

Offham **566109 156073** **6 April 2011** **TM/11/00982/WAS**
Downs

Proposal: Request for approval of details pursuant to condition 5 (working programme, design and layout, etc) of planning permission TM/09/3231/WAS (KCC ref: PAG/TM/09/3231/R5)
Location: Blaise Farm Quarry Kings Hill West Malling Kent ME19 4PN
Applicant: New Earth Solutions Ltd

1. Description:

- 1.1 Planning permission was originally granted for a fully enclosed composting facility under reference TM/06/00762/WAS on 19 September 2006. There have been subsequent applications and consents relating to the days of operation, the areas from where waste can be sourced and the overall capacity of the facility.
- 1.2 A condition (condition 5) was attached to one of these subsequent consents (TM/09/03231/WAS) which required that, unless approved beforehand in writing by the Local Planning Authority, the development of the composting facility shall be carried out and completed strictly in accordance with the details approved:
 - under the original grant of planning permission (TM/06/00762/WAS);
 - through the subsequent discharge of conditions pursuant to that permission;
 - as stipulated in the conditions attached to the grant of planning permission TM/09/03231/WAS.
- 1.3 However, the development of the facility as it has been undertaken and as it is proposed to be undertaken is not strictly in accordance with the above stipulated details and conditions in several respects. I understand that the reasons for this are mainly in order to seek to improve the operation of the facility and the effectiveness of the environmental controls at the site. An application has therefore been lodged with KCC which seeks approval for amendments to regularise the development which has been undertaken other than in accordance with the stipulated details and conditions and seeks consent to construct elements of the facility in a different form to that currently permitted. KCC, as the determining authority, considers that the wording of condition 5 of TM/09/03231/WAS allows for such an application to be submitted.
- 1.4 KCC has sought the Borough Council's views in respect of this application for the approval of these details. KCC will determine the application itself.

1.5 The differences between the facility as constructed or as proposed under this application compared to the design of the facility as approved previously are summarised below:

- Surface water balancing pond:
 - A tiered balancing pond was approved in the north east corner of the site under the original consent;
 - The situation as constructed is that an underground oil interceptor and silt trap has been installed in the north eastern corner of the site through which surface water drains to a balancing pond. This has resulted in a reduction in the extent of the north-eastern section of the site which is used for surface water storage and has facilitated the construction of an additional biofilter, as detailed below;
- Biofilters:
 - The scheme as originally consented indicated a single biofilter in the north-western corner of the site to manage aeration and ventilation of the whole facility;
 - The details as submitted under this current application indicate a biofilter (9m (w) x 16.5m (l) x 1m (h) with a 2.5m high water tank) as has been constructed in the north eastern corner to manage aeration associated with the Waste Reception Buildings and the northern Compost and Maturation Halls, together with a biofilter (15m (w) x 20m (d) x 1m (h)) to be constructed in the north-western corner of the site in the original location approved but at a lower slab level. This biofilter would manage aeration associated with the southern Compost and Maturation Halls, which have yet to be constructed;
- Air ventilation:
 - The ventilation system as originally consented and constructed comprises three extraction fans which serve the Waste Reception Buildings and the Northern Compost and Maturation Halls;
 - The details as submitted indicate that it is proposed to install dedicated air ventilation (in the form of two extractor fans and associated biofiltration plant units) to the Waste Reception Buildings only, with the existing three extraction fans to be used to ventilate only the northern Compost and Maturation Halls. The installation of this additional ventilation will involve the addition of 0.8m diameter ductwork to the southern elevation of the Waste Reception Buildings and the location of two biofiltration plant units (each 10m (w) x 2.5m (d) x 3m (h)) to the south of these Buildings;

