

WREXHAM COUNTY BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 97

THE WREXHAM COUNTY BOROUGH COUNCIL (MODIFICATION OF PLANNING PERMISSION) (HAFOD CLAYPIT, JOHNSTOWN) ORDER 2007

EXPLANATORY STATEMENT

Background

A full application for landfill at Hafod Claypit was refused by Clwyd County Council in 6th December 1991 (ref: 6/ 18883). Following a Public Local Inquiry the then Secretary of State for Wales granted planning permission on 10 July 1995 with a number of conditions. Certain issues were reserved for further approval subsequently submitted and granted as follows:

- New vehicular access (CB/02502 17/09/98)
- Details of newt translocation, wheel wash facilities, surface water management, site control area, fencing, dust control and landscaping issues prior to landfilling (CB/0532 11/03/99)

A portion of the site granted permission now forms part of the Stryt Las a'r Hafod Site of Special Scientific Interest (SSSI) designated in July 2001 and the Johnstown Newt Sites Special Area of Conservation (SAC) designated in December 2004 as shown in Appendix 1 to this Statement.

MWH Associates Ltd (MWHL) submitted new planning applications (ref: P2003/1241 & 1242) to Wrexham County Borough Council ("the Council"), which proposed to limit landfill to the areas of the site not covered by the SAC and to revise phasing and the restoration concept plan accordingly. The Planning Committee considered these applications on 5 April 2004 and resolved to refuse one and to object to the other at a Public Inquiry that was held in July 2004. The appeal (APP/H6955/A/1139630) was upheld and permission granted on 26 August 2004. The appeal decision was challenged in the High Court (CO/4866/2004) and quashed on the 28th June 2005.

A permit to landfill under the Pollution Prevention and Control Regulations 2000 was issued by the Environment Agency in October 2004. Hafod Quarry began receiving waste on 23rd August 2006.

Wrexham County Borough Council is the successor to the functions of the Clwyd County Council.

Impact upon the SAC

The Conservation (Natural Habitats & c) Regulations 1994 (the "Habitats Regulations") require Local Planning Authorities to review any permission which is likely to have a significant effect upon a Special Area of Conservation (SAC) and to make an Appropriate Assessment of the implications for the site in view of the site's conservation objectives. Regulation 50 requires that as soon as reasonably

practicable the Council should review any relevant permission and should then either affirm the consent, modify it or revoke the permission.

The Welsh Assembly Government has issued a licence in respect of the protected great crested newt population at Hafod under Regulation 44 (2) (e) of the Habitats Regulations allowing activities that would interfere with the protected species for reasons of “preserving public health or public safety or overriding public interest including those of a social or economic nature”. The licence does not authorise disturbance of the protected newts within the SAC. In their licence application, Mersey Waste Holdings Limited (“MWHL”) identified two receptor sites of newts disturbed by the activities. The second of these sites is located on land subject to the existing landfill permission. As part of the overall amphibian mitigation scheme, MWHL have undertaken habitat enhancement works within both receptor sites. They have also confirmed their intention to manage these sites for long term nature conservation management purposes.

To use the part of the SAC within the landfill planning permission boundary for land filling or associated operations would require a further licence to relocate newts. The Countryside Council for Wales’ has expressed the view to the Council that no justification could be made to satisfy the requirements of Regulation 44 (2), that the integrity of the SAC must not be adversely affected. This means that a licence could not lawfully be issued.

As required by the Habitats Regulations, the Council undertook a review of the landfill consent. The conclusion of the resultant “Appropriate Assessment” was that the existing consent would affect site integrity and conservation status of that part of the SAC within the landfill site. The Assessment proposed that measures to exclude this area from landfilling should be undertaken to ensure that there is no adverse impact upon the SAC and to establish an appropriate programme of conservation management action.

On the 4th September 2006 the Council’s Planning Committee considered the results of the ‘Appropriate Assessment’ and resolved to modify the landfill consent to prevent tipping on the SAC and require the remainder of the site to be restored in accordance with the revised restoration concept plan and other details submitted by the MWHL at the time of the 2004 appeal.

