

Environmental Permitting (England and Wales)
Regulations 2016, Reg. 31

Appeal by: Nelson Plant Hire Limited (the “Appellant”)

Site at: Whitehouse Field, Winchester Road, Andover,
Hampshire, SP11 7HW

APP/EPR/630



June 2023

784-B048315

Prepared on Behalf of Tetra Tech Environment Planning Transport Limited.

Registered in England number: 03050297

Document control

Document:	Statement of Appeal
Project:	Whitehouse Field
Client:	Nelson Plant Hire Limited
Job Number:	784-B048315
File Origin:	\\ds-dc-vm-101\Data\Projects\784-B048315_Nelson_Hearing_2023\60 Project Output

Revision:	1	Status:	Draft
Date:	June 2023		
Prepared by: Michael Jones	Checked by: Andrew Bowker	Approved By: Michael Jones	
Description of revision:			

Revision:		Status:	
Date:			
Prepared by:	Checked by:	Approved By:	
Description of revision:			

Revision:		Status:	
Date:			
Prepared by:	Checked by:	Approved By:	
Description of revision:			

Contents

1.0 INTRODUCTION	1
1.1 Grounds for Appeal	1
1.2 Site Background	1
1.3 Latest Application	3
1.4 Summary	6
1.5 Decision Considerations	7
1.6 Responses From Organisations	8
1.7 Conclusions	8
2.0 CHRONOLOGY.....	9
2.1 Historical	9
2.2 Recent.....	11

Exhibits

1. Permit Application
2. Agency refusal documentation
3. FOI emails between Agency and TVBC
4. Emails Received from the Agency
5. Emails sent to the Agency by Appellant
6. Emails sent to the Agency by Tetra Tech Limited

1.0 INTRODUCTION

1.1 Grounds for Appeal

1.1.1 The grounds for this appeal against a non-determination of an environmental permit application by the Environment Agency (the “Agency”) are very straight forward.

1.1.2 The grounds for appeal are as follows:-

- The Agency has decided to refuse the appellant’s application for a standard rules environmental permit at Whitehouse Field. The reasoning for refusal is that the Agency believe that the appellant has failed to demonstrate that the proposed activity would be a recovery operation and as such the appellant would not be able to comply with a permit restricting waste operations to recovery;
- The appellant does not believe that the Agency decision is correct and the decision goes against a previous planning inspectorates’ decision;
- The Agency has previously issued 3 standard rules permits / exemptions on this site to other operators for the same operation for which the site has planning permission and which has not yet been completed. This has been substantiated by a separate planning inspectorate decision which confirms that the scheme and planning permission is not complete and approved levels and spot heights have not been reached;
- Within this latest application the Agency have continually moved the determination date further and further back resulting in this latest application taking 2 years which is unprecedented. The appellant has not declined to submit further evidence as they Agency insinuate and have provided all evidence numerous times to the Agency who fail to acknowledge vital correspondence or previous inspectorate decisions; and
- The appellant is only applying to the planning inspectorate as a last resort due to the unacceptable and unreasonable behaviour and decision to refuse our application taken by the Agency.

1.2 Site Background

1.2.1 The application was for a standard rules deposit for recovery (SR2015 No.39 use of waste in a deposit for recovery operations)(Exhibits - App 1 to 11). The waste deposit operation proposed the importation and use of 16,865m³ of waste material for the construction of an extension to a golf course. The works have full planning approval (TVN6179/8) and the works to be completed have been further substantiated by a planning inspectorate decisions (3220542, 3220546) which confirms fully the works to be completed (Exhibits App 9 - Appendix D - Planning Documentation - Appendix A - Planning Permission TVN.6179/8 (25.11.97) and

Appendix F - Excerpt of Inspector's decision notice).

