

Mr Jeremy Patterson
Principal Planning Officer
Planning Policy & Development Management
East Sussex County Council
BN7 1UE

Date: 28th November 2017

Dear Jeremy

PLANNING APPLICATION FOR THE CONTINUED USE OF COMPOUND FOR THE PURPOSES OF MANAGING LANDFILL GAS, TOGETHER WITH THE INSTALLATION OF A LEACHATE TANK (RETROSPECTIVE) AND FOR MINOR ALTERATIONS TO THE LAYOUT OF PLANT OF PLANT AND STRUCTURES WITHIN THE COMPOUND (PLANNING PORTAL REF – PP-06497064)

Biffa Waste Services, Pebsham Landfill Site, Freshfields, Bexhill Road, St. Leonards on Sea, East Sussex, TN38 8AY.

Introduction

Biffa Waste Services ('Biffa') seeks planning permission for minor amendments to the layout of the gas management compound and for the installation of a tank for the management of leachate within the compound (retrospective). In addition to this covering letter, the application comprises the following:

- Completed application forms;
- Drawings:
 - P2035500 – Revised Plant Layout (November 2017);
 - P2035600 – Planning Application Boundary (November 2017);
- Cheque for the value of £195 (to follow by post).

As demonstrated in this planning application, the development proposed will have a very limited impact beyond the boundary of the compound and will not give rise to any detrimental impacts to the local environment or local amenity and, as demonstrated above, the proposals are consistent with Local and National Planning Policy.

Site Location

The Pebsham landfill site is situated between the settlements of Bexhill and St. Leonards. It is accessed directly from Bexhill Road (A259) beyond the existing waste transfer station (owned and operated by Veolia) and the household waste recycling centre operated by East Sussex County Council ('ESCC'). Adjoining the north-western boundary is the wastewater treatment works and sludge recycling centre.

The site is within a strategic gap and the Pebsham Countryside Park. Combe Haven Site of Special Scientific Interest ('SSSI') is situated approximately 40 metres north of the site boundary and covers a large part of the valley both to the east and the west. Agricultural land and woodland extend westwards and Public Footpath 29b runs along the north-western boundary of the site.

The Combe Haven Caravan Park is located to the east of the landfill with the residential area of St. Leonards beyond.

The landfill gas compound is situated to the north of the existing office compound and car park, west of the main landfill area. The office compound and car park area will be removed as the site is progressively restored.

Planning History

The landfill gas compound is currently being operated in accordance with the following planning permissions:

- RR/757/CM – Variation of condition 2 (time limit) of planning permission RR/273/CM for the approved development involving the construction and operation of a gas utilisation plant including 8.5m high gas flare for the control of landfill gas and electricity generators for the conversion of landfill gas to electricity together with a single storey brick building and site enclosed by a 2.4 metres high security fence (dated 9th July 2015);
- RR/758/CM – Variation of condition 2 (time limit) of planning permission RR/413/CM for the approved development involving the construction and operation of additional landfill gas utilisation equipment (dated 9th July 2015).

The planning permissions listed above require that the plant and other structures within the compound area are removed by 31st July 2025. This planning application does not seek to amend those dates, however this does not prejudice any future submissions that may be required to do so.

The Proposed Development

This application has been submitted in order to regularise the installation of a leachate tank that has been placed within the compound area. This leachate tank was previously located within the landfill area, however it was in a prominent position which was visible from the surrounding landscape and was required to be moved in order that restoration of the site (as permitted under planning permission reference RR/525/CM) can be completed.

This application also seeks to regularise some minor differences between the approved drawings (principally Drawing 3 of planning permission RR/758/CM) and the as-built layout of the plant and structures within the gas compound. These are minor and have been included within this proposal to ensure that there is an accurate plan as the existing approved drawings will be superseded. The following equipment, approved by permission RR/758/CM, is no longer required and as such the drawing has been updated to reflect this:

- Flare and container adjacent to the northern boundary of the compound;
- Third transformer adjacent to the additional gas engine adjacent to the southern boundary.