- Covered link between Waste Reception Buildings and Southern Composting Halls:
 - The permitted scheme indicates that a covered link will be constructed between the (constructed) Waste Reception Buildings and the Southern Composting Halls which has not yet been built;
 - In order to accommodate the proposed ventilation ducting and biofiltration plant units to the Waste Reception Buildings as detailed above it will be necessary to reduce the length of the link between these buildings;
- Waste Reception Buildings:
 - The Waste Reception Buildings as originally consented had strip curtains located behind the rapid rise doors within the northern elevation of this building, together with internal compartments;
 - The submitted details indicate that electronically operated rapid-rise roller shutter doors have been installed in this elevation and the strip curtains and internal compartments are no longer required, as well as the proposed addition of ducting to the southern elevation as detailed above;
- Method of transfer between Waste Reception Buildings and Northern Composting and Maturation Halls:
 - The original scheme indicated that material would be transferred between these halls via a sealed conveyor located beneath covered links;
 - The scheme as operated currently involves the roller shutter doors opening in the relevant buildings and the transfer of material via a wheeled loading shovel from one building to another. A covered link exists between the two Northern Composting and Maturation Halls and a covered link has been consented between the Waste Reception Buildings and the more westerly of the Northern Composting and Maturation Hall. The details as submitted indicate that this arrangement is proposed to continue, together with the construction of the consented link between the Waste Reception Buildings and the more westerly Northern Composting and Maturation Hall;
- Process Water Storage Tanks:
 - The consented scheme indicated a short “ribbon” of four water tanks within the north-eastern section of the site;

- These have been constructed as four tanks adjacent to each other on a concrete pad. Covers have been provided to the clean water and leachate tank (stores water which results from the composting operation), with a carbon filter also attached to the latter;
- Site office and meeting room:
 - Consent was originally granted for a single building;
 - Two buildings have been provided on site, with the rear one used for meetings;
- Northern Maturation Halls:
 - The scheme as permitted in 2006 indicated gale breaker doors along the entire northern elevation;
 - The northern elevation of the Halls as constructed have been finished in steel cladding with smaller gale breaker doors on the other elevations;
- Southern Maturation Halls:
 - The scheme as permitted in 2006 indicated gale breaker doors along the entire northern elevation;
 - The northern elevation of the Halls as constructed have been finished in steel cladding with smaller gale breaker doors.

2. Reason for reporting to Committee:

- 2.1 Given the ongoing problems which have occurred in respect of nuisance malodour production from the site, the application is considered to be locally controversial.

3. The Site:

- 3.1 Blaise Farm Quarry as a whole comprises an irregularly shaped site of approximately 116 hectares in an area located between the Great Leybourne, Offham and Mereworth Woods between Kings Hill to the south-east and Offham to the north. It has permission to be quarried for a period of 62 years in a series of phases.
- 3.2 The existing Blaise Farm composting facility is located on the quarry floor of a broadly L-shaped previously worked area within the wider quarry. The facility currently comprises a series of composting buildings (waste reception, composting and maturation halls) referred to as the Northern Composting and Maturation Halls, together with a site office, weighbridge, biofilter, storage tanks and balancing pond, located within the northern extent of the previously worked area (which runs from west to east).

- 3.3 Planning permission also exists for the erection of a series of buildings referred to as the Southern Composting and Maturation Halls and Screening Buildings within the southern part of the previously worked void.
- 3.4 Access is taken to the wider site from the 4-arm roundabout along the A228. Within the void itself, at present the access follows the edge of the eastern quarry wall, although the consented route is to follow the southern and western edges of the void.
- 3.5 The quarry void is located within a wider area of mature woodland and agricultural land-use, within a generally undulating landscape.
- 3.6 The site, and indeed wider quarry area, is located within the MGB. Immediately to the north of the site is the Scheduled Ancient Monument of St Blaise Chapel, together with an area of high archaeological potential.
- 3.7 The nearest residential properties are a collection of houses at Tower Hill to the north of the site, with the village of Offham located beyond these (to the north). Kings Hill is located to the south and south east of the application site, with some dwellings located along King Hill/St. Leonards Street West Malling.