- 1.2.2 A previous application for a standard rules environmental permit was held in obedience by the Agency whilst the above planning position was determined by the inspectorate in the above hearing.
- 1.2.3 The application for a standard rules permit was then re-commenced once the planning position had been fully resolved but the Agency failed to determine this application within the timescales afforded to them within their own guidance, they also opted to change their minds from them granting the scheme as a recovery operation, to not being a recovery operation.
- 1.2.4 The appellant then applied to the planning inspectorate to determine the application (APR-EPR-548). The inspectorate refused the appellant's application for a standard rules permit on the basis that (a) the Agency can change their mind and their advice on recovery is not binding (b) there was no agreed restoration plan with the application and the Agency could not rely on the local authority to police the scheme on their behalf (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021, Appendix K - Appeal Decision March 2021).
- 1.2.5 Within this period and under FOI the appellant then established email collaboration between the EA and the LPA, within the documentation EA officers had stated that they did not want the appellant to obtain a standard rules permit and would appreciate if the LPA could assist them in finding reasons to support their case (Exhibits - FOI emails between Agency and TVBC).
- 1.2.6 Since the last hearing the appellant has subsequently agreed a plan with the LPA which confirms the volume figure of importation to complete the scheme of 16,865 m³ (Exhibits App 9 - Appendix D - Planning Documentation, Email from Mr. Jackson of TVBC to Tetra Tech on 27 August 2021 and App 11 - Drawings - MJ Rees 9026 - Final Levels).
- 1.2.7 . This exact drawing and figure has now been included within the latest application and Waste recovery Plan submission to the Agency for a standard rules environmental permit, also included within this application is a considerable body of evidence from the LPA threatening further enforcement action and outlining the appellant's obligation to complete the works, it was fully accepted in the last recorded hearing by the Agency that there is an obligation to complete the works, this was duly noted and further confirmed in the inspectorates findings, as below (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021, Appendix K - Appeal Decision March 2021):-

"The EA accepts there is an obligation on the appellant to complete the works to fulfil planning permission ref: TVN 6179/8, 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."

"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."

1.3 Latest Application

- 1.3.1 The appellant submitted a Waste recovery plan to the Agency for consideration in early 2021, This was then assigned to an officer on 12th May 2021.
- 1.3.2 The application has been passed to various officers all of whom did not determine the application and missed their own deadlines. The appellant eventually received a refusal from the Agency for this application on 22 March 2023 (Exhibit Email 39 - 2023-04-04_134551_PSC Land_Environmental Permit EPR JB3307SP Refuse).
- 1.3.3 The appellant does not understand how the Agency can state that “...the appellant has failed to provide sufficient information for them to determine that the activity is a recovery operation.” It has been determined that the appellant has an obligation to undertake the work therefore the appellant meets the threshold of recovery as determined in the last hearing by a government planning inspector on behalf of the secretary of state.
- 1.3.4 Every question asked by the Agency has been answered both in the WRP and standard rules permit application and numerous times thereafter by the appellant and its consultants (Tetra Tech) (Exhibits - Emails Received from the Agency, Emails sent to the Agency by Appellant and Emails sent to the Agency by Tetra Tech Limited).
- 1.3.5 It cannot be argued that the LPA would accept a lower scheme for the following reasons:-
- The appellant has a planning permission for the current scheme;
 - The appellant has unequivocally demonstrated that under the approval, the appellant is using the minimum amount of waste required as demonstrated by the agreed drawings and volumes with the council, which is what the inspectorate requested at the last hearing; and
 - “The Agency 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.” (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021, Appendix K - Appeal Decision March 2021).
- 1.3.6 There has been a very small amount of material placed on site as a safety feature as advised by our H&S consultant prior to the works commencing. Any material which has been placed on site is minimal and is covered under an exemption. This material is to keep the road in good order for access and egress and another small safety feature (a bump bund on the haul road) as recommended by our H&S consultant, as we have confirmed this very small amount of material will be removed at the end of the scheme and before the golf course is playable.
- 1.3.7 The LPA cannot discharge the conditions until the scheme is fully completed as defined by the planning inspectorate in hearing (3220542, 3220546) (Exhibit App 9 - Appendix D - Planning

Documentation - Appendix F - Excerpt of Inspector's decision notice).

