: In order to protect the visual amenities of the area.

9. G09 (Retention of trees/hedgerows) (None of the existing trees and hedgerows on the site).

Reason: To safeguard the amenity of the area.

10. Any trees planted close to the railway shall be located at a distance in excess of their mature height from railway property.

Reason: In the interests of railway safety.

11. No development approved by this permission shall be commenced until a scheme for the disposal of surface waters has been approved by the local planning authority. The scheme shall be implemented in accordance with the approved details.

Reason: To prevent pollution of the water environment.

12. Any facilities for the storage of liquid wastes shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

13. The external surface of the tanks hereby approved shall be stained a matt forest green, details of which shall first be submitted to and agreed in writing with the local planning authority before development commences, no lettering of any sort applied to the surface of the tanks, and the tanks shall be maintained in good decorative order throughout the period of their use.

Reason: To protect the visual amenities of the area.

14. E05 (Restriction on hours of use (industrial)) (06.30 - 18.00 weekdays and 06.30 - 16.00 Saturday).

Reason: In order to protect the amenity of occupiers of nearby properties.

15. Throughout the duration of the works hereby approved, the existing visibility splays shall be retained. Nothing shall be planted, erected and/or allowed to grow on the triangular area so formed which would obstruct visibility.

Reason: In the interests of highway safety.

16. H05 (Access gates) (set back 10 metres)

Reason: In the interests of highway safety and site security .

17. The development hereby permitted shall not be brought into use until areas have been laid out, consolidated, surfaced and drained within the application site in accordance with the approved plans, for the parking of 10 cars and 10 lorries, and for vehicles to turn so that they may enter and leave the site in a forward gear. These areas shall thereafter be retained and kept available for those uses at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

18. Details of any proposed lighting to be installed at the site shall be submitted in writing to the local planning authority for approval and shall be installed as approved. Lighting shall be directed away from the public highway and no light source shall be visible from outside the extremities of the application site. Lighting shall only be operated during the permitted working hours and at no other time.

Reason: In the interests of highway safety and the amenity of nearby residents.

19. Vehicle movements shall be restricted to a maximum total of 12 trips into and 12 trips out of the site in any 24 hours period.

Reason: In the interests of highway safety.

20. F40 (No burning of material/substances)

Reason: To safeguard residential amenity and prevent pollution.

Informatives:

1. HN01 - Mud on highway
2. To avoid operational difficulties on the railway, and in the interests of railway safety no deciduous trees should be located near to the railway.
3. N15 - Reason(s) for the Grant of PP

Hereford and Worcester County Structure Plan

Policy E14 - Provision for the Disposal of Material

Policy E15 - Dangerous and Difficult Waste Materials

Policy WD2 - Site Locations

Policy WD3 - Criteria for the Disposal of Waste

Leominster District Local Plan

Policy A10 -Trees and Woodlands

Policy A28 - Development Control Criteria for Employment Sites

Policy A54 - Protection of Residential Amenity

Policy A70 - Accommodating Traffic from Development

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.