4. Planning History:

TM/03/01155/WAS Grant With Conditions 20 January 2005

Use of land and erection of buildings for the composting of green waste and green/garden, food, vegetable, cardboard (GFVC) waste (KCC ref: TM/03/TEMP/0027)

TM/06/00762/WAS Grant With Conditions 19 September 2006

Development of a fully enclosed composting facility within the confines of the previously excavated area (KCC ref. TM/06/TEMP/0009)

TM/06/03274/WAS

Application for discharge of conditions 7(a), 7(b), 7(d), 7(e), 7(f), 7(g) and 7(h) of planning permission ref. TM/06/00762/WAS (development of a fully enclosed composting facility within the confines of the previously excavated area) dated 19 September 2006 in respect of access road design and construction, hardstandings and other surfaces, external construction materials, finishes and colours of all plant and buildings, the nature and location of facilities for the storage of contaminated materials, perimeter fencing, site drainage (foul and surface water) and signs to advise drivers of the vehicle routing arrangements (KCC ref. TM/06/762/R7)

TM/06/03713/MIN Approved 22 March 2007

Scheme of Progressive Working and Restoration pursuant to conditions 4 and 7 of planning permission ref. TM/88/1002 (KCC ref. PAG/TM/88/1002/R4+R7)

TM/07/00001/WAS Approved 7 March 2007

Details of proposed external lighting scheme pursuant to condition 7(c) of planning permission ref. TM/06/00762/WAS (development of a fully enclosed composting facility within the confines of the previously excavated area (KCC ref. TM/06/762/R7(CJ))

TM/07/04435/MIN Approved 31 March 2008

Application under Section 73 of the 1990 Act for the removal of planning condition 14 of planning permission TM/06/00762/WAS: Development of a fully enclosed composting facility within the confines of the previously excavated area (KCC ref. TM/06/TEMP/0009)

TM/08/02893/WAS Refuse 7 October 2008

Temporary variation of condition 12 of planning permission TM06/00762/WAS to allow up to 15000 tonnes of waste to be imported from Essex for composting over the 18 month period from October 2008 to March 2010 at Blaise Farm Quarry Composting Facility, Kings Hill, West Malling, ME19 4PN KCC ref: TM/08/Temp/0058

TM/08/03350/WAS Refuse 23 January 2009

Appeal Dismissed 25 August 2009

Application for removal of condition 12 of planning permission TM/06/00762 (i.e. removal of all current restrictions on waste sources) KCC reference TM/08/TEMP/0075

TM/08/03351/WAS Application Withdrawn 19 January 2009

Application for variation of condition 12 of planning permission TM/06/00762 to allow waste to be sourced from the permitted 8 Kent Districts and the Medway Unitary Authority area without the constraints imposed by circumstances (i), (ii) and (iii) of the current condition (KCC reference TM/08/TEMP/0076)

TM/08/03353/WAS Refuse 23 January 2009

Appeal Allowed 25 August 2009

Application for variation of condition 12 of planning permission TM/06/00762 to allow waste to be sourced from all 12 Kent Districts (i.e. Canterbury, Thanet, Dover and Shepway added) and the Medway Unitary Authority area without the constraints imposed by circumstances (i), (ii) and (iii) of the current condition (KCC reference TM/08/TEMP/0077)

TM/09/02661/WAS Approved 11 January 2010

Application for variation of condition 16 of planning permission
TM/08/03353/WAS to allow waste to be delivered on bank holidays to the New
Earth Composting Facility, Blaise Farm Quarry, West Malling (KCC reference
TM/09/TEMP/0039)

TM/09/02719/WAS Application Not Proceeded With 27 October 2009

Application for variation of condition 16 of planning permission
TM/08/03353/WAS to allow waste to be delivered on bank holidays to the New
Earth Composting Facility, Blaise Farm Quarry, West Malling (KCC reference
TM/09/TEMP/0039)