Purpose of the Modification Order

The purpose of the Order is to modify the extant and partly implemented landfill planning permission to prevent any landfilling operations taking place within the SAC and ensure that the nature conservation interests are protected.

The Order (and the associated Wrexham County Borough Council (modification of Mineral Planning Permission) (Hafod Quarry, Ruabon) Order) will take the area of the SAC out of the site area of the extant landfill planning consent and modify the conditions accordingly in order to comply with the Council’s obligations under the Habitats regulations and the Council Directive on Habitats (92/43/EEC).

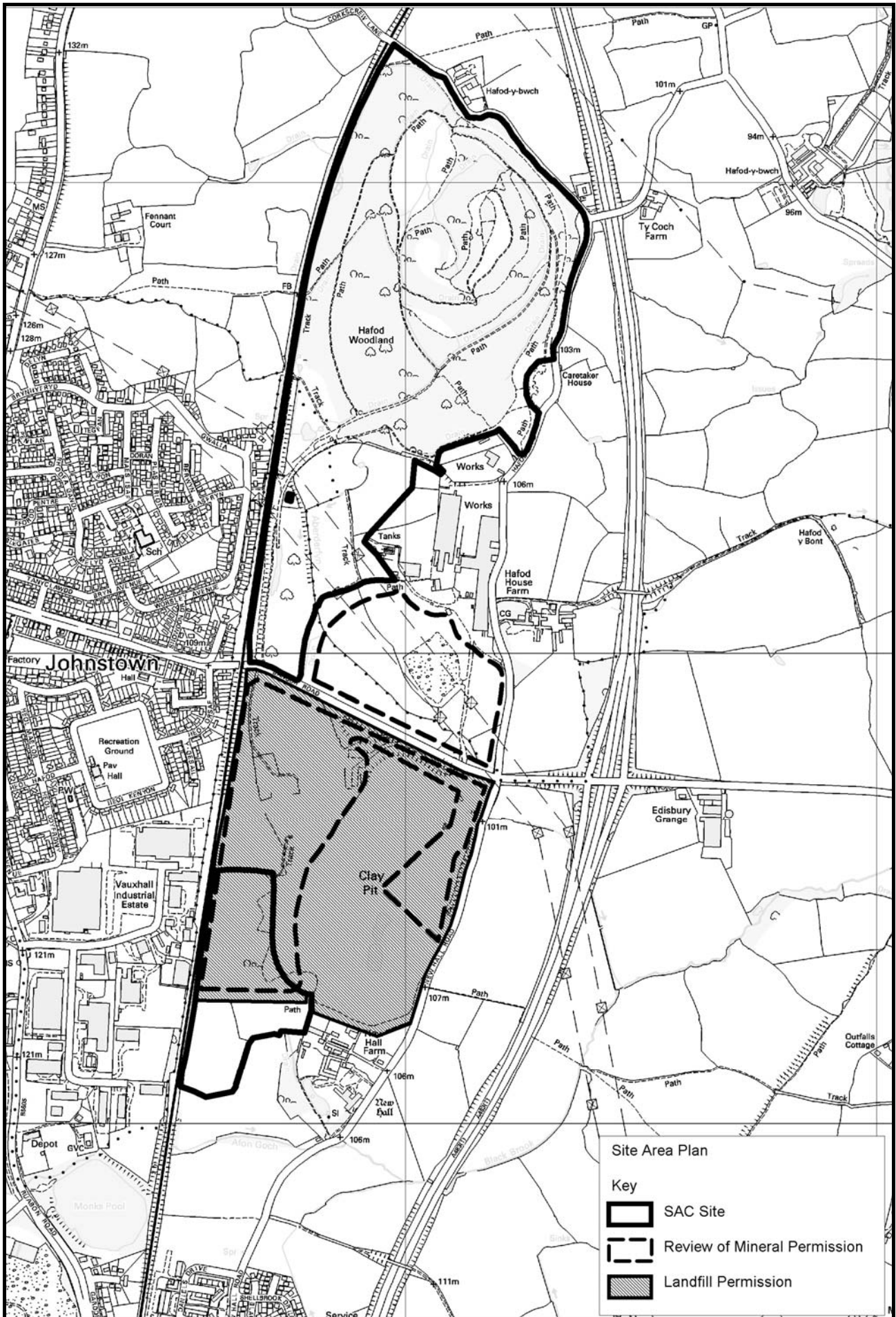
A copy of the landfill planning permission as modified is annexed to this statement.

