

## Jones, Michael

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**From:** Jones, Michael  
**Sent:** 30 September 2022 13:10  
**To:** Tanner, Matt; info@nelsonplanthire.co.uk  
**Subject:** RE: Whitehouse Field - Additional Information Required

Matt

Please find below our responses to your queries (in blue for ease) followed by our concluding remarks.

1. The WRP makes several references to an obligation as specified in Condition 6 of planning permission TVN.6179/8. This condition only requires the holder of the permission to agree plans with the local authority and to stick to those agreed plans. This is not a specific obligation. Please confirm in a written response either via an email or a revised WRP that Condition 6 of the cited planning permission does not constitute an obligation.

Condition 6 does constitute an obligation as the plans have been agreed with the local authority. However, there is further evidence of an obligation by way of the emails sent by the council which threaten to serve a completion notice on Nelsons if the site works are not completed to the Council's satisfaction. This was considered at the last hearing when it was accepted by the inspector and the EA that there was an obligation to complete the works and if we applied again, they would more than likely issue a permit as shown below.

Para 13 of Appeal Ref: EPR/APP/548 by Jonathan Manning BSc (Hons) MA MRTPI dated 18.3.21 states:-

*"The EA accept that there is an obligation on the appellant to complete the works to fulfil planning permission ref: TVN6179/8, which the LPA are evidently keen to see completed. It was established at the Hearing that the EA's only concern relates to the level of waste that is needed to complete the works."*

Email from Darren Hobson – Planning Enforcement Officer for Test Valley BC, dated 2.3.20:-

*"The inspector recognised that there were still works required to deliver on the planning permission for the new golf holes. Therefore I am now writing to ask what your client's intentions are in relation to completing the development in accordance with the decision and the timescales the Council can expect for such a completion."*

Email from Paul Jackson Head of Planning and Building for Test Valley BC, dated 7.12.20:-

*"I note your client intends to complete the work as soon as possible in accordance with the approved plans and the enforcement notice and I feel sure I don't need to remind you that failure to do the latter would be an offence. The council is very keen to see the development completed as soon as possible..."*

2. We know material was brought to site by the enforcement action taken by TVBC. It is not clear within the WRP what material has been placed already at site and whether the volume of material stated is required under this recovery permit. We need to know the total volume of material brought to site already and how this fits in with what is needed in total to complete the works as described. The plan must take into consideration both of these facts.

The only material which was brought to the site was 600 tonnes of crushed concrete to create the temporary compound and hard standing as part of the site set up which was demonstrated in the first hearing as below. This was imported under an exemption and is completely outside the remit of the WRP.

Paragraphs 39, 40 and 41 of Appeal Decisions APP/C1760/C/19/3220542 and APP/C1760/C/19/3220546 by Andy Harwood CMS MSc MRTPI dated 13.1.20 states:-

*"The size of the hardstanding and the bunds themselves do not appear to me to be disproportionate to the activity given the size of machines that are required for such work. There are also health and safety requirements of personnel undertaking the processes involved and other office and security necessities."*

*I therefore consider that the developments are reasonably necessary to complete what has been approved. As such they are permitted under the provisions of Article 3 of the GPDO by reason of compliance with Schedule 2, Part 4, Class A. As such the appeal on ground (c) succeeds.*

*For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeal on ground (f) does not fall to be considered."*

As the enforcement notice was quashed, we do not understand the EA's continued interest in this issue.

3. The waste recovery plan does not cover in any detail the presence of existing waste material on site and whether this material is sufficient on its own to complete the works. It's not clear whether this material was placed permanently or whether it has been stockpiled for future use. We therefore cannot consider that the minimum amount of waste will be used to complete the scheme

A large volume of material has been imported on to the site by others prior to Nelson's involvement under the scrutiny of Test Valley BC and the Environment Agency as detailed in the Site Condition Report submitted with the permit application.

*"In the early 2000's a number of waste exemptions were allowed for this site for the importation of inert material. In December 2011, a Standard Rules SR2010 No9 environmental permit, EPR/CB3837AC was issued to John Stacey & Sons Ltd in December 2011. However, this permit was then subject to a low risk surrender which was issued in January 2013. It is uncertain how much inert waste has actually imported into the site."*

None of this material is in stockpiles. The cut and fill carried out by Test Valley BC's own surveyors showed that the figures needing to be imported are correct.

4. If waste has been tipped without authorisation we need you to consider what additional material is required and to demonstrate the scheme is recovery whether you would go ahead with non-waste if waste was not available. We cannot continue the determination until you provide us with clearer information on existing waste on site and how this relates to permissions (if any) in place at the time of placement. Any revision to the WRP must consider all waste brought to site and not just the remaining volume.