TM/09/03231/WAS Approved 19 May 2010

Section 73 Application for variation of condition 1 of planning permission
TM/08/03353/WAS to allow waste to be sourced from Kent, Medway, Surrey,
East Sussex, West Sussex, Brighton and Hove, all London Boroughs, Thurrock,
Essex and Southend (KCC reference TM/09/TEMP/0044)

TM/09/03232/WAS Approved 20 May 2010

Section 73 Application for variation of condition 1 of planning permission
TM/08/03353/WAS to allow waste to be sourced from Kent, Medway and Surrey
(KCC reference TM/09/TEMP/0045)

TM/09/03233/WAS Approved 20 May 2010

Section 73 Application for variation of condition 1 of planning permission
TM/08/03353/WAS to allow waste to be sourced from Kent, Medway, Surrey,
East Sussex, West Sussex and Brighton and Hove (KCC reference
TM/09/TEMP/0046)

TM/09/03234/WAS Refuse 13 April 2010

Section 73 Application for variation of condition 1 of planning permission
TM/08/03353/WAS to allow waste to be sourced from Kent, Medway, Surrey,
East Sussex, West Sussex, LB Bromley, LB Bexley, Thurrock and Essex (KCC
reference TM/09/TEMP/0047)

TM/09/03235/WAS Refuse 15 April 2010

Section 73 Application for variation of condition 1 of planning permission
TM/08/03353/WAS to allow waste to be sourced from Kent, Medway, Surrey,
East Sussex, West Sussex, Brighton and Hove, LB Bromley, LB Bexley and
Thurrock (KCC reference TM/09/TEMP/0048)

TM/09/03236/WAS Refuse

15 April 2010

Section 73 Application for variation of condition 1 of planning permission TM/08/03353/WAS to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, LB Bromley, LB Bexley and Thurrock (KCC reference TM/09/TEMP/0049)

TM/10/03056/WAS Currently pending consideration by KCC
Installation of renewable electricity generating equipment with associated alterations to the design of part of consented southern composting hall building with additional car parking spaces (KCC Ref: TM/0360/2010)

- 4.1 Application TM/10/03056/WAS reported to the TMBC APC2 on 19 January 2011. KCC was advised that the formal views of the Borough Council are:

Raise Objection unless the following concerns are adequately dealt with by the County Council when it formally decides the application. These issues, which should be considered on precautionary principles and in the context of current operations on the site, are the need for controls to deal with:

- odour, especially in light of current odour problems in the locality;
- HGV movements;
- the prevention of the erection of a new building as well as all of the previously permitted building for the composting use already on site;
- the movement of materials;
- management of surface water;
- the prevention of adverse impact from noise and the need for process noise levels not to exceed background levels.

5. Consultees:

Carried out by TMBC:

- 5.1 DHH: The application seeks approval for the details pursuant to Condition 5 of planning permission TM/09/3231/WAS, which includes the discrepancies between the 'as built' facility and those previously detailed. These discrepancies have arisen as a result of on-site modifications/improvements which have been put in place to try and control odour arising from the site which has resulted in complaints being made to the local authority and the EA.

Complaints of odour are still being received by the local authority although not with the frequency they were received at the end of 2010.

Whilst the Environmental Protection team is a consultee of the Local Planning Authority it must be emphasised that the responsibility for the control and enforcement of any odour measures lies with the EA who has issued a Standard Rules Permit for the facility under the Environmental Permitting regime, which places a duty on the EA as the regulating authority to :

- enforce any conditions attached to the permit;
- investigate any complaints received about the facility;
- to work with the operators of the facility to resolve any problems/complaints in relation to odour, noise or dust.

An observation on the details within the application is that the operators of the facility do not feel it necessary to provide an enclosed conveying system for the transfer of material between the reception hall and the composting hall. In view of the ongoing complaints, we would like to query the rationale behind this.