- 1.3.8 The appellant responses to the Agency Schedule 5 notice were full and complete and reiterated the answers to the questions that the Agency constantly repeated and failed to acknowledge the clear answers that they have been given numerous times (Exhibits Emails sent to the Agency by Appellant – Emails 23 onwards and Emails sent to the Agency by Tetra Tech Limited – Emails sent 7 onwards).
- 1.3.9 In response to reasoning within the Agency refusal, the appellant has had little option but to correspond directly with the LPA in order to ascertain why there were delays in the LPA replying to the Agency as part of the statutory consultation period, this is because it took the LPA in excess of 4 months to reply. This should not be held against the appellant and seemed a sensible thing to do as both parties were clearly struggling to communicate. All that needed to be cross checked by the Agency was that the plans and volumes agreed with the council were the same as the plans and volumes within the appellant's WRP and standard rules permit application.
- 1.3.10 There does not need to be an agreement in place with the existing golf course in order to construct the scheme. This is not for the Agency to become involved in and instead they should focus on the permit.
- 1.3.11 There have not been discussions between the appellant and the LPA developing the site as a standalone golf course, there had been miscommunication which has now been resolved and once again this is not within the remit of the Agency.
- 1.3.12 The appellant did not at any point confirm to the Agency officer on site that we were constructing a standalone golf course. This is a misunderstanding on their part:-
- There is no uncertainty as to the works that are required in order to construct the golf course (Exhibit App 9 - Appendix D - Planning Documentation Appendix A - Planning Permission TVN.6179/8 (25.11.97));
 - There is no uncertainty as to whether there is an obligation to complete the works, particularly when the LPA are now considering their position in relation to enforcement notices that the appellant cannot satisfy until the works are completed (Exhibits App 9 - Appendix D - Planning Documentation);
 - The appellant has demonstrated that they are using the minimum amount of waste needed to construct this scheme in line with the planning permission, enforcement plan and the agreed drawings and volumes agreed with the LPA and contained within the WRP and application for a standard rules permit (Exhibits App 9 - Appendix D - Planning Documentation, Email from Mr. Jackson of TVBC to Tetra Tech on 27 August 2021 and App 11 – Drawings - MJ Rees 9026 – Final Levels);
 - The appellant does not have to submit a planning application for a lesser scheme

because they have approval for the current scheme;

- The appellant is in danger of further enforcement action if they do not complete the scheme in line with the approval and agreed plans (Exhibit App 9 - Appendix D - Planning Documentation - Email from Mr. Hobson of TVBC to Mr. S Hearn (Appellant's planning consultant) dated 2 March 2020);
- The Agency is putting words into the mouths of the LPA and the appellant does not concur with their agreeing to a lesser scheme, it is the appellant's right to complete the planning permission as approved. The Agency refer to intimation from the LPA whereas the appellant much prefers to work on fact, law and legislation; and
- The conditions cannot be discharged until the scheme is fully completed.

1.3.13 The Agency seem to contradict their position. There has only been minimal material taken onto site under an exemption and as part of our preparation for works commencing, all which will be removed at the end of the scheme. The Agency can be confident that this is the case as confirmed by their officer on site who has also visited previously and confirmed that this was the case.

1.3.14 The appellant has demonstrated that they are using the minimum amount of waste required under the approved planning permission and drawings and volumes as agreed with the LPA and which are exactly the same as are included within the WRP and standard rules permit application (Exhibits App 9 - Appendix D - Planning Documentation, Email from Mr. Jackson of TVBC to Tetra Tech on 27 August 2021 and App 11 – Drawings - MJ Rees 9026 – Final Levels).

1.3.15 The Agency has acknowledged that work is required on site to achieve the planning approval. It is untrue to suggest that the LPA would accept a lower scheme when this would mean a whole new planning application which the appellant we do not wish to become involved in, this is their right as the Agency accepts.

1.3.16 There is no doubt over the obligation and there is no possibility over the appellant applying for a lesser scheme or applying to vary the existing conditions because they already have planning approval on the current scheme which has been further confirmed by a Planning inspectorate, therefore an inspectorate can be sure that we have demonstrated using the minimum amount of waste within the application for an environmental permit and within the WRP.

1.3.17 The Agency now wishes to change its position from previously agreed and in a public inquiry with an inspectorate to one which states the appellant doesn't have an obligation. This is in spite of the LPA threatening to consider its position over enforcement notices that cannot be discharged until the works are complete. By default the Agency are prejudicing the appellant's commercial position.

1.3.18 The appellant believes that the Agency and LPA are working together to try and stop this

operation going ahead when the appellant has a planning approval and have demonstrated that they have also met the criteria to receive an environmental permit.

