

REGULATORY SERVICES COMMITTEE

13 October 2011

Subject Heading:	Proposed under planning reference P1295.11 re-contouring of landfill site through controlled landfill involving continuation of road-borne waste imports until 2018 (as well as river-borne imports, as previously approved) to achieve appropriate restoration scheme and associated visitor facilities pursuant to Regulatory Services agreement in principle under planning reference U0013.08 and resolution to approve of the London Thames Gateway Development Corporation on 10 th September 2009 (attached).
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Policy context:	London Plan London Borough of Havering Local Development Framework
Financial summary:	Cost of Future Management of the Site Cost of insurance to cover new uses

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The application relates to a 177 hectare site located on the River Thames at the most south eastern part of the Borough. The application site currently benefits from an existing consent to deposit refuse materials through controlled landfill. The site is to be restored by 2018 relying solely on river sourced waste imports from 2012. The current application was agreed in principle by Regulatory Services Committee under planning reference U0013.09, and the Council is now the Local Planning Authority. At that time the London Thames Gateway Development Corporation (LTGDC) was the Local Planning Authority for the area in which the application site is situated. The LTGDC Planning Committee of 10th September 2009 resolved to grant planning permission subject to completion of an agreement under Section 106 of the Town and Country Planning Act 1990. The planning agreement has not yet been completed and the planning obligations and planning conditions subject to minor amendment are set out in this report. An additional planning obligation is included pursuant to Section 106A of the Town and Country Planning Act 1990 (“the 1990 Act”) which on implementation of planning permission under planning reference P1295.11 the planning obligation in the existing agreement dated 6th February 1998 will no longer have effect.

RECOMMENDATION

That the proposal is unacceptable as it stands but would be acceptable subject to the planning conditions set out in this report and subject to the applicant first entering into a Legal Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended), to secure the following:-

- Submission of a Travel Plan which includes the limitation of waste vehicle movements to 300 per day which shall be reduced as public access increases and volumes decrease to be reviewed annually or as otherwise agreed;
- Grant London Borough of Havering the option of a leasehold on the application site on a phased basis subject to an independent review of contamination, pollution and health risks;

- Upgrade the existing Rainham to Purfleet paths and the Third Riverside Path to a public right of way for use by pedestrians and cyclists;
- Maintain that part of Coldharbour Lane dashed black on Plan 2 to a standard reasonable for public access
- Grant London Borough of Havering a option to purchase Aveley Saltings subject to the necessary interest being held by the Owners;
- Ensure that Veolia extend public liability insurance should early public access be exercised;
- Provide realistic timeframes to allow early public access subject to agreement of the Local Authority;
- Provide for public access in defined areas of the application site outside of operational and restricted areas through adequate measures;
- Submit and carry out an Ecological Method Statement for the treatment of existing habitats on already established areas to include a monitoring programme for over-wintering bird populations;
- Submission and implementation of an Ecological Management Plan for approval by the LPA;
- Submit and implement landscape and restoration plan;
- Revisit the settlement model at regular agreed intervals and provide a contingency plan.
- Provide and implement an Odour Mitigation strategy to the satisfaction of the LPA;
- Upon Service of the Final Completion Notice and until the end of the Aftercare Period the Owner/s shall make available to the Council the Gatehouse or any alternative building suitable for use as an environmental centre and during that period the Owner/s shall maintain and repair the premises fit for purpose and an environmental centre.
- The obligations in the existing agreement dated 6th February 1998 to be discharged on the implementation of the planning permission under planning reference P1295.11 subject to all relevant obligations required by the Council and relevant to the planning permission (P1295.11) being reflected in the planning agreement associated with the said planning permission.

That staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. The development hereby permitted shall be carried out in accordance with the following approved plan(s) and information:

Drawing No 1 (site location plan)

Drawing No 2 (site boundary)

Drawing No 3 (permitted post settlement contours)

Drawing No 6 (phasing sequence),
Drawing No 7 (restoration concept)
Figure 4.2 (corrected) (pre and post settlement contours)
Figure 1.4b Rev A (proposed pre settlement contours)

The details and drawings contained within the submitted Environmental Statement dated December 2008 and additional documents referenced VE0420008A (air quality) dated 16th June 2009; "Stability Risk Assessment" dated 5 June 2009; "Stability Assessment Report" dated March 2009, and in accordance with the following conditions.

Reason: To ensure the development takes place in accordance with the approved plans

2. Waste disposal operations shall cease on or before 31st December, 2018 and restoration of the site shall be completed by 31st December 2018, in accordance with the scheme approved under condition 4 below. The restored area(s) shall, on the date restoration is completed in any particular zone, be subject to a period of aftercare, in accordance with the scheme approved under condition 5 below.

Reason: To ensure that the development is restored in a timely fashion.

3. Within 7 days of the date aftercare commences in any given zone of the site, the Local Planning Authority shall be notified in writing.

To ensure that the approved period of aftercare is undertaken.

4. Within 2 years of the date this planning permission is implemented, a detailed restoration and planting scheme for the site shall have been submitted to the Local Planning Authority for written approval. The scheme shall include details of all proposed planting including the location, species, size, spacing, protection and maintenance. Details shall be submitted in relation to any works associated with proposed buildings, nature conservation, and waterways. The scheme shall also include the following details: (i) the depth and treatment of soils to relieve compaction and remove deleterious material of soils placed above the fill materials; (ii) the cross-ripping of soils suitable to achieve appropriate restoration and landscaping of the site; (iii) surface water drainage and; (iv) an implementation programme including a phasing plan that will detail the individual zones of the landfill including likely timeframes for completion.

Reason: to ensure the provision of amenity afforded by appropriate restoration.

5. Within 2 years of the date this planning permission is implemented, an aftercare / management scheme shall be submitted to the Local Planning Authority for written approval. The scheme shall cover a minimum 5 year

initial aftercare period following the completed restoration of any given zone subject to the aftercare of all zones being completed by 31st December 2023. Once approved in writing by the Local Planning Authority, the approved scheme shall be implemented.

Reason: to ensure that the site is managed adequately long term.

6. Within six months of the date this planning permission is implemented, a noise mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented so that no undue harm to sensitive receptors arises in accordance with the advice contained within PPG24.

Reason: To assess and minimise noise generated by the site which may impact upon nearby sensitive receptors.

7. Prior to the implementation of this planning permission, a scheme detailing wheel washing facilities for vehicles exiting the application site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 1 month of the scheme being approved.

Reason: To prevent mud and dust being transferred onto the public highway

Within 3 months of the date this permission is implemented, a scheme of dust mitigation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented within 1 month of its approval.

8. Reason: To minimise the transmission of dust and particulates from the development in the interests of air quality and residential amenity.

10. Within 3 months of the date this planning permission is implemented, a scheme detailing the proposed means of controlling vermin shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented within 1 month of its approval.

Reason: In the interests of amenity.

11. Notwithstanding the provisions of Part 4 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no change of use or provision of buildings, moveable structures, works, plant or machinery shall be undertaken other than those approved by this permission, unless otherwise approved in writing by the Local Planning Authority..

Reason: To ensure the further waste related development remains under the control of the Local Planning Authority, in the interests of nearby sensitive receptors included the natural environment and residential locations

12. No on-site waste disposal, restoration, or aftercare operations other than essential maintenance shall be undertaken on Sundays, Bank or Public Holidays.

Reason: In the interests of highway safety, in particular potential conflict with recreational users of the existing and proposed visitor attractions.

13. The final layer of cover over the capping layer placed over the deposited waste materials shall comprise at least 1.0m of soil forming material, and under the areas to be planted with trees and shrubs this layer shall be at least 1.5 metres deep. This layer of material shall be left free from all materials likely to interfere with the final restoration, in compliance with the restoration and landscaping scheme.

Reason: In order to provide an adequate layer of capping for the future recreational and nature conservation use of the site.