From a technical perspective the EP Team would ask for further detail in respect of:

- (i) the two additional extract fans proposed at the facility to ensure that the capability and performance of the units will be adequate for their intended purpose;
- (ii) the noise profile for the two additional extract fans and the associated duct work to ensure that they comply with the requirements of the Conditions attached to the earlier permission (no increase in the ambient noise level) and to ensure that any potential vibration issues are addressed, prior to installation;
- (iii) the capability and performance of the existing ventilation system (which will serve the existing composting and maturation halls) to ensure it is adequate for its intended purpose.

Provided by KCC following the County Council's own consultation:

5.2 West Malling PC: No objection.

5.3 Kings Hill PC: No objection.

6. Determining Issues:

6.1 Although the details of the development as provided have been submitted pursuant to a Condition on a previous grant of planning permission, a number of the differences from the approved scheme in design and location of the various elements which have been built, or are proposed to be built, comprise development in their own right. This includes the construction of a new building

(the north eastern biofilter) and the installation of ductwork to the Waste Reception Halls. It is for KCC as the determining authority to conclude whether the development can be regularised or permitted through such an application.

6.2 Given that the details propose new development, or seek to regularise development which has been undertaken not in accordance with the approved details, it is considered necessary to assess the proposal against the planning policy framework. The planning policies which need to be taken into account in the determination of the application are:

- National Planning Guidance: PPS1; PPS1 Climate Change Supplement; PPG2; PPS4; PPS5; PPS7; PPS9; PPS10; PPG13; PPS25;
- Saved Policies of the Kent Waste Local Plan: W10: Composting and Digestion; W19: Groundwater; W21: Nature Conservation; W22: Road Traffic and Access; W25: Plant and Buildings; W27: Public Rights of Way; W31: Landscaping; W32: Aftercare;
- TMBCS: CP3: Metropolitan Green Belt; CP14: Development in the Countryside; CP24: Achieving a High Quality Environment;
- MDE DPD: NE1: Local Sites of Wildlife, Geological and Geomorphological Interest; NE3: Impact of Development on Biodiversity; SQ1: Landscape and Townscape Protection and Enhancement; SQ6: Noise.

6.3 Regard should also be had to the following policies within the South East Plan, albeit the Government has announced its intention to revoke Regional Spatial Strategies and the Courts have held that this is a material consideration in the determination of planning applications: Policies SP5: Green Belts; CC1: Sustainable Development; CC2: Climate Change; CC3: Resource Use; CC4: Sustainable Design and Construction; NRM10: Noise; W6: Recycling and Composting; C4: Landscape and Countryside Management.

Principle

6.4 Saved Policy W10 of the Kent Waste Local Plan sets out that proposals for composting and digestion at established locations with ready access to the primary and secondary route network will be permitted, subject to satisfying criteria regarding the impact on the natural environment, the degree to which the proposal is obtrusive in the landscape and the impact on residential amenity (in terms of noise, dust, smell or visual impact). Blaise Farm comprises an established composting facility with ready access to the transport network. An assessment against the other criteria referred to in this saved Policy is provided in subsequent sub-sections to this report.

6.5 In determining the principle of development, it is also necessary to have regard to the fact that the site lies in the MGB. Although the development as detailed (buildings which have not been constructed in accordance with the approved plans and details, the construction of an additional biofilter and the proposed installation of new ventilation equipment) does not fall within one of the categories of new buildings which are considered to comprise appropriate development in the MGB, I am of the opinion that the development as detailed does not, and will not, have a materially greater impact on the openness of the MGB than the scheme as originally permitted, and is acceptable in MGB terms.

Visual Impact

6.6 The changes to the layout of the facility and appearances to buildings as detailed, relative to the originally consented development, are considered to be comparatively minor:

- the extent of built form, plant and other facilities will not extend beyond that of the originally consented scheme (the additional biofilter in the north-eastern corner will be positioned within an area originally consented for tiered surface water storage);
- the additional buildings and structures (e.g. the biofilter and meeting room) which have been constructed or are proposed (the ductwork) are relatively small scale in comparison with the overall bulk and form of the facility;
- the amended design of individual buildings (for example the positioning of doors on the Northern Maturation Halls) have not or will not adversely affect the appearance of these buildings compared to those as approved.