1.3.19 The materials to be used within the works have been defined and full duty of care will be followed. This is an obfuscation from the Agency to not issue the permit as any issues in this regard should have been discussed quite some time ago as defined within their own guidance. The appellant does not accept that the Agency simply got waylaid in other topics particularly when we applied initially nearly 2 years ago.

1.3.20 If the Agency genuinely believed that any material brought in under and exemption needed to leave site before they could issue a permit, then why didn't they have this conversation with the appellant ?

1.3.21 The position is clear as defined by the inspectorate at the last hearing (APR-EPR-548). The Agency cannot regulate the planning regime and the planning regime cannot regulate the Agency (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021, Appendix K - Appeal Decision March 2021). The system cannot be regulated by good will and the agreed plan and volumes are clear within the appellant's application and fully correspond with the plan and volumes agreed with the LPA. The WRP is clear and the levels can be checked at any time by the Agency which corresponds with the volumes. The appellant owns the freehold site and the end use as a golf course dictates that the levels must be achieved.

1.4 Summary

- It is clear to the inspectorate that the appellant has fulfilled all requests by the Agency as part of this determination process to a satisfactory standard and ensuring that the level of information achieves and answers the questions posed;
- It is clear that the appellant has full approval and have agreed plans and volumes with the LPA (Exhibits App 9 - Appendix D - Planning Documentation, Email from Mr. Jackson of TVBC to Tetra Tech on 27 August 2021 and App 11 – Drawings - MJ Rees 9026 – Final Levels);
- It is clear that under the planning approval the appellant has demonstrated using the minimum amount of waste and within the WRP;
- It is clear that the plans agreed with the LPA correspond with the plans in the WRP and permit application;
- It is clear that the Agency accepted there is an obligation in the last hearing (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021, Appendix K - Appeal Decision March 2021);
- It is clear that the outstanding enforcement notice jeopardises the appellant's position with the LPA (Exhibits App 9 - Appendix D - Planning Documentation - Email from Mr Hobson of TVBC to Mr S Hearn (Appellant's planning consultant) dated 2 March 2020);
- It is clear that the appellant cannot discharge this enforcement notice until the works are

completed; and

- It is clear that there is no doubt over whether there is an obligation on the appellant to complete the works.

1.4.1 The Agency refers to schedule 5, part 1, paragraph 13(1) of the EPR. The appellant's comments are in italics.

- 1) Subject to sub-paragraph (3), the regulator must refuse an application for the grant of an environmental permit or for the transfer in whole or in part of an environmental permit if it considers that if the permit is granted or transferred the requirements in sub-paragraph (2) will not be satisfied.
- 2) The requirements are that the applicant for the grant of an environmental permit or the proposed transferee, on the transfer of an environmental permit (in whole or in part), must:-
 - a) Be the operator of the regulated facility. *The appellant would be the operator and have demonstrated this as per their application for a standard rules permit and associated WRP.*
 - b) Operate the regulated facility in accordance with the environmental permit. *The operation is clearly a recovery operation and not a disposal operation and the facility would be operated in accordance with the environmental permit.*

1.5 Decision Considerations

1.5.1 The Agency have not considered their duty regarding the desirability of promoting economic growth, this is demonstrated by the fact that we have been liaising with them for in excess of 5 years without success, this is notwithstanding the fact that previously 3 other operators have been issued with a standard rules permits / exemptions before ourselves for the same scheme which is yet to be completed, each time the Agency have agreed that the scheme is a recovery operation, yet they Agency will not agree that our operation is a recovery operation.

1.5.2 In this regard, the Agency role as regulator has not taken into account the appellant has met all of the criteria and has demonstrated beyond any doubt that this operation meets the criteria required to agree recovery and issue an environmental permit, the Agency have also failed to consider the adverse effect that their unreasonable behaviour and prolonged behaviour has had on a business during the recent economic downturn and throughout the pandemic.

1.5.3 The appellant is a legitimate operator with a legitimate application which has been prolonged excessively and without good reason, this unreasonable behaviour also goes against previous inspectorate's decisions and does not give the impression that the Agency are being consistent and fair.

