

WREXHAM COUNTY BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 97
THE WREXHAM COUNTY BOROUGH COUNCIL (MODIFICATION OF PLANNING
PERMISSION) (HAFOD CLAYPIT, JOHNSTOWN) (No. 2) ORDER 2007

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RECITALS

1. On 10 July 1995 the Secretary of State for Wales (“the Secretary of State”), in pursuance of his powers under the Town and Country Planning Act 1990, granted planning permission, on appeal to him under the identifying reference PP016-99-003 (“the Original Planning Permission”) in respect of the land described in the First Schedule (“the land”) to Dennis Ruabon Limited. The Original Planning Permission was for the infill with domestic, commercial and industrial refuse, associated site control building and engineering operations (incorporating office, weighbridge, laboratory, wheelwash and gas venting and collection system) and ancillary development and restoration to agriculture and amenity of Hafod Claypit, Johnstown Wrexham.
2. The conditions attached to the Original Planning Permission are annexed as the Second Schedule.
3. The Wrexham County Borough Council (“the Authority”) is the local planning authority for the said land.
4. Following an application pursuant to section 73 of the Town and Country Planning Act 1990 on the 17th September 1998 the Authority granted permission for the relaxation of condition 2 of the Original Planning Permission to allow an extension of six months of the time period for the submission for approval of certain reserved matters (“the Second Planning Permission”).
5. A copy of the Second Planning Permission is annexed as the Third Schedule. In addition to varying condition 2 of the Original Planning Permission as a matter of law the Second Planning Permission incorporated all other conditions attached to the Original Planning Permission.
6. The building or other operations referred to in the Original Planning Permission and the Second Planning Permission have not yet been completed.
7. On December 13th 2004 the Johnstown Newt Sites Special Area of Conservation (EC Site Code UK0030173, and described herein as “the Special Area of Conservation”) was designated by the National Assembly for Wales.
8. On the 2nd May 2007 the Authority made the Wrexham County Borough Council (Modification of Planning Permission) (Hafod Claypit, Johnstown) Order 2007 for the purpose of modifying the Original Planning Permission. The said Order was subsequently submitted to the Welsh Ministers for confirmation.
9. It appears to the Authority, having regard to the development plan, and the need to protect the Special Area of Conservation and following a review of the Second

Planning Permission by the Authority pursuant to regulation 55 of the Conservation (Natural Habitats, & c.) Regulations 1994 and all other material considerations that it is also expedient to modify the Second Planning Permission in the manner hereinafter appearing.

10. The modification of the Second Planning Permission will take effect immediately pursuant to regulation 57 of the Conservation (Natural Habitats, & c.) Regulations 1994 pending confirmation.

NOW THEREFORE the Authority as local planning authority and in pursuance of section 97 of the Town and Country Planning Act 1990, regulation 55 of the Conservation (Natural Habitats, & c.) Regulations 1994 and all other powers enabling hereby makes the following order:

1. The Second Planning Permission shall be modified by the exclusion of the area shown edged and hatched red on Drawing number WCBC/Hafod/02 annexed to this Order.
2. The Second Planning Permission is modified as follows:
 - (a) In the heading and after "Town and Country Planning (General Development) Order 1995", insert "Regulations 55 and 57 of the Conservation (Natural Habitats & c) Regulations 1990"
 - (b) In the section entitled "PARTICULARS OF DECISION" in particular 01 delete the words "Code No. 6/18883" and insert "granted by the Secretary of State under reference PP016-99-003".
 - (c) In the section entitled "PARTICULARS OF DECISION" after particular 01 insert:

"02 All other conditions attached to the planning permission reference PP016-99-003 as modified by the Wrexham County Borough Council (Modification of Planning Permission) (Hafod Claypit, Johnstown) Order 2007 shall apply to this permission".
 - (d) The following words shall be deleted:

"Note(s) to Applicant:

01 All other conditions of planning permission Code No 6/18883 continue to apply".
3. The Second Planning Permission is confirmed in all other respects.

FIRST SCHEDULE

30.9 hectares or thereabouts lying to the south of Bangor Road, Johnstown, Wrexham and known as Hafod Clay Pit.

SECOND SCHEDULE

ANNEX C TO WELSH OFFICE
LETTER REF PP016-99-003
DATED 10 July 1995

CONDITIONS ATTACHED TO THE PLANNING PERMISSION FOR THE INFILL WITH DOMESTIC, COMMERCIAL AND INDUSTRIAL REFUSE, ASSOCIATED SITE CONTROL BUILDING AND ENGINEERING OPERATIONS (INCORPORATING OFFICE, WEIGHBRIDGE, LABORATORY, WHEELWASH AND GAS VENTING AND COLLECTION SYSTEM), AND ANCILLARY DEVELOPMENT AND RESTORATION TO AGRICULTURE AND AMENITY OF HAFOD CLAYPIT, JOHNSTOWN, WREXHAM

Time limits

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.
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.

Preliminaries

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 minerals 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 6/15143) 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. Prior to the commencement of the landfilling operations hereby permitted a surface water drainage system to deal with run-off from the site shall be constructed in accordance with a scheme to be submitted to, and approved in writing by, the mineral planning authority; such scheme shall provide for monitoring and control of the surface water run-off from the site.
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 E and F 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 phase D of the development hereby permitted, a scheme of details for the infilling of phases F1 and F2 shall be submitted for approval, in writing, by the mineral planning authority. The infill of phases F1 and F2 shall be undertaken in accordance with the approved details.

Hours of working

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.

Dust and noise limitation

19. All waste haulage vehicles leaving the site shall pass through the vehicular cleansing facility provided in accordance with condition 9 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 107 IDADD 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 the waste deposit reaches the level so defined 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.

Landscaping

26. Each phase of the development hereby permitted shall be landscaped in accordance with a comprehensive landscaping scheme which shall first have been submitted to, and approved in writing by, the mineral planning authority. Such scheme' shall provide for:
 - i. a detailed specification setting out species I 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.
27. The landscape works required by condition 26 shall be maintained throughout the life of the development in accordance with the Landscape Management Policy [Inquiry document 3/42F] prepared by Messrs Bowman Plant Associates or such other programme as shall be submitted to, and approved in writing by the mineral planning authority.
28. A review report of the Landscape Management Policy, or such other scheme as may be approved pursuant to Condition 26, and maintenance scheme 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.

Restoration and aftercare

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 J 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 subsoiler 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 6 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 Welsh Office Agriculture Department 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 Welsh Office Agriculture Department.

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.

THIRD SCHEDULE
THE SECOND PLANNING PERMISSION

ANNEX

Drawing Number WCBC/Hafod/02

GIVEN UNDER THE COMMON SEAL of
THE COUNTY BOROUGH OF WREXHAM
authenticated by:

this day of 2007