Documents

In the event that there are objections to the confirmation of the Order the Council may refer to the following documents during any hearing that may be held in connection with such objections:

1. Determination of conditions for mineral site (ROMP) and approved drawings P/2003/1220.
2. Report the Planning Committee of the Wrexham County Borough Council 4th September 2004 number CPLO/44/06. Subject; Hafod Quarry.
3. Wrexham County Borough Council Planning Committee Meeting of 4 September 2006. Addendum. Report of the Chief Planning Officer. Item 4 – Hafod Quarry.
4. Minutes of Meeting of the Wrexham County Borough Council Planning Committee held on 4th September 2006. Item 2(i).
5. Designation of the Stryt Las a'r Hafod Site of Special Scientific Interest.
6. Johnstown Newt Site Special Area of Conservation Map 1/1.
7. Conditions set out under code numbers RUA/CB/02532 (dated 11th March 1999) and RUA/CB/02502 (dated 8th February 1999).
8. "Reserved matters" approved under RUA/CB/02532 (dated 11th March 1999).
9. Application to extend period for submission approved under RUA/CB/2094 (dated 17th September 1998) ("reserved matters" approved under RUA/CB/02532 (dated 11th March 1999)).
10. Details of access roadway and concrete bases for site infrastructure implemented and completed 7th April 2000.
11. Approval of variation of conditions 5 and 8 under approval RUA/CB/02502 (dated 8th February 1999).
12. Details under Condition 6 submitted and approved under RUA/CB/02532.
13. Details under Condition 7 submitted and approved under RUA/CB/02532 (dated 11th March 1999).
14. Details under Condition 9 to RUA/6/18883 approved under RUA/CB/02532 (dated 11th March 1999) and approval of external appearance by letter January 2006.
15. Details under Condition 10 agreed under RUA/CB/02532 (11th March 1999).
16. Details under Condition 12 submitted and approved under RUA/CB/02532 (dated 11th March 1999).
17. Details under Condition 13 submitted and approved under approval RUA/CB/02532 (dated 11th March 1999).
18. Details under Condition 20 submitted and approved under approval RUA/CB/02532 (dated 11th March 1999).
19. Landscaping under condition 23, details approved by letter January 2006.
20. Details of ground markers under Condition 24 submitted October 2005 approved by letter January 2006.

Appendix 1



ANNEXE

Landfill Planning Permission

Copy of Conditions as Modified

WREXHAM COUNTY BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 97

THE WREXHAM COUNTY BOROUGH COUNCIL (MODIFICATION OF PLANNING PERMISSION) (HAFOD CLAYPIT, JOHNSTOWN) ORDER 2007

6/18883

Conditions

A1 In these conditions:-

“Site” means the area shown edged red on Drawing number WCBC/Hafod/02
“SSSI/SAC” means the Stryt Las a’r Hafod Site of Special Scientific Interest and the Johnstown Newt Sites Special Area of Conservation

1. Approval of the details of the siting, design and external appearance of the Site control building and other structures included in the application, the means of access thereto and the landscaping of the Site (hereinafter called "the reserved matters") shall be obtained from the Mineral Planning Authority.
 2. Application for approval of the reserved matters shall be made to the Mineral Planning Authority before the expiration of three years from the date of this permission.
 3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later. Written notification of the date of commencement shall be given to the Mineral Planning Authority within one week of the said date.
- 3A Landfill shall be only carried out in accordance with the details specified in the MWH letter dated 28th October 2003 and the accompanying plans and documents as follows:
- (a) Drawing Number 2425/4/03 – landfill phasing layout,
 - (b) Drawing Number 2425/4/04 Revision A – proposed post settlement restoration profile,
 - (c) Materials Volume Report (ref 2425/4/01).
- No landfill or other works shall take place within the area shown hatched and notated as a screen bund on Drawing Number 2425/4/03 or in the area lying between the said screening bund area and the boundary of the SSSI/SAC.

