

Jones, Michael

From: Jones, Michael
Sent: 21 November 2022 08:38
To: 'Tanner, Matt'; info@nelsonplanthire.co.uk
Subject: RE: Whitehouse Field - Additional Information Required

Dear Matt

Application number: JB3307SP/A001 Schedule 5.

Further to the Schedule 5 received on 9th November 2022, please see below our answers to the queries raised. We have repeated each query and our response follows in blue after.

1. Confirm if material has been placed on the site since Drawing Number MJ Rees 9026, dated April 2020 was prepared. If material has been placed on the site, please confirm how much additional material has been deposited on the site and how this material impacts the total volume required under the current Waste Recovery Plan.

Reason: The Waste Recovery Plan states that 16,865 m3 or 28,670 tonnes of material is required to complete the works in line with the agreed planning permission as shown in the drawing 9026, dated April 2020. The correspondence received from Simon Nelson (dated 15/09/22) acknowledges that there has been recent work on site, but it is unclear to what extent and how this has been considered for the Deposit for Recovery activity.

No waste has been tipped without authorisation while Nelsons have owned the site. The only importation which has been carried out since the MJ Rees drawing has been carried out under the current exemption Nelson hold for the site. Two hundred tonnes of soils were imported to the site to create a very small bund to the side of the existing internal road. This has been done on the advice 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 and will be removed entirely from the site at the end of the works.

To reiterate, 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.

2. Provide clear evidence from Test Valley Borough Council Planning Authority, that the Planning Authority will only discharge the planning conditions once the site is restored to the agreed planning permission, and that the Planning Authority would not accept anything less than the volumes of material as stated in the Drawing 9026 dated April 2020.

Reason: In section 4.2 of the Waste Recovery Plan, letters from Test Valley Borough Council Planning Authority and Council Planning Guidance are referred to as justification for an obligation. This is not sufficient to show obligation. Work on the site has already commenced. Test Valley Borough Council Planning Authority anticipate that the site is to be returned to Test Valley Borough Council's satisfaction. Consequently, we require confirmation from Test Valley Borough Council that they still require the site to be completed in line with the planning permission granted on 25 November 1997, and Test Valley Borough Council are not prepared to accept a lower profile on the site which would require less material.

We are surprised that the EA is going back on its decisions regarding obligation yet again. Please see our extensive evidence for the obligation for the site being completed from the Planning Authority, the EA and the Planning Inspectorate.

Excerpt of Test Valley Borough Council (TVBC) letter dated 5.3.98:-

“Should the scheme not be completed in line with the above planning permission and associated conditions then you will be liable to enforcement action by this authority.”

Excerpt of letter from TVBC received on 12.12.11 which stated that the council were:-

“concerned that the site remains incomplete...” and

“We must remind you that should this scheme not be completed strictly in accordance with the approved planning conditions and all conditions fully discharge 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.”

Excerpt of email from Paul Jackson Head of Planning at TVBC dated 24.10.17 which stated:-

“...Should development not be carried out in accordance with the approved plans the Council would have to consider what action if any should be taken and this could include the service of a stop notice and/or an enforcement notice...”

A letter from Liam McCann of the EA dated 8.6.18 that stated that the EA agreed that the works to be completed on site were recovery and therefore the obligation to complete the site must also have been agreed.

An excerpt from the Planning Inspector’s decisions on Appeals 3220542 and 3220546 dated 13.1.20:-

“...The process of complying with the planning permission and also the reinstatement of the land where the bund and hardstanding are, which will form part of margins and fairway for the fifth hole, will require further groundworks...”

Excerpt of email from Darren Hobson, the Planning Enforcement Manager at TVBC dated 4.3.20 stated specifically that:-

“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.”

Excerpt of email from Emma Bellamy dated 12.6.20 which states:-

“...it appears that there could be an obligation to do something on the site. From the documents provided so far, the extent of what is required appears to be unclear. It is also unclear as to whether material needs to be imported to complete the work, there might already be enough on the site...”

Excerpt of email from Darren Hobson, the Planning Enforcement Manager at TVBC dated 8.7.20 stated:-

“As far as a Completion Notice is concerned it remains to be the Councils intention to continue to pursue such an approach in order to bring the sites development to a conclusion as we have seen no substantive evidence so far, despite what you have stated below, that it is inappropriate for such action to be pursued.”

Email from Paul Jackson Head of Planning and Building for TVBC, 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...”

Paragraph 13 of Appeal EPR/APP/548 by Jonathan Manning dated 18.3.21 stated:-

“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.”

To reiterate, it should be clearly noted that during the appeal that EA’s own recovery witness was asked specifically whether the EA agreed that there was an obligation to complete the site and they agreed that there was an obligation.

Email from Paul Jackson Head of Planning and Building for TVBC, dated 27.8.21:-

“I refer to your email dated 27th August 2021 with regard to the above and your confirmation that the MJ Rees plans are correct and accurate plans to work to in order to complete the scheme in line with the planning permission, enforcement notice and inspector’s decision.

I can confirm that MJ Rees drawing 9026 shows 16,865 m³ being placed on the site...”

To conclude the planning authority has clearly on a number of occasions over many years that they will be forced to take enforcement action if the site is not completed and have agreed that there is a need for 16,865 m³ to complete the site in accordance with the approved MJ Rees plan and also that the MJ Rees plan is correct and accurate to work in order to complete the scheme in line with the planning permission, enforcement notice and inspector's decision.

The Planning Inspectors have stated there is still material needed to bring the site up to the approved levels and more importantly has stated that there is an obligation to complete the site.

And finally, more importantly the EA itself has agreed three times that there is an obligation to complete the site. Most importantly the EA's witness to the last Planning Inspectorate hearing stated that the EA agreed that there was an obligation to complete the site.

We are at a loss at what more information we can provide to the EA to prove obligation and would also ask why the EA seem to have changed their minds regarding obligation for the 4th time as this seems unreasonable to say the least.

3. Provide evidence that the 'worthwhile benefit' to the works being carried out referred to in the original planning permission are still exist.

Reason: The existing planning permission is for the extension of the golf course. We understand the Hampshire golf club is no longer associated with this site, and the current development would not be part of the existing golf course. Further information is required to demonstrate that the benefit is realised without the association with the existing golf course. Please provide evidence to show if planning would accept a scheme in isolation.

As you can see from the above TVBC has repeatedly asked for the five-hole golf course to be completed as per the MJ Rees plans. Nelsons have made it clear to the planning authority that they will still create the golf course regardless of Hampshire Golf Club's current decision not to be involved in the course.

Please see an excerpt of an email from Paul Jackson Head of Planning and Building for TVBC, dated 21.5.18 in response to news of the Hampshire Golf Club is currently not interested in extending the course onto Whitehouse Field:-

"...any five-hole course could be created independently of the Hampshire Golf Club ..."

The golf club's current decision does not preclude the site from being include in the course in the future subject to an agreement between the parties.

We would be grateful for a quick response to the above as we would like to conclude this process as soon as possible, preferably by the 9th December.

Regards

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Head of Waste and Resource Management

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From: Tanner, Matt <Matthew.Tanner@environment-agency.gov.uk>
Sent: 09 November 2022 10:07
To: Jones, Michael <Michael.Jones2@tetratech.com>; info@nelsonplanthire.co.uk
Subject: RE: Whitehouse Field - Additional Information Required