14. The final soil layer shall be laid to a gradient in accordance with the stability assessment in order to achieve the post-settlement contours, as shown on figures 1.3b and 1.4b, and to provide a suitable manageable surface in accordance with the landscape restoration scheme as required by condition 4 of this planning permission.

Reason: To ensure that a high quality post-restoration planting scheme can be achieved.

15. The spreading of soils shall only take place when they are in a suitable dry and friable condition and carried out in such a way and with such equipment to ensure minimum compaction.

Reason: to ensure soil integrity for adequate site restoration.

16. In the event that any areas of uneven settlement occur during the aftercare period, these shall be made good with suitable imported soils to the satisfaction of the Local Planning Authority.

Reason: In order to provide a high quality, even and stable landform.

17. Only solid, non-hazardous waste materials shall be deposited at the site.

Reason: For the purposes of environmental control and safety, particular with regard to the protection of ground water.

18. Soils and other materials for restoration shall not be stored to a height exceeding 4 metres above the ground level on which they are stockpiled.

Reason: In the interests of visual amenity and safety.

19. All stockpiled soils intended to remain in place for more than six months shall be sown with an appropriate grass seed mix and maintained (including weed control) in accordance with a scheme previously submitted to, and approved in writing, by the local planning authority.

Reason: In the interested of visual amenity and dust control.

20. Leachate storage lagoons or settlement ponds shall not be located on previously landfilled areas without the prior written agreement of the Local Planning Authority.

Reason: In the interests of controlling potential pollution pathway from the site into the natural environment.

21 There shall be no light spill into any adjacent watercourse or river corridor habitat. To achieve this, artificial lighting shall be directional and focused with cowlings.

Reason: In order to protect the wildlife and habitat of the river corridor.

22. Within 3 months of the date of the implementation of this permission, a scheme updating the 'Water Resources' chapter of the Environmental Statement hereby approved by this permission shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for a satisfactory management of surface water run-off as well as including details of the improvement, protection and maintenance of the existing flood defences. The scheme shall be implemented within one month of the date it is approved, and shall be updated at the request of the local planning authority should any future changes come about due to the implementation of the approved landscaping and restoration plans.

Reason: To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site and to ensure the structural integrity of existing and proposed flood defences thereby reducing the risk of flooding.

23. The pre-settlement contours depicted in Figure 9 'Proposed Site Contours for Stability' of the 'Rainham Landfill Stability Assessment Report' submitted in support of the application shall not be exceeded.

Reason: To ensure the stability of the proposed landform and in the interests of the protection of the water environment.

24. At any time before the development is completed, following a cessation of operations for a period exceeding 12 months, a reinstatement and restoration scheme shall be submitted forthwith, in writing, to the Local Planning Authority for its approval. The scheme shall provide details of final levels, restoration, landscaping of the site and a timescale for the carrying out of the scheme. The approved scheme shall thereafter be carried out in accordance with the approved timescale and each element within the approved period.

Reason: to ensure that the site is adequately restored.

25. All tree and shrub planting shall be carried out during the period from November to March (inclusive) in any year, unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that planting is carried out within the established planting season.

26. Turf, topsoil and subsoil shall not be removed from the site.

Reason: to ensure that such materials are retained on site for use in restoration.

REPORT DETAIL

1. Background

- 1.1 The application relates to the Veolia landfill site at Coldharbour Point, Rainham. The proposal seeks to revise the approved pre and post-settlement contours and would facilitate the early delivery of visitor facilities associated with the proposed 'Wildspace' conservation park.
- 1.2 Members may recall that on 27th August 2009, they resolved to raise no objections, subject to completion of a satisfactory S106 agreement, to the London Thames Gateway Development Corporation in relation to the planning application, to which London Borough of Havering was a Consultee. The report to Regulatory Services Committee of 27th August 2009 and report of LTGDC of 10th September 2009 are attached and sets out the details of the proposal and main planning considerations.

