



Application Number: 20/00849/FUL

Description: Construction and operation of a surface water attenuation lagoon

At: Bletchley Landfill Site, Guernsey Road, Newton Leys, Milton Keynes, MK3 5FR

For: FCC Environment

Target date: 21st December 2020

Objector(s): 0

EXPIRY DATES

28 Days	Neighbour	Advert	Site Notice	Consultee
30.04.2020	27.04.2020	14.05.2020	06.05.2020	12.12.2020

1.0 RECOMMENDATION

It is recommended that permission is refused.

2.0 INTRODUCTION

The Site

The application site is an area of land approximately 2.29 hectares associated with the existing Bletchley Landfill operation which is run by FCC Ltd. The landfill has been in operation for over forty years and is formed from the former clay pit works at Newton Longville. At the time of submission an associated application was submitted to extend the lifespan of the operation for a further 15 years. This was subsequently refused by DCC Members during 2020. An Appeal has not yet been lodged against this decision.

The site itself does not form part of the landfill operation itself and falls outside the operational boundary. The application is requested as a standalone proposal and was not intrinsically linked to the running of the site.

The Proposal

The proposed lagoon is requested in order to manage surface water drainage and run-off from the existing operation of the landfill. The excavation design has been provided to offer capacity of up to 21000 cubic square metres of water.

3.0 RELEVANT POLICIES

3.3 Plan:MK (March 2019)

Strategic Objective 13 Mitigation of the Borough's Impact on Climate Change

Policy SD8 - Newton Leys
Policy INF1 - Delivering Infrastructure
Policy FR1 - Managing Flood Risk
Policy FR2 - Sustainable Drainage Systems (SUDS) and Integrated Flood Risk Assessment
Policy NE1 - Protection of Sites
Policy NE2 - Protected Species and Priority Species and Habitats
Policy NE3 - Biodiversity and Geological Enhancement
Policy NE4 - Green Infrastructure
Policy NE5 - Conserving and Enhancing Landscape Character
Policy NE6 - Environmental Pollution
Policy D1 - Designing a High-Quality Place
Policy D2 - Creating a Positive Character
Policy D5 - Amenity and Street Scene
Policy SC1 - Sustainable Construction

3.4 Milton Keynes Waste Development Plan Document 2007-2026 (February 2008) (WDPD)

WA2 - Safeguarding Existing Allocated Waste Sites
A17-18 - Recognises the 2002 permission and 20-year limit and notes that the operator has predicted that the site would need to be extended beyond the life of the WDPD.
WDC1 - Development Control Criteria
WDC2 - Environmental Objectives
WDC3 - Transport
WDC4 - Restoration

3.5 Supplementary Planning Documents/Guidance

Milton Keynes Drainage Strategy - Development and Flood Risk SPG (May 2004)
Biodiversity and Planning in Buckinghamshire V.2 (2014).
Forward to 2020: Buckinghamshire & Milton Keynes Biodiversity Action Plan

3.6 Human Rights Act 1998

There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

3.7 Equality Act 2010



Due regard, where relevant, has been had to the Milton Keynes Council's equality duty as contained within the Equality Act 2010.

4.0 RELEVANT PLANNING HISTORY

20/01161/CONS

Section 73 application for the variation of conditions 2 & 4 (Revised restoration scheme), 3 (operational life), 6 (final restoration of the site) and 13 (operational hours) attached to planning application 95/1362/AWD to extend the operational life of the site by 15 years with revised final restoration of the whole site to be completed within a further 24 months and amendment of Saturday operational hours to 0700 to 1300 only (Buckinghamshire Council CM/0018/20)

Holding Objection on the basis of impact on amenity to the local community 21.05.2020

19/01119/EIASC

Environmental screening request in accordance with regulation 6 of the Town and Country Planning (Environmental impact assessment) (England) regulations 2017 (as amended)