1.6 Responses From Organisations

- 1.6.1 The Agency even acknowledges that the LPA expects the site to be restored in line with the existing approved plans. Therefore the appellant cannot deviate from these plans and has demonstrated that the minimum amount of waste is being used within the scheme. The council also confirm that the extant enforcement notice is unresolved and cannot be resolved until the scheme is completed fully, they are reviewing their position which effectively means that the Agency are prejudicing the appellant's commercial position and leaving them open to enforcement action by refusing to grant a permit for which the appellant has already met all the criteria.
- 1.6.2 The Agency's actions and refusal outline the lengths that they have taken to create a reason to refuse the appellant's application, the appellant notes that the refusal only finally came on the 22 March which coincidentally was 1 day before the deadline that we had set to commence to appeal as the appellant felt they had purposely continued to delay matters. Clearly the document they have produced has taken considerable time to create so it once again shows to the inspectorate the unreasonable, pre-meditated approach and behaviour that the Agency has taken.
- 1.6.3 The appellant will seek costs from the Agency for the unreasonable behaviour that they have adopted, the appellant asks that the inspectorate to consider all relevant information up to and including the hearing which will demonstrate the pre-meditated lengths of the unreasonable behaviour adopted by the Agency which have had an adverse effect on the appellant's business financially.

1.7 Conclusions

- 1.7.1 The Agency has provided no good reason as to why the Application has not been determined and granted.
- 1.7.2 The Inspector is respectfully requested to grant the appeal.

2.0 CHRONOLOGY

2.1 Historical

2.1.1 On 25 November 1997, planning permission TVN.6179/8 was granted to Mr. T C Fiducia for the extension to a golf course providing 5 additional holes together with associated groundworks at OS Parcels 3974 and 3300, Hampshire Golf Club, Romsey Road/Winchester Road, Goodworth, Clatford, in accordance with the plans and particulars, and any subsequent amendments submitted with the application registered on 10 September 1997, and subject to compliance with a number of conditions, including condition 6 which states that:-

“...no development shall commence until fully detailed plans showing the ground level alterations involved with each tee and green have been submitted to and approved in writing by the Local Planning Authority and the construction of the trees and greens shall be carried out in accordance with these approved plans” (Exhibit App 9 - Appendix D - Planning Documentation Appendix A - Planning Permission TVN.6179/8).

2.1.2 On 26 February 1998, Mr. Gregory, Head of Planning for the Test Valley Council (the “Council”) wrote to the Golf Club stating that the details to the development in planning permission TVN.6179/8 have been approved. The letter states “Details of alterations to ground level for tees and greens – part compliance with Condition 06 of the above planning permission granted 25 November 1997, as per plans received 11 December 1997 and 30 January 1998.” A copy of the amended plans duly endorsed with the Council’s decision was enclosed with the letter (Exhibit App 9 - Appendix D - Planning Documentation - Letter from Mr. Gregory of TVBC to Hampshire Golf Club Limited dated 26 February 1998).

2.1.3 On 5 March 1998, Mr. Gregory, Head of Planning for the Council wrote to the Golf Club stating that a number of proposals providing for the following details have been approved, including details of alterations to ground level for tees and greens – part compliance with Condition 06 of the Planning Permission granted 25 November 1997, as per plans received 11 December 1997 and 29, 30 January 1998 (Exhibit App 9 - Appendix D - Planning Documentation - Letter from Mr. Gregory of TVBC to Hampshire Golf Club Limited dated 5 March 1998).

2.1.4 On 12 December 2011, a letter was sent from Mr. Gregory, Head of Planning at the Council stating that further to previous site visits on 17 February 2010 and 27 May 2011, the Council is concerned that the site remains incomplete and works ongoing. The letter sets out that several conditions associated with planning permission TVN.6179/8 cannot be discharged by the Council until the work is completed and that should the scheme not be completed strictly in accordance with the approved planning permission and all conditions fully discharged in line with the obligations, the Council will take steps to secure proper planning control measures being taken, including enforcement action if necessary. This letter lists conditions 5, 7, 10 and 11 as incomplete (Exhibit App 9 - Appendix D - Planning Documentation - Letter from Mr. Gregory of TVBC dated 12 December 2011).

