

Jones, Michael

From: info@nelsonplanthire.co.uk
Sent: 18 September 2022 10:31
To: 'Tanner, Matt'
Cc: Jones, Michael; Bowker, Andrew
Subject: RE: Whitehouse Field - Additional Information Required
Attachments: APP-EPR-548.pdf

Importance: High

Matt,

Thank you for your email.

With Michael on Holiday still and a pending bank holiday I shall respond in order to keep matters moving.. My response will be in the same order as your points for your ease of reference.

The point you have made regarding the initial LPA requirements within the permission is agreed in so far as the persistent and intermittent reminders from the LPA throughout the works are evident, the fact that this is replicated as the scheme continued in 1998 & 2011 as well as various other junctures.

At this time works were actively ongoing on the site from 1998-2011 and the letters are evidence that council were clearly keen to bring the to a close and see the scheme finished as soon as it was completed. When the previous operator ceased work in late 2011 the letters from the LPA stopped. We did not purchase the site until 2017 and believed there was still substantial work to do on the site to finish the works, after much dialogue with the LPA both parties attended an appeal whereby it was determined and as you correctly state there was still works left to do in order to complete the permission.

Thereafter this hearing we have received numerous further threats from the LPA that if the scheme is not completed then they will serve us a completion notice, it is this evidence and point that is clearly an obligation and the last appeal hearing having seen the evidence agreed that “ **The EA stated at the hearing that if a robust calculation for the amount of waste required to complete the necessary works was put before them, they would very likely issue a recovery permit as they accept there is an obligation to undertake the works**”. This is detailed at paragraph 16 of the planning inspectors appeal decision, is within the WRP and I attach this document again for your ease of reference. This is a very clear obligation.

The second indication of obligation to which you refer can once again be found at paragraph 16 (attached) which is evidence that the EA did not state “there **could** be an obligation” they actually stated “they **accept** there is an obligation to undertake the works” I also do not wish to remain pedantic but I cannot see how this can be challenged when reading the attached.

Moving on to the requirements you set out in order to achieve an obligation, I have put my replies in red.

1. Planning permission in itself is a permission not an obligation, which allows you to do certain work but does not require you to do it. **Agreed, but the threats of a completion notice are an obligation as has been demonstrated within the attached document at paragraph that the EA agree.**
2. Our existing guidance (that has not significantly changed since the appeal) states that;

‘If there is an existing planning condition or obligation the Environment Agency will look at all the available information. This may include:

- *the extent to which the local planning authority was directly involved in the design of the scheme when planning was granted and the condition was imposed, **the LPA approved the scheme and drawings so certainly were involved.***

- *whether the local planning authority would be likely to agree anything significantly different' We have agreed plans with the LPA after the last hearing which form the volumes in the WRP.*

From the attached email, it appears that the council were not directly involved in the design and this was left to the operator, so it is extremely unlikely to be specific obligation. *We cannot concur, any operator or applicants role is to submit information for approval, the LPA the either approve the information after careful consideration, or condition it accordingly to satisfy their requirements, in some cases they will ask for a design change. In this case the LPA considered the information put before them and decided that it was suitable for approval.*

For recovery, we need you to demonstrate that the volume of material proposed is *required the volume is certainly required and demonstrated on the plan within the WRP showing the completed scheme* and that TVBC would not agree an alternative, for example completing a lower level scheme to bring the works to a conclusion. We have agreed the plan with the LPA and under the approved permission (a) cannot deviate from this (b) *a lower level scheme would not complete the scheme for which we have approval and would therefore leave us open to enforcement action*

Assuming we agree there is a general obligation, we need to understand what is the extent of the obligation that would require you to use non-waste if waste were not available and what additional import of material is required to meet that obligation. *My understanding is that the plan agreed with the LPA shows a volume of 16,865 m3 in the loose or 28,670m3 when compacted using the standard industry method. These are detailed within the WRP. This is the only point I will need Michael to confirm on his return from holiday.*

With all of the above in mind and given the time this has taken to date I do hope that this now satisfies your requirements in order for you to confirm recovery and allow us to receive a permit in order for us to finally complete the works and satisfy the requirements of all authorities.

Kind regards,

Simon Nelson



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Confidentiality Note:

This message is intended for the named person above and may be confidential, privileged or otherwise protected from disclosure.

If it has reached you by mistake please contact the sender on 01264 726121 and delete the message immediately.

From: Tanner, Matt <Matthew.Tanner@environment-agency.gov.uk>
Sent: 17 September 2022 10:38
To: info@nelsonplanthire.co.uk; Jones, Michael <Michael.Jones2@tetrattech.com>
Cc: Bowker, Andrew <Andrew.Bowker@tetrattech.com>
Subject: RE: Whitehouse Field - Additional Information Required

Morning Simon,