



BY EMAIL ONLY:

The Rt Hon Steve Barclay MP
Secretary of State for Environment, Food and Rural Affairs

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1 April 2024

Dear Minister,

Call-in request: APPEAL BY FCC RECYCLING (UK) LIMITED ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016 - REGARDING DANESHILL SOIL TREATMENT FACILITY, DANESHILL LANDFILL SITE (AND MAW GREEN LANDFILL SITE) APPEAL REFS: APP/EPR/636, 651 & 652

We are writing to request - by powers conferred on you by [section 114\(2\)\(viii\)](#) of the Environment Act 1995 (to which Schedule 20 has effect) – ‘recovery’ of the above waste permitting appeals, currently being heard at planning inquiry by PINS Inspector Paul Griffiths.

The current permit appeals relate to outdoor bounded asbestos processing proposed at two sites operated by FCC Environmental, including at Daneshill Landfill, Lound, Notts and Maw Green Landfill, Cheshire (the former of which is our principal concern).

As can be seen from our attached objection to the planning inspector (see **Appendix A**) as submitted to and accepted by him last week – our concerns relate to the **outdoor nature** of what is being proposed at Lound, particularly as asbestos (even bounded/asbestos containing material or ACM) is essentially a Class 1 carcinogen. Such outdoor processing has the potential to increase risks for the local community due to asbestos’ fibrous nature; raising unknown immediate and long-term health, air quality and ground water concerns as a result – especially linked to a number of highly sensitive residential receptors situated near to the site. These include two Gypsy, Roma and Traveller (GRT) sites, located 170m south of the processing area, the village of Lound, as well as other dwellings and a school located in the area.

In respect of this particular request, and bearing in mind the online [environmental permitting guidance on appeal procedure](#) which states the relevant permitting “recovery” criteria you need to consider, we understand that these proposals tick nearly all of the criterion, including:

- **“cases involving processes or sites of major importance”;**
 - as the proposals are linked to outdoor processing of a [Class 1 carcinogen](#), known to cause pleural disorders, mesothelioma, or lung cancer; chronic high dose exposure may cause asbestosis, the importance of proposed outdoor soil sorting (and obvious risks associated with it) cannot be understated and requires further government scrutiny and oversight.

- **“cases giving rise to significant public controversy”;**
 - as inferred by the risks above, the local community (including residents of the village of Lound) are very much against such proposals - full stop. Outdoor processing of this hazardous material is nonsensical and must be stopped by use of the precautionary approach.

- **“cases which raise major or novel issues of pollution control which could set a policy precedent, for example cases involving the use of new techniques”;** and
 - The lack of truly objective and robust modelling linked to dispersion and health means any granting of permits for outdoor asbestos sorting could have significant unknown harms for health, air quality and groundwater, which justifies the use of the precautionary principle in this context by yourself.
 - For instance, following cross-examination this week, it has become evident that the appellant’s air dispersion modelling relies on bands of unprotected trees (i.e. not TPO’d and which could be cut down at any point) located on the wider site. While this approach lowered the overall calculated risk of dispersion of asbestos fibres, it raises obvious risks in over relying on such features.
 - Equally, other gaps in the same modelling data, such as the consideration of air quality risks to those users of a footpath that runs through the wider Lound site having been **excluded**.
 - In other modelling, there has also been limited consideration of "**re-suspension**" of asbestos particles – e.g. where a particle(s)/fibres blow away from the processing site, land on a tree, perhaps stay there a while, but is/are then blown away months later, landing potentially anywhere in the wider vicinity – and for years to come.
 - Such gaps are unacceptable and these theoretical model parameters surely cannot be relied on in this context to substantiate overall asbestos risk? This is especially when it was given in oral evidence that the HSE considers there to be “no safe level of exposure, at any level”; despite its inertia on these proposals. We therefore welcome additional government scrutiny **and** the precautionary approach adopted to stop permitting being allowed for this questionable (and novel) outdoor processing methodology.
 - Your “recovery” (and dismissal) of these permit appeals would ensure that no other worrying precedents are set, whereas allowing outdoor processing could also increase asbestos exposure risks for vulnerable receptors, here, near to other processing sites.

- Why? Because it's plausible that in allowing these appeals and the directing the EA to allow **outdoor processing**, (and negating current EA requirements for both indoor and fully enclosed mechanical screening) could encourage other asbestos operators, which operate indoors, to lower their own standards and seek similar permit variations for outdoor. This would cumulatively diminish overall environmental protections for what is already a very controversial and hazardous waste stream.
 - Forcing the EA to issue a further permit to allow outdoor processing might also undermine any future town planning and EIA protections. The operator could argue what with a permit allowing such, the scope of the EIA required is reduced (i.e. as they have a permit) – this even though direct and indirect effects of air quality, ground water and health issues should still require robust and separate consideration in an EIA context.
- **“other cases which, exceptionally, merit recovery because of particular circumstances”.**
 - The complicated but also theoretical nature of the air and health modelling (including gaps identified above) as proposed by the appellants, which the EA itself suspects would not meet BAT and other statutory requirements surely requires additional scrutiny by yourselves. Following the Inspector's recommendation, we would expect you to use the precautionary approach in light of the gaps in evidence clearly identified at the inquiry hearings (still ongoing this week).

We would also reiterate the **EA's own concerns** in not wanting the permit appeals to be allowed, based on its proof of evidence to the permit inquiry (as provided by Senior Permitting Officer – Simon Rayes). These include:

- **The proximity of the processing site to two traveler sites:** 169m and 167m south, respectively (pg. 4).

- **Strong concerns regarding the proposed outdoor processing methodology:** “The Agency's position is that the storage, handling, and treatment of asbestos wastes in the manner proposed by the Appellant **increases the risk of asbestos fibres being released into the environment**, either into the air or into the soil matrix”. (pg. 18)

- **And clear reasoning for such concern:** “The inhalation of asbestos fibres can cause serious illness and significant harm to human health including malignant lung cancer. **Any increase and/or agitation of fibres would create a risk to human health as there is no safe lower limit**”. (pg. 8).

Further to the above, Friends of the Earth has also previously objected to the above proposals at Lound, albeit in a [planning context](#) (planning ref: F/4120), where - as can be seen at **Appendix A** – we successfully convinced your colleague, the Secretary of State for Communities to **“screen-in” that application for EIA** in 2020. Here, we would like to draw your attention to the rationale for his “positive” EIA screening direction (**Appendix B**), and repeated here for further clarity:

*'...the Secretary of State concludes that the proposal **could have significant adverse effects through the release of pollutants or any hazardous, toxic or noxious substances to air.** Therefore, exercising the precautionary principle, he considers that an EIA is required on this matter.*

*...Having considered all the information, including possible mitigation measures, the Secretary of State concludes that the proposal **could have significant adverse effects on important, high quality or scarce resources in particular groundwaters.** Therefore, exercising the precautionary principle, the Secretary of State considers that an EIA is required on this matter." [our emphasis]*

Overall, we trust you can understand the concerning nature of what is being proposed at Lound (and Maw Green), especially in terms of the increased risks to human health, air and ground water.

We please request that you "recover" these permit appeals accordingly, to ensure your own experts analyze the data and recommendation of the Inspector, and which will enable you to provide a considered and final decision to whether **outdoor processing** of a known carcinogen with airborne potential, and so close to sensitive receptors near Lound, should be allowed.

Yours sincerely,



Magnus Gallie, MRTPI, Senior Planner

Richard Dyer, Midlands Campaign Organiser