- 3B The surface water management system shall be constructed in accordance with Drawing Numbers 2425/6/02, 2425/6/03, 2425/6/04, 2425/6/05, 2425/6/06, 2425/6/07, 2425/6/08 and 2425/6/09. There shall be no departure from the approved details without the prior written approval of the Mineral Planning Authority. The scheme shall provide for the monitoring and control of the surface water run off from the Site
- 3C Prior to the commencement of tipping in Phases D and E shown on Drawing number 2425/4/03 hereby approved, a full assessment of the available mineral reserve in the area to the north west of those phases shall be submitted to and approved in writing by the Mineral Planning Authority. No tipping in landfill Phase D shall commence until such mineral as agreed to be workable in this phase and the area to the immediate west has been extracted. No tipping in landfill Phase E shall commence until the remaining mineral as agreed to be workable in this phase and the area to the north west of landfill phases D and E has been extracted.
- 3D A long term nature conservation management scheme shall be submitted to the Mineral Planning Authority for approval in writing within six months of the date of confirmation of the modification of this permission by the National Assembly for Wales. The scheme shall be in respect of:
- (a) the areas of SSSI/SAC in the control of the applicant; and
 - (b) areas within the Site that function as or are proposed to function as wildlife corridors during landfill operations.
- and the scheme shall be implemented as approved.
4. The landfilling operations hereby permitted shall cease within fifty-five years of the date of commencement of the development. The date of cessation of landfilling operations (comprising the importation and deposition of wastes) shall be notified to the Mineral Planning Authority within one week of the said date.
 5. The landfilling operations hereby permitted shall not be commenced until the B5426 Bangor Road has been widened, between points E and F on the plan attached to this permission, in accordance with a scheme to be submitted to, and approved in writing by, the Mineral Planning Authority.
 6. Prior to the commencement of the development hereby permitted a survey of the application Site shall be carried out to determine the numbers of Great Crested Newts present on the land and a scheme submitted to the Mineral Planning Authority, for approval by them. Such scheme shall provide details of a rescue programme for the relocation of the numbers of Great. Crested Newts, which may be identified in the survey.
 7. The landfilling operations hereby permitted shall not be commenced until the Great Crested Newts identified by the survey required by condition 6 have been relocated in a suitable alternative habitat provided in accordance with a scheme to be agreed, in writing, with the Mineral Planning Authority.
 8. Prior to the commencement of the development hereby permitted an access to the Site shall be constructed from the B5426 Bangor Road in accordance with a scheme to be submitted to, and approved in writing by, the Mineral Planning Authority. Such scheme shall provide for a left in/right out access for waste haulage vehicles.