No waste has been tipped without authorisation while Nelsons have owned the site. The only activity on site under Nelsons ownership is as follows:-

i. Material scraped off the area where the hardstanding was created and an area where topsoil was stripped as part of the mobilisation. A bund created next to the B3420 using the material that was stripped from the hardstanding area. Both, the hardstanding & bund are temporary features which were discussed within the first hearing and both will be removed at the end of the scheme. The 600 tons of stone to create the hard standing were imported under an exemption WEX125952.

The amounts that are detailed within the WRP are completely separate to these materials currently on site and are a true and clear representation of the amounts needed to complete the scheme.

ii. the use of two hundred tonnes of soils to create a very small bund alongside the main internal haul road at the request of our H&S representative to make sure there is no possibility of vehicles slipping off the haul road and in order to maintain our obligations under CDM . This was carried out under an exemption in preparation of works starting and will also be removed when the works are finished).

Any materials brought on site prior to Nelson's ownership of the site was regulated by Test Valley BC and the Environment Agency under separate permissions or exemptions that we are unable to comment on further.

We do not feel that there is any need to revise the WRP as it details the works and final plan agreed with Test Valley Borough Council.

It's not really clear why the operator is required to complete these bunds and why given the permission has been in place since 1997 have the council not taken specific enforcement action against the landowner for not completing the scheme as the golf course has been operating since that time. The enforcement action taken by TVBC and subsequent appeal was for other matters, not just the non-completion of the bund. Why in your view is there still an obligation /liability on the operator if the golf course has been operating all this time without visual screening bunds being in place.

Nelsons do not need to complete the bunds apart from for H&S reasons and the bunds do not form part of the permission. There seems to be some confusion, Nelsons are required by the LPA to complete the works detailed in the planning approval which is to build a five hole golf course with associated groundworks to avoid further enforcement action and a completion notice served on them. The planners at Test Valley BC have made efforts over the years to enforce the completion of the site as detailed below:-

Extract of letter to Hampshire Gold Club Ltd from Mr R Gregory of TVBC dated 5.3.98:-

*“Please note – Should the scheme not be completed In line with the above planning permission (TVN/6179/8) and associated conditions then you will be liable to enforcement action by this authority.”*

The below is an extract from a letter sent by Mr R. Gregory of TVBC to the site owners on 12.12.11:-

*“Further to our previous site visits on 17 Feb 2010 and 27 May 2011, we are concerned that the site remains incomplete and works ongoing. You are no doubt aware that several conditions associated with this planning permission cannot be fully discharged by this authority until the work is completed. We must remind you that should this scheme and all conditions fully discharged in line with your obligations, we will have no alternative other than to take steps to secure proper planning control measures being taken, this will include enforcement action if necessary. We would therefore urge you to complete all previously approved works under planning approval TVN6179/8 as soon as possible in order that successful discharge of conditions 6, 7, 10 and 11 can be achieved and avoid further action being taken.”*

Clearly between 2011-2017 the council had no need to threaten enforcement action because there was no works actively ongoing on site. When Nelsons purchased the site in 2017, the council realised that Nelsons intended to complete the works and therefore commenced enforcement action.

There has been a misunderstanding regarding the golf course. It has not been completed yet and therefore no bunding has been needed for any visual screening. The approval is based on levels and slopes and gradients and any bunds are merely a temporary feature in order to comply with CDM whilst the works are ongoing.

In conclusion:-

1. There is an absolute obligation to complete the site works which means importing a small amount of material as below:-

Para 13 of Appeal Ref: EPR/APP/548 by Jonathan Manning BSc (Hons) MA MRTPI dated 18.3.21 states:-

*“The EA accept that there is an obligation on the appellant to complete the works to fulfil planning permission ref: TVN6179/8...”*

Email from Darren Hobson – Planning Enforcement Officer for Test Valley BC, dated 2.3.20:-

*“The inspector recognised that there were still works required to deliver on the planning permission for the new golf holes.*

Email from Paul Jackson Head of Planning and Building for Test Valley BC, dated 7.12.20:-

*“I note your client intends to complete the work as soon as possible in accordance with the approved plans and the enforcement notice and I feel sure I don't need to remind you that failure to do the latter would be an offence...”*

2. Any materials (six hundred tonnes) already brought on to site by Nelsons was covered by an exemption and the enforcement notice by TVBC was quashed by the inspector. This material is outside the remit of the WRP.
3. A large volume of material has been imported on to the site by others prior to Nelson's involvement under the scrutiny of Test Valley BC and the Environment Agency. None of this material is in stockpiles. The cut and fill carried out by Test Valley BC's own surveyors showed that the figures needing to be imported as quoted in the WRP are correct.
4. The golf course has not yet been completed and needs the materials as set out in the WRP to be imported to finish the fairways, greens & tees. Once this has been done then Nelsons will be able to discharge their obligations of the planning permission.

I hope this helps.

Regards

**Michael Jones** BSc, FGS, AMIEMA, MIAEG  
Head of Waste and Resource Management

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