- 2.1.5 September 2017 to Spring 2018 the Agency and the Appellant discussed a Waste Recovery Plan and the possibility of a standard rules permit application. This included the appellant withdrawing its initial application following discussions with the Agency. A second WRP was submitted to the Agency in May 2018 which was deemed disposal as not sufficient clear justification was submitted. Further documentation was submitted and on 8th June 2018, the Appellant received a letter from the Agency which states that the Agency agrees with the Appellant's assessment that the activity was a recovery operation (Exhibit - App 8 - Appendix C - Waste Recovery Plan Sept 2021 - Appendix E - Previous RvD advice form, approving recovery).
- 2.1.6 On 13 June 2018, the appellant via it's consultant WYG (now Tetra Tech) made an application to the Agency for an environmental permit.
- 2.1.7 By 16 October 2018 the Agency had a statutory duty to determine the grant or refusal of the permit application, pursuant to Paragraph 15 of Schedule 5, Part 1 of the Environmental Permitting Regulations 2016.
- 2.1.8 On 22 October 2018, following the expiration of the determination period on 16 October 2018, Weightmans LLP acting on behalf of the Appellant contacted the Agency by email. Weightmans informed the Agency that they were instructed by the Appellant to issue a Notice of Deemed Refusal under Paragraph 15 of Schedule 5, Part 1 of the Environmental Permitting Regulations 2016, and hereafter, to issue an appeal to the Planning Inspectorate for non-determination, unless the permit application was determined forthwith.
- 2.1.9 On 23 October 2018, Weightmans served a Notice of Deemed Refusal on the Agency on behalf of the Appellant.
- 2.1.10 On 27 January 2021 a hearing was held in front of Mr. Jonathan Manning as an Inspector appointed by the Secretary of State, Reference Number EPR/APP/548, following a period of abeyance due to a planning appeal. The appellant requested that this appeal be taken out of abeyance on 18 September 2020.
- 2.1.11 On 18 March 2021, the decision notice was issued. The applicant's appeal was refused. (Exhibit App 8 - Appendix C - Waste Recovery Plan Sept 2021 - Appendix K - Appeal Decision March 2021). However, the Inspector stated the following:-
- *The EA accepts 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;*
 - *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;*

- *I am not of the view that it is appropriate to rely on the planning system, a separate regime, to ensure that the proposal is one of recovery and remains so. I do not consider that the LPA can be relied upon to take enforcement action if it was necessary, despite their interest in the site to date; and*
- *Whilst I accept that the appellant has not been formally cautioned in the past for non-compliance, this does not overcome my fundamental concerns with regard to the reliance on the planning system, as set out above, whether a breach of the permit is considered potentially likely or not. Further, the past compliance record of an operator is not a criterion in the relevant EA guidance to determining whether an operation is one of recovery.*

2.2 Recent

- 2.2.1 On 30th April 2021, following a period of discussions with the LPA and the Agency a new WRP was submitted to the Agency which included further details regarding the volumes of waste needed and emails from the LPA agreeing to these figures.
- 2.2.2 On 14 September 2021 Tetra Tech submitted a Standard Rules Permit application on behalf of the appellant with a modified WRP as the Agency were unable to give an opinion on whether the operation would be disposal or recovery.
- 2.2.3 On 8 April 2022 the permit application was returned by the Agency as it was stated that:-
- “We are unable to duly make your application as you have not provided sufficient proof of technical competence. Simon Nelson holds a WAMITAB Certificate dated 2018 which expired in 2020, however, he has not gained his Continuing Competency Certificate. Without this we are unable to accept him as technical competent for both duly making purposes or determination of the permit.”*
- 2.2.4 On 11 June 2022, the permit application was resubmitted to the Agency (Exhibit Permit Application – App 1 to 11 with all enclosures).
- 2.2.5 On 7 September 2022 following prolonged discussions with the Agency the application was duly made (Exhibit Email 7 - 2022-09-08_141129_PSC Land_Environmental permitting application EPR).
- 2.2.6 On 9 November 2022 a Schedule 5 notice was issued by the Agency with a deadline for response of 30 November 2022 (Exhibit - Email 19 - 2022-11-09_100721_Tanner, Matt_RE Whitehouse Field - Additional Info).
- 2.2.7 There was then a prolonged period of further discussions between the Agency and the appellant regarding further information required by the Agency and also included the Agency and the LPA entering into discussions regarding the volume of material needed on site and the conditions within the planning consent (Exhibits Emails sent to the Agency by Appellant -

Emails 23 onwards and Emails sent to the Agency by Tetra Tech Limited - Emails sent 7 onwards).