9. Prior to the commencement of the landfilling operations hereby permitted a vehicular cleansing facility shall be installed at the Site in accordance with a scheme to be approved, in writing, by the Mineral Planning Authority.
10. Prior to the commencement of the landfilling operations hereby permitted a scheme for the storage and handling of soils, soil forming materials, daily cover materials, engineering and construction clays and restoration materials (to the extent that such operations are not authorised by the clay extraction permission P/2003/1220) shall be submitted to, and approved in writing by, the Mineral Planning Authority. Such operations shall be undertaken in accordance with the approved scheme.
11. Condition 11 no longer used.
12. Prior to the commencement of the landfilling operations hereby permitted the Site control area shall be constructed in accordance with such details as may have been approved, in writing, by the Mineral Planning Authority.
13. No security fencing shall be erected around the perimeter of the Site until details have been submitted to, and agreed in writing by, the Mineral Planning Authority.
14. All fixed or mobile lighting used on the Site shall be so positioned, orientated or shielded as to prevent nuisance from glare to occupants of adjoining properties or users of adjacent roads.
15. Landfill operations shall not be commenced in phases D and E of the development hereby permitted until sand and gravel extraction operations have been completed and there shall be no storage of sand and gravel on the Site other than for use as cover material.
16. Prior to the completion of landfilling operations in each phase of the development hereby permitted, a scheme of details for the infilling of each subsequent phase shall be submitted for approval, in writing, by the Mineral Planning Authority. The infill of each phase shall be undertaken in accordance with the approved details.
17. The landfilling operations hereby permitted shall be carried out between 0700 and 1800 hrs Mondays to Fridays and 0700 and 1300 hrs on Saturdays. No such operations shall be undertaken on Sundays or Bank and Public Holidays.
18. No maintenance work shall be carried out on mobile plant except between 0700 and 1800 hrs Mondays to Saturdays and, other than in the case of breakdown, only within the area approved for such works within the Site control area.
19. All waste haulage vehicles leaving the Site shall pass through the vehicular cleansing facility provided in accordance with condition 14 above and shall have their wheels, underbodies and sides thoroughly cleansed before they leave the Site.
20. The landfilling operations hereby permitted shall be carried out in accordance with a scheme to be submitted to, and approved in writing by, the Mineral Planning Authority prior to the commencement of the development setting out the measures required to minimise dust emissions from the Site. The agreed scheme shall be implemented throughout the period of the landfill operations hereby permitted.

21. Except as may be provided in condition 22 below, noise emitted from the development hereby permitted shall not exceed the lower of either
- (a) 55 dB(A) expressed as a one hour Laeq, measured at a point one metre from the facade of any occupied property adjacent to the Site; or
 - (b) a level of 10 dB(a) above the existing background noise levels expressed as a one hour Laeq as measured between 3.5m and 10m away from the facade of any occupied property adjacent to the Site between 0700 and 1800 hrs, Mondays to Fridays and 0700 and 1300 hrs on Saturdays.

22. For a period not exceeding 8 weeks in any calendar year, and only during the carrying out of the following operations viz:

- (a) the stripping, transportation and storage of topsoil, subsoil and overburden.
- (b) the construction and removal of noise or visual screen bunds.
- (c) the spreading and treatment of overburden and soils for purposes of restoration.
- (d) the carrying out of landscaping works and other restoration works other than the construction and removal of bunds and the maintenance of landscaping and restoration works.

noise emitted from the Site shall not exceed 70 dB (A) expressed as a one hour Laeq between 0800 and 1800 hours, Mondays to Fridays and as a one hour Laeq between 0800 and 1300 hours on Saturdays, measured between 3.5m and 10m away from the facade of any occupied property adjacent to the Site.

23. Prior to the commencement of formation of the overburden stockpile in the north west corner of the Site, a noise bund shall be constructed along the 107m AOD contour at the western boundary of the Site between points A and B on the plan attached to this permission. Such bund shall be 10 m in height and landscaped and seeded or grassed as may be agreed, in writing, with the Mineral Planning Authority.
24. Prior to the commencement of deposit of wastes in Phase A of the development hereby permitted, ground markers of such type and at such intervals as may be agreed, in writing, with the Mineral Planning Authority shall be installed to define the level of 99m AOD along the southern face of the claypit. When, in Phase A, the waste deposit reaches the level of 99m AOD along the southern face of the claypit landfilling shall cease until the southern noise bund has been constructed in accordance with a scheme that shall first have been submitted to, and approved in writing by, the Mineral Planning Authority.
25. No mobile plant used in the landfilling operation shall be fitted with reversing alarms other than with self adjusting volume, capable of maintaining a level not exceeding 5dB(A) above ambient noise levels or other appropriate reversing safety devices.
26. Upon completion of landfilling in each phase a comprehensive landscaping scheme shall be submitted to and approved in writing by the Mineral Planning Authority. Such schemes shall provide for:
- i. a detailed specification setting out species, density and numbers of trees and shrubs to be planted in each phase of the landfill development interim and final stages.