Pebsham landfill site is now closed to general waste and is under restoration. The after use of the site will be as a Countryside Park. Although the site is shut to waste it still retains an Environmental Permit issued by the Environment Agency and this imposes strict environmental controls in a number of areas including the management of landfill gas and leachate.

Over time, the quantity of leachate produced will reduce but it is anticipated that it will continue to be produced for a significant period and active leachate management will be required on site until the Permit is surrendered, as is the case with the management of landfill gas.

The drawings approved by planning permission references RR/757/CM and RR/758/CM that relate to this development are as follows:

- P2990205 titled “Plant Layout” dated 9th November 1998 (approved by planning permission RR/757/CM);
- P2030803 titled “Proposed Compound Layout” dated 7th April 2003 (approved by planning permission RR/758/CM).

This planning application supersedes the existing approved drawings and planning permissions and incorporates the relocated leachate tank. Accompanying plan P2035000 therefore supersedes the above referenced approved drawings.

Pre-Application Discussions

A pre-application site meeting was held with ESCC officers in June 2016 to discuss the amendments that are required and agreed the position with regards to the relocation of the leachate tank.

Development Plan and Other Material Considerations

National Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) confers a presumption in favour of development proposals which accord with the Development Plan, unless material considerations indicate otherwise. Sub Section 5 of Section 38 also states that,

“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published (as the case may be)”.

This principle has been developed and clarified by case law, which has confirmed that a particular proposal does not need to accord with each and every policy in a development plan; the key issue is that it accords with the overall thrust of development plan policies taken as a whole.

The Government is committed to a plan led system and this section will consider the proposed development within the context of the Development Plan, and identify any other material considerations, such as National Policy considerations, relevant strategies and the need for the proposals.



The National Planning Policy Framework ('NPPF')

Paragraph 2 of the NPPF clearly shows that it does not change the fundamental premise of Section 38(6) of the PCPA 2004:

“Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”

It goes on to add that the NPPF **is a material consideration** in planning decisions.

At the heart of the NPPF is a presumption in favour of sustainable development, which should be taken as a *“golden thread running through both plan making and decision taking”*¹. For decision making, this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

In terms of sustainable development, the NPPF identifies three dimensions²: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

These roles should not be undertaken in isolation because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system³.

¹ Paragraph 14, NPPF
² Paragraph 7, NPPF
³ Paragraph 8, NPPF



The wider site is a former landfill and the infrastructure is standard engineering infrastructure in association for landfill sites. There will remain an on-going need to retain gas management and leachate infrastructure until such time as the wastes have stabilised and are no longer gas generating and concentrations of these have declined to a point where there is no risk to human health or the environment from residual emissions. The proposals are therefore considered to accord with the policies of the Development Plan in that the scale of development, its siting, design, landscaping, the materials and colours of the equipment used have previously been deemed appropriate for its setting.

Local Policy

Waste and Minerals Plan for East Sussex, South Downs and Brighton & Hove (Adopted February 2013) ('WMP')

This planning application relates solely to the management of landfill gas and addition of the leachate tank within the gas management compound. The principle of development for the gas management infrastructure has already been established through planning permissions RR/757/CM and RR/758/CM. Therefore the key policy considerations relate to its ongoing use and the retention of the leachate tank.

Policy WMP 8a sets out the criteria for determining proposals for the landfilling of non-inert wastes. Of particular relevance to this planning application is part c) which states that landfill proposals will be acceptable if they do not pose an unacceptable risk to the environment, including ground and surface waters, landscape character and visual amenity.

Policy WMP 8c seeks to secure the capture of landfill gas recognising its beneficial use a source of energy and sets out the criteria for determining such proposals. With regard to closed landfill sites (such as Pebsham), the relevant criteria as follows:

- a. the development includes measures to prevent the release of landfill gas that is deposited by deposited;
- c. for closed landfills, where landfill gas is present in sufficient quantities it will be captured and used, as appropriate, to produce the maximum amount of useful energy in the form of heat and/or electricity;
- d. landfill gas will be managed in a manner that minimises risk to human health and the environment;
- e. in the case of proposals associated with planned or existing land disposal, they are planned in such a way as to minimise the conflict with restoration and after-use.