2.2.8 On 4 April 2023 the application was refused by the Agency (Exhibit Email 39 - 2023-04-04_134551_PSC Land_Environmental Permit EPR JB3307SP Refuse).

2.2.9 On 4 May 2023 an appeal was lodged by Tetra Tech Limited on behalf of the appellant against the refusal of the permit application.

2.2.9 On 4 May 2023, the Agency via Kerry Sach, acknowledged receipt of the appeal documentation.

2.2.10 On 16 May 2023, the Planning Inspectorate via Rachael Newman acknowledged receipt of all the case information.

Exhibits

1. Permit Application

- App 1 – EA Submission Letter;
- App 2 – Non Technical Summary;
- App 3 – Part A Form;
- App 4 – Part B1 Form;
- App 5 – Part F1 Form;
- App 6 – Christopher Hall WAMITAB certificate;
- App 7 - Appendix B - Site Condition Report;
- App 8 - Appendix C - Waste Recovery Plan Sept 2021;
 - Appendix A - Planning Permission TVN.6179/8 (25.11.97)
 - Appendix B - Discharge of Condition 6 of Permission TVN.6179/8 (26.2.98)
 - Appendix C - Obligation Letter (5.3.98)
 - Appendix D - Obligation Letter (12.12.11)
 - Appendix E - Previous RvD advice form, approving recovery
 - Appendix F - Excerpt of Inspector's decision notice.
 - Appendix G - WYG's (now Tetra Tech) email to Ms. Stockton of the EA
 - Appendix H - Ms. Stockton's email to Nelson's / WYG (now Tetra Tech)
 - Appendix I - TVBC Enforcement Correspondence to Nelson's
 - Appendix J - EA emails from Emma Bellamy
 - Appendix K - Appeal Decision March 2021
 - Appendix L - LPA email August 2021
- App 9 - Appendix D - Planning Documentation;
 - Planning Permission TVN.61798 dated 25.11.1997
 - Letter from Mr. Gregory of TVBC to Hampshire Golf Club Limited dated 26 February 1998
 - Letter from Mr. Gregory of TVBC to Hampshire Golf Club Limited dated 5 March 1998
 - Letter from Mr. Gregory of TVBC dated 12 December 2011
 - Excerpt from Appeal Decisions APP/C1760/C/19/3220542 and APP/C1760/C/19/3220546
 - Email from Mr. Hobson of TVBC to Mr. S Hearn (Appellant's planning consultant) dated 2 March 2020
 - Appeal decision for APR/APP/548
 - Email from Mr. Jackson of TVBC to Tetra Tech on 27 August 2021
- App 10 - Appendix E - RvD Advice Letter EPR_KB3405MW_A001; and
- App 11 – Drawings.
 - NPH/B028534/PER/01 - Permit Boundary; and

- MJ Rees 9026 – Final Levels

2. Agency refusal documentation

- Ref 1 -Refusal notice covering letter;
- Ref 2 - Whitehouse field - Refusal notice_LH; and
- Ref 3 - Whitehouse Field - Decision document V3_LH.

3. FOI emails between Agency and TVBC

- FOI Email 1 - EA emails to council 08 Oct 2018
- FOI Email 2 - EA emails to council 13 Sep 2018
- FOI Email 3 - EA emails to council 21 May 2018