- ii. a detailed plan or plans showing where plants will be located within the Site.
- iii. detailed specification of how and when trees and shrubs will be planted and protected.

Such schemes shall be implemented to an agreed timescale.

27. A Landscape Management Plan (to include a maintenance scheme) shall be submitted to the Mineral Planning Authority for approval in writing within six months of the date of confirmation of the Wrexham County Borough Council (Modification of Planning Permission) (Hafod Claypit, Johnstown) Order 2007 by the National Assembly for Wales. The landscape works required by condition 26 shall be maintained throughout the life of the development in accordance with the approved Landscape Management Plan.
28. A review report of the Landscape Management Plan as detailed in condition 27 shall be submitted to the Mineral Planning Authority at intervals of five years, commencing five years after the date of the commencement of the development hereby permitted, and continuing throughout the lifetime of the landfilling operations (including the programmed temporary cessation) including the period of aftercare specified in condition 31. Each review report shall summarise the works of management and maintenance over the past five year period, shall set out the current management and maintenance requirements and shall put forward proposals for amendments to the management and maintenance programme for the ensuing five year period.
29. Each phase of the development hereby permitted shall be capped with clay and restored in accordance with such details as may be approved by the Mineral Planning Authority, in writing, prior to the commencement of landfilling in that phase. The details to be submitted for the approval of the Mineral Planning Authority shall address the following matters:
- (a) a contour plan showing the surcharged (pre-settlement) levels of the waste in each phase, graded to receive the clay cap;
 - (b) the progressive placement of the clay cap;
 - (c) the spreading of the overburden on the emplaced clay cap, the thickness of the overburden and the grading of the surface of the overburden;
 - (d) the removal from the upper half of the overburden of any objects which could be deleterious to the agricultural after-use of the land;
 - (e) the ripping and cross-ripping of the overburden with an agricultural winged tine sub-soiler to an appropriate depth to break up compaction;
 - (f) the spreading of a layer of free draining material thickness on the surface of the overburden;
 - (g) the spreading and grading of sub-soil or soil forming material on the surface of the drainage layer to a suitable thickness;
 - (h) the removal from the sub-soil or soil forming materials of any objects which could be deleterious to the agricultural after-use of the land;
 - (i) the ripping and cross-ripping of the subsoil or soil forming materials with an agricultural winged tine subsoiler to an appropriate depth to break up compaction;
 - (j) the spreading of topsoil or soil forming materials to a suitable thickness;

- (k) the removal from the topsoil or soil forming materials of any objects which could be deleterious to the agricultural after-use of the Site;
 - (l) the ripping and cross-ripping of the topsoil or soil, forming materials with an agricultural winged tine subsoiler to break up compaction;
 - (m) analysis of the topsoil, sub-soil and soil forming materials to determine fertiliser, nutrient and mineral dressing requirements in terms of types and rates of application;
 - (n) the cultivation (method and timing) of the soils and soil forming materials;
 - (o) the application of fertiliser, nutrient and mineral dressings of such types and at such rates of application as may be determined to be appropriate under (m) above;
 - (p) the seed mixes to be used, detailing species, proportion and rates of application;
 - (q) the preparation of a seedbed including cultivation and tining;
 - (r) drainage works;
 - (s) field layout, including fencing and the establishment of trees and hedges on all field boundaries and the provision of agricultural access;
 - (t) the provision of a field water system;
 - (u) the removal or other means of disposal of all buildings, plant structures, foundations, installations, road ways, hardstandings, lagoons and other drainage works, signs, fencing, gates, leachate, ground and surface water, landfill gas and mine gas control and monitoring systems, as and when these become unnecessary for the purposes of the operation of the Site, the restoration of the Site, the maintenance of the restoration; the aftercare of the Site. The after-uses of the Site and the closure of the access from the B5426 Bangor Road and the planting of a boundary hedge along the Site frontage;
 - (v) where the after-use of any part of the land is to be for purposes other than agriculture details of progressive capping and restoration for that part shall set out the method of restoration for the defined after-use; and
 - (w) a plan of the Site at a scale not less than 1/2500 defining the areas intended for the after-uses proposed.
30. The final phase of restoration shall be completed within 2 planting seasons of the date of cessation of landfilling; the height of the final landform shall not exceed 122m AOD.
31. Each phase of restoration shall be the subject of an aftercare scheme, requiring such steps as may be necessary to bring the land to a condition reasonably fit for the proposed end uses, the details of which shall be submitted to the Mineral Planning Authority no later than six months prior to the date on which it is expected that the restoration of the phase will be completed. The submitted scheme shall specify the steps to be taken and the 5 year period during which they are to be undertaken and shall include details of:
- (a) tree planting and landscaping.
 - (b) cultivation, seeding and management of grassland in accordance with the rules of good husbandry.
 - (c) fertiliser and lime application based on soil analysis.
 - (d) grazing management.