EIA Not Required 29.05.2019

14/01873/FUL

Variation Of Condition 12 Of Planning Permission Mk/806/95 To Incorporate The Layout Of Waste Processing Facility (WPF) And Ancillary Development Approved Under Separate Planning Permission 12/00703/Min; To Include The Current Layout Of 4 X Temporary Portacabins; To Mark The Location Of Soil Bund Providing Temporary Storage Of Soils And Landscaping And/Or Site Restoration; To Indicate Areas Of The Site Used For Mobile Plant And Equipment Laydown And Storage, And Location Of Other Ancillary Structures Such As Plant Storage Containers, A Fuel Store And Bird Of Prey Unit; To Indicate The Location Of Odour Suppressing Compound; To Show The Location Of Perimeter Security Fencing, Bletchley Landfill Site, Newton Road

Permitted 04.02.2015

11/00470/MIN

Application made under Section 73 to vary condition 11 of application MK/806/95 in respect of the permitted hours of operation on site

Permitted 10.05.2011

09/00096/MIN

INSTALLATION OF LEACHATE FACILITY, CONSTRUCTION OF A VISUAL SCREENING BUND AND CONTINUED USE OF AN EXISTING SITE ACCESS ROAD

Permitted 26.06.2009

07/00052/MIN

Variation of End Date for The Decision Importation Of Waste Materials Specified In Condition Number 2 Attached To Planning Permission MK/806/95



Refused 03.10.2007

Refused for the following reason: 'That planning permission for the extension of the operational period of the landfill site is refused as there is, at this time, insufficient evidence to conclude that there will not be enough waste generated within Milton Keynes and its immediate surroundings to enable the site to be completed by the date approved. Granting planning permission to extend the life of the site now would, therefore, delay unnecessarily the site restoration.'

06/01246/MIN

VARIATION OF PLANNING PERMISSION FOR THE RECONTOURING OF THE BLETCHLEY LANDFILL SITE TO VARY HOURS (ref MK/806/95)

Permitted 22.12.2006

05/01536/MIN

CHANGE OF CONDITION 11 ON PREVIOUS PLANNING APPLICATION MK/806/95 TO ALLOW BANK HOLIDAY OPENING FOR MUNICIPAL WASTE FOR A TEMPORARY PERIOD.

Permitted 22.12.2005

02/01472/MIN

WASTE RECYCLING AND TREATMENT FACILITY INCLUDING MATERIALS RECOVERY, COMPOSTING, BIOLOGICAL TREATMENT, CONTINUED LANDFILL, NEW ROAD AND RAIL ACCESS WITH CONTAINER LOADING AND STORAGE

Withdrawn 18.02.2005

02/00866/MIN

WASTE MANAGEMENT FACILITY INCLUDING MATERIALS RECOVERY, COMPOSTING , BIOLOGICAL WASTE TREATMENT, ENERGY RECOVERY, CONTINUED LANDFILL AND ASSOCIATED CLAY EXTRACTION, ACCESS ROAD, VISITOR CENTRE, CAR PARKING, RAIL ACCESS, RAIL SIDINGS, RAIL RECEPTION AREA, RAIL CONTAINER LOADING AND UNLOADING PLANT AND RAIL CONTAINER STORAGE AREA

Refused 29.10.2002

00/00505/MIN

MATERIALS RECYCLING FACILITY, INCLUDING COMPOSTING

Approved 19.07.2001

MK/806/95

Recontouring of existing landfill site with new reception area.

Approved 06.02.2002

5.0 CONSULTATIONS AND REPRESENTATIONS

Environmental Health Manager

No comments received.

Parish - West Bletchley

No objections.

Parish - Bletchley & Fenny Stratford

No comments received.

Ward - Bletchley East - Cllr Gowans

No comments received.

Ward - Bletchley East- Cllr Darlington

No comments received.

Ward - Bletchley East - Cllr Khan

No comments received.

Ward - Bletchley Park - Cllr Nazir

No comments received.

Ward - Bletchley Park - Cllr Wales

No comments received.

Ward - Bletchley Park - Cllr Rankine

No comments received.

Councils Archaeologists

No comment

Landscape Architect

No comments.