Policy WMP 28b states that in order to protect the quality and quantity of water resources in the natural environment of the Plan Area the Authorities will not grant permission for proposals which:

- a. cause unacceptable risk to the quality and quantity of surface and groundwater (including reservoirs);
- b. cause changes to groundwater and surface water levels which would result in unacceptable adverse impacts on:
 - I. adjoining land;
 - II. the quality of groundwater resources or potential groundwater resources; and
 - III. the potential yield of groundwater resources, river flows or natural habitats.

Planning Appraisal

The proposed development relates to the consolidation of permissions related to the gas management compound and the retention and relocation of the leachate tank. This affects a limited area of the site and as such the key considerations for this proposal are as follows:

- (i) Whether the retention and relocation of the leachate tank is acceptable in terms of the ongoing restoration of the site;
- (ii) Whether the minor amendments to the gas management compound are acceptable.

(i) Whether the retention and relocation of the leachate tank is acceptable in terms of the ongoing restoration of the site

The leachate tank was previously sited in a prominent position on the top of the landform in an area that is undergoing restoration in accordance with planning permission reference RR/525/CM. The tank manages leachate produced within the Northern Quadrant ('NQ') and its previous location was on land managed by ESCC. Planning officers have subsequently determined that the tank needs to be regularised via a planning application and relocated in order that restoration can be achieved.

Although the site is shut to waste it still retains an Environmental Permit issued by the Environment Agency and this imposes strict environmental controls, including for the management of leachate produced by the degradation of waste within the NQ. The quantities of leachate to be managed will reduce but it is anticipated that leachate will be produced over a significant amount of time.

The siting of the leachate tank within the compound will reduce its visual impact as restoration of the site progresses. This location already provides the necessary infrastructure required to access the leachate tank and as such no additional access roads or areas of hardstanding are proposed. The tank is not visible from a main road or from the nearest residential properties.

Whilst the tank is required for a long period to manage leachate, until it is no longer required by the requirements of the Environmental Permit, it is still considered temporary and as such when it is no longer required it would be removed and the land restored in accordance with the approved restoration details for the site.

It is therefore considered that the retention of the leachate tank is consistent with policies WMP 8a and 28b of the WMP since it enables Biffa to fully comply with its obligations contained within the Environmental Permit for the site.

(i) Whether the minor amendments to the gas management compound are acceptable

The gas management compound already benefits from planning permission and as such the matter for consideration is not the principle of development but whether the amendments to the compound are acceptable. This planning application seeks to consolidate planning permissions RR/757/CM and RR/758/CM and amendments relate to minor layout changes only. It is therefore considered that these proposals will continue to enable Biffa to comply with the requirements of policies WMP 8a and 8c of the WMP and those requirements of national policy set out within the NPPF.



Conclusions

As described in this letter, this planning application seeks the continued use of compound for the purposes of managing landfill gas, together with the installation of a leachate tank (retrospective) and for minor alterations to the layout of plant of plant and structures within the compound, and the consolidation of planning permissions RR/757/CM and RR/758/CM which are to be superseded with the drawings and details that accompany this submission. In all other respects the development remains unaffected by these proposals. This application also seeks to regularise some minor layout amendments within that compound.

The development proposed will have a very limited impact beyond the boundary of the compound and as such there are few planning policies that apply to this particular development. These proposals will, however, enable Biffa to continue to meet its obligations set out within the Environmental Permit that applies for the site.

These measures will not give rise to any detrimental impacts to the local environment or local amenity and, as demonstrated above, the proposals are consistent with Local and National Planning Policy.

I trust that the information set out within this planning application is satisfactory to enable planning permission to be issued for this development. However, if you require clarification on any of the above or enclosed, please do not hesitate to contact me on 07734 877562.

Yours faithfully
For Biffa Waste Services



James Stewart-Irvine
Planning Manager