- (e) field water supplies.
 - (f) ditch/watercourses and piped ditch systems to control surface run-off and prevent erosion and a piped drainage system consistent with good practice for restoration of the land of the type occurring on the Site and soil treatments such as moling and subsoiling.
 - (g) any other agricultural treatment particularly relevant to the Site.
32. The aftercare of each phase shall be carried out in accordance with the approved scheme.
 33. Entry onto the Site shall be granted to officials of the Farming and Rural Conservation Agency at all times during stripping operations, working, restoration and aftercare of the Site.
 34. At least once a year during the periods of restoration and aftercare there shall be a formal review to consider the operations which have taken place on the land during the previous year and the programme of management to be aimed for during the ensuing year. The parties to this review shall include the landfill operator, the owner(s) and occupier(s), the Mineral Planning Authority and the Farming and Rural Conservation Agency
 35. At least 4 weeks before the date of each annual review the landfill operator shall provide the Mineral Planning Authority with a record of the management and operations carried out on the land during the period covered by the review.

Notes to Applicant – these do not form part of the permission hereby granted and are included for the purposes of clarity

1. You are advised to comply with the conditions set out under code numbers RUA/CB/02532 (dated 11th March 1999) and RUA/CB/02502 (dated 8th February 1999).
2. Condition 1 'reserved matters' approved under RUA/CB/02532 (dated 11th March 1999).
3. Condition 2 - subsequent application to extend period for submission approved under RUA/CB/2094 (dated 17th September 1998); 'reserved matters' approved under RUA/CB/02532 (dated 11th March 1999).
4. Condition 3 - access roadway and concrete bases for site infrastructure were implemented completed 7th April 2000.
5. Condition 5 - complied with under approval RUA/CB/02502, variation of conditions 5 and 8 (dated 8th February 1999); approval of repositioned access removed the need to widen Bangor Road.
6. Condition 6 - submitted and approved under RUA/CB/02532 and subsequently undertaken.
7. Condition 7 - submitted and approved under RUA/CB/02532 (dated 11th March 1999) and subsequently implemented between 1999 and 2000
8. Condition 8 - complied with under approval RUA/CB/02502, variation of conditions 5 and 8 (dated 8th February 1999).
9. Condition 9 to RUA/6/18883 - details submitted and approved under RUA/CB/02532 (dated 11th March 1999); external appearance approved by letter January 2006 and vehicle cleansing facility now in place.
10. Condition 10 - details were submitted and agreed under RUA/CB/02532 (11th March 1999).

11. Condition 12 - complied with under approval RUA/CB/02532 (dated 11th March 1999).
12. Condition 13 - complied with under approval RUA/CB/02532 (dated 11th March 1999).
13. Condition 20 - complied with under approval RUA/CB/02532 (dated 11th March 1999).
14. Condition 23 - noise bund constructed between points A and B; landscaping details approved by letter January 2006.
15. Condition 24 - details of ground markers submitted October 2005 approved by letter January 2006.