4. Emails Received from the Agency

- Email 1 - 2022-05-24_154936_PSC Land_Request for payment - Nelson Plant Hire
- Email 2 - 2022-05-30_115117_PSC Land_Acknowledgement of application
- Email 3 - 2022-08-16_091709_Tanner, Matt_Whitehouse Field - Application – Request
- Email 4 - 2022-08-17_082020_Tanner, Matt_RE Whitehouse Field – Application
- Email 5 - 2022-08-17_084313_Tanner, Matt_RE Whitehouse Field – Application
- Email 6 - 2022-09-08_122918_Tanner, Matt_Whitehouse Field - Additional Information
- Email 7 - 2022-09-08_141129_PSC Land_Environmental permitting application EPR
- Email 9 - 2022-09-17_103809_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 11 - 2022-09-29_085139_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 13 - 2022-10-05_122236_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 15 - 2022-10-07_120213_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 16 - 2022-10-14_130353_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 17 - 2022-10-12_140611_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 18 - 2022-11-08_151227_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 19 - 2022-11-09_100721_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 20 - 2022-11-21_121026_Tanner, Matt_RE Whitehouse Field - Additional Info
- Email 22 - 2022-12-01_095043_Tanner, Matt_Whitehouse Field - Schedule 5
- Email 24 - 2022-12-07_091731_Tanner, Matt_RE Whitehouse Field - Schedule 5
- Email 26 - 2023-01-26_111016_Tanner, Matt_RE Whitehouse Field - Schedule 5
- Email 28 - 2023-01-30_101743_Tanner, Matt_RE Whitehouse Field - Schedule 5
- Email 31 - 2023-02-08_152648_Tanner, Matt_Whitehouse Field
- Email 33 - 2023-03-01_092321_Tanner, Matt_RE Whitehouse Field
- Email 38 - 2023-03-22_155754_Tanner, Matt_Whitehouse Field - Nelson Plant Hire
- Email 39 - 2023-04-04_134551_PSC Land_Environmental Permit EPR JB3307SP Refuse

4. Emails sent to the Agency by Appellant

- Email 8 - 2022-09-15_131138_info@nelsonplanthire.co.uk_RE Whitehouse Field - Additional Info
- Email 10 - 2022-09-18_103129_info@nelsonplanthire.co.uk_RE Whitehouse Field - Additional Info
- Email 12 - 2022-10-05_113232_info@nelsonplanthire.co.uk_RE Whitehouse Field - Additional Info
- Email 14 - 2022-10-07_075912_info@nelsonplanthire.co.uk_RE Whitehouse Field - Additional Info
- Email 21 - 2022-11-21_124822_info@nelsonplanthire.co.uk_RE Whitehouse Field - Additional Info
- Email 23 - 2022-12-01_104528_info@nelsonplanthire.co.uk_RE Whitehouse Field - Schedule 5
- Email 25 - 2023-01-24_170845_info@nelsonplanthire.co.uk_RE Whitehouse Field - Schedule 5
- Email 27 - 2023-01-26_123419_info@nelsonplanthire.co.uk_RE Whitehouse Field - Schedule 5
- Email 29 - 2023-01-30_114231_info@nelsonplanthire.co.uk_RE Whitehouse Field - Schedule 5
- Email 30 - 2023-02-01_132904_info@nelsonplanthire.co.uk_Whitehouse field
- Email 32 - 2023-02-09_181503_info@nelsonplanthire.co.uk_RE Whitehouse Field
- Email 34- 2023-03-01_112042_info@nelsonplanthire.co.uk_RE Whitehouse Field
- Email 35 - 2023-03-02_154905_info@nelsonplanthire.co.uk_RE Whitehouse Field
- Email 36 - 2023-03-04_233239_info@nelsonplanthire.co.uk_FW Whitehouse field
- Email 37 - 2023-03-21_191148_info@nelsonplanthire.co.uk_RE Whitehouse Field

5 Emails sent to the Agency by Tetra Tech Limited

- Emails sent 1 - 2022-05-11_143454_Jones, Michael_Nelsons Plant Hire Limited – Standard Rules
- Emails sent 2 - 2022-08-16_151840_Jones, Michael_RE Whitehouse Field – Application
- Emails sent 3 - 2022-08-17_083732_Jones, Michael_RE Whitehouse Field – Application
- Emails sent 4 - 2022-09-23_163954_Jones, Michael_RE Whitehouse Field - Additional Info
- Emails sent 5 - 2022-09-30_131006_Jones, Michael_RE Whitehouse Field - Additional Info
- Emails sent 6 - 2022-10-07_122054_Jones, Michael_RE Whitehouse Field - Additional Info
- Emails sent 7 - 2022-11-09_090953_Jones, Michael_RE Whitehouse Field - Additional Info
- Emails sent 8 - 2022-11-21_083756_Jones, Michael_RE Whitehouse Field - Additional Info
- Emails sent 9 - 2022-12-06_143842_Jones, Michael_RE Whitehouse Field - Schedule 5
- Emails sent 10 - 2023-02-15_161058_Jones, Michael_RE Whitehouse Field