

ARROW 11

Registration number: 10024954

Case number: WS010003

Written submission to the Issue Specific Hearing on the revised draft DCO

Comments on the Whitemoss Development Consent Order

By Alan Watson 22nd October 2014

Restoration and aftercare

7. —(1) Following certification in writing by the County planning authority of the completion of restoration in any phase of the site, aftercare of that phase shall be carried out for a period of 20 years in accordance with the Landscaping, restoration, habitat management and aftercare scheme listed in requirement 4(11).

(2) By the end of October in each year until the end of the aftercare period in the final phase of the site, a report shall be submitted to the County planning authority recording in detail:

- (a) The operations carried out on the land during the previous 12 months in respect of landfilling;
- (b) The measures taken to implement the restoration and aftercare provisions;
- (c) The intended operations for the next 12 months which will be implemented on the application land; and
- (d) The report shall contain the topographical survey specified under requirement 24 to this Order.

Article 1 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (the Landfill Directive) says that the aim of the Directive

“to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from landfilling of waste, during the whole life-cycle of the landfill”.

The whole life-cycle of the landfill “begins with the preparation of the site and continues through closure and aftercare to surrender [of the permit]”¹.

Confirmation of the need to ensure that the site is effectively controlled and regulated over the entire lifecycle of the landfill from initial construction to the point where the landfill no longer poses a risk to the environment can be seen from the legacy of abandoned landfill sites surrounding Skelmersdale

¹ Environment Agency (2011). *Treatment of waste for landfill report – GEHO1111BVDF-E-E version 2*.

where the operators have disappeared and left the under-resourced local authorities to control long-term pollution.

The Restoration and Aftercare period should include recognition that the landfill site is still being managed for far more than 20 years after completion of filling. This further period (calculated by ARROW to be thousands of years and accepted by Whitemoss to be “a long tail” lasting many years) may involve a range of operations which prejudice any restoration work. We would recommend that the DCO should address this by adding a final sentence to 7 (1):

“The whole site should be maintained according to a scheme agreed by the Local Authority until the completion of the landfill and surrender of the Environmental Permit”

This approach would also align the DCO with Article 13 of the Landfill Directive which requires:

“Member States shall take measures in order that, in accordance, where appropriate, with the permit:

(c) after a landfill has definitely closed, the operator shall be responsible for its maintenance, monitoring and control in the after-care phase for as long as may be required by the competent authority, taking into account the time during which the landfill could present hazards; The operator shall notify the competent authority of any significant adverse environmental effects revealed by the control procedures and shall follow the decision of the competent authority on the nature and timing of the corrective measures to be taken;

(d) for as long as the competent authority considers that a landfill is likely to cause a hazard to the environment and without prejudice to any Community or national legislation as regards liability of the waste holder, the operator of the site shall be responsible for monitoring and analysing landfill gas and leachate from the site and the groundwater regime in the vicinity of the site in accordance with Annex III.”

The Environmental Permitting (England and Wales) Regulations 2010² (as amended) requires the Environment Agency to exercise its relevant functions so as to ensure compliance these provisions of the landfill directive but it would be anomalous to leave this long-term risk purely to the Environmental Permit when it clearly has potentially serious impacts on land-use issues including the long-term effectiveness of the restoration of the site.

² Paragraph 5(1) of Schedule 10

Quantities and types of waste

23. —The maximum quantities of waste that shall be imported to the interceptor treatment facility per annum will be 20,000 tonnes and the maximum quantity of waste that shall be imported to the landfill per annum will be 150,000 tonnes. **No waste materials shall be accepted at the site other than hazardous wastes together with suitable waste materials for engineering and restoration purposes.**

1) The NPS for Hazardous Waste says that the main objectives of Government policy on hazardous waste include:

“(b) Implementation of the waste hierarchy – to produce less hazardous waste, using it as a resource where possible and only disposing of it as a last resort;” (Section 2.1 Page 8)

The NPS therefore requires:

“that options selected for hazardous waste infrastructure should be at the most appropriate level on the waste hierarchy to deliver the best overall environmental outcome” (para 4.4.2)

and

“Applicants will need to provide evidence that the proposed facility will manage hazardous waste at the most appropriate point on the waste hierarchy and demonstrate how the facility will help to achieve the principles set out in the Strategy for Hazardous Waste Management” (para 4.13.1)

It is clear that compliance with the hierarchy is a planning issue and is given a high priority. The DCO should ensure compliance with these policy obligations – especially given the lack of information provided by the applicant in the application documents about the waste streams which would be landfilled.

It is therefore recommended that an additional sentence should be added after “150,000 tonnes”:

“Only waste which cannot be treated by alternative methods or techniques higher up the waste hierarchy should be disposed of at the site”

2) Article 6 of the Landfill Directive requires:

“Member States shall take measures in order that:

(a) only waste that has been subject to treatment is landfilled. This provision does not apply to inert waste for which treatment is not technically feasible, nor to any other waste for which such treatment does not contribute to the objectives of this Directive, as set out in Article 1, by reducing the quantity of the waste or the hazards to human health or the environment;”

It is therefore suggested that more appropriate wording would include the penultimate sentence:

“Only waste that has been subject to treatment should be landfilled at the site”.

This is also important to ensure that the sustainability of the landfill is improved by minimising the timescale to completion.

Annex II of the Landfill Directive, for example, when describing Waste Acceptance Criteria and Procedures says that for Hazardous waste landfills

“waste types should, however not be accepted on the list without prior treatment if they exhibit total contents or leachability of potentially hazardous components that are high enough to constitute a short-term occupational or environmental risk or to prevent sufficient waste stabilisation within the projected lifetime of the landfill”.

4. Guidelines for preliminary waste acceptance procedures

Until this Annex is fully completed only Level 3 testing is mandatory and Level 1 and Level 2 applied to the extent possible. At this preliminary stage waste to be accepted at a particular class of landfill must either be on a restrictive national or site-specific list for that class of landfill or fulfil criteria similar to those required to get on the list.

The following general guidelines may be used to set preliminary criteria for acceptance of waste at the three major classes of landfill or the corresponding lists.

Inert waste landfills: only inert waste as defined in Article 2(e) can be accepted on the list.

Non-hazardous waste landfills: in order to be accepted on the list a waste type must not be covered by Directive 91/689/EEC.

Hazardous waste landfills: a preliminary rough list for hazardous waste landfills would consist of only those waste types covered by Directive 91/689/EEC. Such waste types should, however not be accepted on the list without prior treatment if they exhibit total contents or leachability of potentially hazardous components that are high enough to constitute a short-term occupational or environmental risk or to prevent sufficient waste stabilisation within the projected lifetime of the landfill.

