

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE) (ENGLAND) ORDER 2015**

**APPLICATION REF. NO.:** 1/20/00544/CDM

**APPLICANT:** FCC Environment (UK) Ltd

**DEVELOPMENT:** Temporary operations for 10 years for Soil Treatment Facility including Asbestos Picking Operations

**LOCATION:** Daneshill Landfill Site, Daneshill Road, Lound, DN22 8RB

Following consideration of an application for the above development as shown on the submitted plans, NOTTINGHAMSHIRE COUNTY COUNCIL, in pursuance of their powers under the above Act, hereby

### **REFUSE PLANNING PERMISSION**

for the development described in the application for the following reasons.

Date of decision: 12 December 2022



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Authorised to sign on behalf of the County Council

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### Appeals to the Secretary of State

If you are aggrieved by the decision of the local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

If you want to appeal against the local planning authority's decision then you must do so within six months of the date of this notice

Appeals can be made online at <https://www.gov.uk/planning-inspectorate> If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order, and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

**NOTE:** THIS DECISION REFERS ONLY TO THAT REQUIRED UNDER THE TOWN AND COUNTRY PLANNING ACTS AND DOES NOT INCLUDE ANY CONSENT OR APPROVAL UNDER ANY OTHER ENACTMENT, BYLAW, ORDER OR REGULATION.

## **REASONS FOR REFUSAL**

1. The planning application does not incorporate sufficient information to enable the Waste Planning Authority to make a balanced assessment of the environmental effects of the development, and therefore does not satisfy the requirements of Nottinghamshire and Nottingham Waste Local Plan Policy W3.1. Specifically, the Secretary of State has issued a Direction that the project is Schedule 2 Environment Impact Assessment development which is likely to result in significant environmental effects and therefore has directed that the planning application should be supported by an Environmental Impact Assessment. In the absence of an Environmental Impact Assessment to support the planning submission, planning permission is also refused as per the statutory requirements pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Because of the lack of sufficient environmental information the planning submission has not satisfactorily demonstrated that it can operate to an acceptable environmental standard, in particular for air quality emissions and their effects to health and for the protection of ground/surface waters and is therefore contrary to policies WCS7, WCS8 and WCS13 of the Nottinghamshire and Nottingham Waste Core Strategy and the Development Plan overall.

Furthermore because of the lack of a satisfactory Environmental Impact Assessment, the development also does not satisfy the National Planning Policy Framework which seeks to ensure new development does not put existing development/land uses at unacceptable risk of air or other pollution and that development should be appropriate for its location after taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development (paras 174 and 185). In this respect there are a number of sensitive residential receptors in the vicinity of the site which, without convincing evidence to the contrary, would be exposed to unacceptable risk to health from the likely release of dust bearing asbestos fibres as a result of the proposed operations.

All relevant material considerations have been taken into account, including the draft decision made by the Environment Agency on the associated application for an Environmental Permit (in which the acceptance and processing of soils contaminated with asbestos has been refused), however these do not indicate towards making a decision that would be contrary to the Development Plan.

## **STATEMENT OF POSITIVE AND PROACTIVE ENGAGEMENT**

In determining this application, the Waste Planning Authority has worked positively and proactively with the applicant in accordance with the requirement set out in the National Planning Policy Framework. This has included Screening for Environmental Impact Assessment; assessing the proposals against relevant Development Plan policies; all material

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considerations; consultation responses and the representations that were received. The application was reported to Committee on 13 October 2020 however an intervention from the Secretary of State directing that the proposed development is EIA Development, thus first requiring the undertaking of an Environmental Impact Assessment, prevented planning permission being granted. Since then the applicant has been afforded considerable time to process the associated Environmental Permit application and undertake the Environmental Impact Assessment.

Owing to the draft decision (October 2022) reached by the Environment Agency on the associated Permit by which processing of asbestos contaminated soils has been refused, the planning application needs to be reconsidered as the applicant cannot now undertake the development as applied for. In addition the Direction from the Secretary of State stands and has rendered the proposed development as EIA development. The WPA has not received an Environmental Impact Assessment and consequently is legally prevented from granting permission. It is not possible to resolve these issues within the scope of the current planning application and therefore it is in the public interest to now refuse planning permission. The Waste Planning Authority would be willing to offer pre-application advice to the applicant in respect of any future revised proposal.

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