- 1.3 Members may also recall that on 17th March 2011, they resolved to enter into a new S106 legal agreement to replace that entered into in 1998 and in accordance with the resolution of the LTGDC to grant planning permission on 10th September 2009. This would have enabled LTGDC to complete the legal agreement and planning permission to be issued. However, the legal agreement has not been completed and the LTGDC are (since 1st April 2011) no longer the planning authority.
- 1.3 Negotiations on the content of the legal agreement have been continuing. Now that LTGDC are no longer the planning authority, the issuing of a decision requires a resolution of this committee to grant planning permission, subject to the Section 106 Agreement. Now that Havering is the local planning authority for the application, there has been an opportunity to revisit the conditions proposed to be attached and amendments have been made.

2. Summary of Proposal

- 2.1 Full details of the proposal are given in the attached reports. In summary, planning permission was granted in 1998 (Ref P1275.96) for the current landfill operation amounting to the importation of 12.3 million cubic metres of waste. The current application has been submitted as the landfill is settling at a greater rate than originally assumed. This is due to the biodegradable content of domestic waste steadily increasing over time; the imposition of landfill tax; and the drive toward recycling which have resulted in the removal of inert materials such as bottles, plastics, cans, building waste which has ultimately increased biodegradable material. As a result the amount of settlement at this landfill site has been greater than envisaged. Consequently, without regrading of the landform the site would likely suffer from poor drainage and increased pollution risks. This may also impede the final use of the site for public access and incorporation within the Wildspace regeneration project.
- 2.2 The applicant therefore seeks planning permission to update the original planning permission taking into consideration the updated settlement rates in order to create a satisfactory final landform similar to that originally envisaged. The revisions include the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than approve that would over time settle to a lower height that is similar to the existing planning permission. The revised landform would assist in the early delivery of the eastern side of the site for public access and allow for the delivery of various visitor facilities.
- 2.3 The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. It

is likely that the final restoration would remain unchanged to be completed by the 31st December 2018.

- 2.4 The application has been submitted with a full Environmental Statement which has been fully considered.

3. Summary of Planning Considerations

- 3.1 Full details of the planning considerations are contained in the attached reports. In summary, it is considered that the proposed importation of additional waste is acceptable. The waste would still continue to be imported to 2018 as approved but no extension to the period of importation is proposed. Current settlement rates would mean that the landform may not be suitable for public access. The additional waste would ensure that a high quality landform that would be accessible and safe for public use would result whereas.
- 3.2 The proposal would enable earlier public use of parts of the site which is considered to be beneficial.
- 3.3 The original planning application was subject to a detailed legal agreement which sought to ensure, amongst other things, adequate restoration and aftercare and to ensure public access. It is recommended that the extant clauses in the agreement are brought forward and amended as necessary with changes/additions to allow early public access of the site.

4. Recommendation

- 4.1 It is recommended that planning permission be granted, subject to a legal agreement and conditions as outlined in this report.

IMPLICATIONS AND RISKS

Financial implications

The discharge of planning obligations relating to the Existing Agreement on those obligations being superseded by obligation in a new agreement reflecting the heads of terms of obligation approved by resolution of the LTGDC on 10th September 2009 should not have direct financial implications save for maintenance and insurance costs should public access be facilitated at an early stage.

Legal Implications

Legal resources will be required to complete the Section 106 agreement.

Human Resource Implications & Risks:

None directly related to the variation or discharge of the planning obligations.

Equalities and Social Inclusion implications:

The Council's planning policies are implemented with regard to equalities and diversity. Any contracts entered into by the council would contain appropriate clauses to reflect the Council's equalities and diversities policies and relevant legislation e.g. compliance with the service provision requirements of the DDA 1995 and access requirements.

BACKGROUND PAPERS

Report of the Chief Executive U0013.08 – Rainham Landfill Site, Coldharbour Lane, Rainham – to the Regulatory Services Committee 27th August 2009

Report to London Thames Gateway Development Corporation Planning Committee – U0013.08 – 10th September 2009