6.7 The facility is located on the quarry floor, the surrounding terrain is of an undulating nature and contains dense and mature vegetation. Having regard to this context, together with the relatively minor alterations to the visual appearance of the facility compared to that originally permitted, I am of the opinion that the detailed development will not appear to have an adverse visual impact.

Residential Amenity

6.8 I am aware that complaints have been lodged by local residents in respect of the production of odour associated with the operation of the facility: it is understood that many of the differences in the development as constructed and proposed, as compared to that originally consented, have been as a result of efforts to improve the operational efficiency of the facility, including the efficiency of the systems which are designed to prevent harm being caused to residential amenity through noise, dust or smell. This includes the provision of a cover and carbon filter to the leachate tank and the proposed additional ventilation system.

- 6.9 As detailed by DHH, the responsibility for the control and enforcement of any odour measures lies with the EA as the regulating authority. A detailed response to this application has yet to be provided by the EA to KCC: if such a response is received prior to the Committee, this will be reported to Members in a Supplementary Report. I understand from attendance at meetings with the various regulatory bodies that there is no consensus as to whether the malodour problems at the site are as a result of deficiencies in the design and construction of the facility, or arise through the manner in which the facility is operated.
- 6.10 DHH has detailed that insufficient technical information has been provided as part of the application to conclude that the development as detailed (particularly the proposed ventilation system) will have the ability to adequately satisfy their intended purpose and to conform with the conditions attached to previous grants of planning permission to control matters such as noise and dust.
- 6.11 Notwithstanding this, I consider that any of the changes between the detailed development and that as originally permitted which serve to improve the situation in respect of the impact on residential amenity through noise, dust and, particularly, odour are to be welcomed. Such changes include the provision of a cover and carbon filter at the leachate tank and the proposed installation of further ventilation equipment. However, I also have some concerns that certain changes in the detailed development may have had the effect of increasing the potential for harm to residential amenity to be increased through odour production, for example through not using sealed conveyors between the Waste Reception Halls and the Northern Composting and Maturation Halls: I am of the opinion that KCC must be satisfied that the changes from the originally consented scheme have not caused or exacerbated the odour problems which affect residential amenity in the locale.
- 6.12 Given that it is not possible to definitively conclude that the development as detailed will resolve the odour problems which have been, and presently are, causing harm to residential amenity, combined with the fact that the responsibility for the control and enforcement of any odour measures lies with the EA as the regulating authority, it is recommended that KCC be advised that the Borough Council requires the County Council to be completely satisfied that the controls in respect of noise and odour within the detailed development are, together with the operation of the site to be regulated by the EA, sufficient to preclude harm to the residential amenity of neighbouring properties.

Flooding and Surface Water Drainage

- 6.13 The application has detailed that the alterations to the surface water regime between that originally consented and that indicated in the detailed submission were undertaken as a result of discussions with the EA. As detailed above, KCC has not presently received a response from the EA in respect of the application. Subject to receipt of the comments from the EA before the Committee, I will advise Members further in respect of these considerations through a Supplementary

Report. In the event that response from the EA is not received, it is recommended that KCC be advised that TMBC considers that it is crucial that the EA is satisfied in respect of surface water and flooding prior to the grant of planning permission.

Impact on Highways, Biodiversity, Geological Conservation and the Ancient Scheduled Monument

6.14 Given that the detailed development would not extend beyond the area of the quarry floor already permitted for use associated with the facility, together with the relatively minor form of the changes in respect of built form (having regard to the overall size of the facility as originally permitted), I consider that the detailed development will not have a negative impact on the above considerations.

7. Recommendation:

7.1 **Raise No Objection** subject to:

- The County Council being completely satisfied that the controls in respect of noise and odour within the detailed development are, together with the operation of the site to be regulated by the EA, sufficient to preclude harm to the residential amenity of neighbouring properties;
- The Environment Agency raising no objection in respect of flooding or surface water storage or drainage.

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