Development Plans

The principle of development is acceptable, with overall acceptability of the proposal subject to the proposal according with the local development plan as a whole.

Highways Development Control

No comments received

Landscape Services Manager - Trees

No comments received

Aylesbury Vale District Council



Subject to Milton Keynes Council seeking satisfactory technical advice from its relevant technical consultees Buckinghamshire Council has no comments to make.

Anglian Water

The applicant has indicated on their application form that their method of surface water drainage is not to an Anglian Water sewer. Therefore, this is outside our jurisdiction for comment and the Planning Authority will need to seek the views of the Environment Agency, Internal Drainage Board and Local Lead Flood Authority to gauge whether the solutions identified are acceptable from their perspective.

Environment Agency

No comments received.

Highways Development Control

Landscape Architect

No objections.

RAMBLE Ramblers Association

No comments received.

Footpath Officer

No comments received.

Waste Disposal

No comments received

Ecologist

The development proposals and accompanying PEA are over reliant on providing habitat compensation off site. They do not comply with the mitigation hierarchy principles of avoidance, reduction, restoration, and lastly offsetting. The premise that there is little scope to reduce or mitigate impact is frequently referenced within the PEA. It is unclear as to whether there has been any consideration of how to relocate or redesign the proposed lagoon to avoid or reduce impacts on biodiversity.

The proposals will result in the loss of habitats of designated biodiversity value (Biological Notification Site). The PEA argues this loss is not significant when compared to the extent of the wider designation - this is not acceptable.

The PEA details habitats on site that may qualify as Priority Habitats, which in turn likely supports protected/priority species. The PEA proposes to mitigate the cumulative impact of this via offsite enhancements.

Aside from the above principle issues the proposals are not supported by the necessary information to wholly consider ecological impact, detailed below.

Ecology

The proposals involve development within 250m of ponds and cause damage/loss of terrestrial and aquatic habitats where great crested newts (GCN) are known to be present and potential harm to individual GCN. Licensing in respect of GCN will be required.

One of following options is required to be undertaken prior to determination of the application:

1. Either the presence or likely absence of GCN to be established by way of a survey (and potential population assessments) undertaken by a suitably qualified ecologist and in accordance with the Great Crested Newt Conservation Handbook (Froglife, 2001) and the Great Crested Newt Environmental eDNA Technical Advice Note (Natural England 2014). If GCN are identified on or around the development site an EPS site-based mitigation licence may be required. N.B. All survey reports must be submitted prior to determination.

OR;

2. The District Licence scheme (administered by the NatureSpace Partnership) should be applied for. Under MKC's district licence, development works that may cause impacts upon GCN can be authorised as part of the planning process. N.B. The applicant is required to submit a NatureSpace Report or Certificate prior to determination if this option is pursued.

Please issue a consultation request when such materials are supplied.

No Third Party representations received.

6.0 MAIN ISSUES

Principle of development.
Biodiversity and Ecology.
Surface water drainage.
Other matters.

7.0 CONSIDERATIONS

Principle of Development



The application proposes the construction and operation of a surface water attenuation lagoon at the existing Bletchley Landfill Site. The applicant states that the lagoon is required as part of the long-term surface water management scheme at the landfill site. As per the application supporting information and additional clarifications from the applicant/agent, the site of the proposed lagoon has not been subject to landfilling in the past, therefore it can be described as being 'off-waste', however it is land used by FCC ancillary to the main landfill operation (in the same way other areas of the site are similarly used, e.g. the landfill gas and leachate treatment infrastructure, which also lie outside of the main landfill area). The west part of the site is also designated for existing employment use, this is land that was formerly associated with the Newton Longville Brickworks. Most of the site also falls within a Biological Notification Site. No other policy designations apply to the site.

The proposal would create a surface water attenuation lagoon needed as part of the long-term surface water management scheme at the site and form part of the site's overall restoration scheme. Given that the former brickworks are disused and therefore the proposal would not result in a loss of an existing business or jobs, it follows that developing the part of the site designated as existing employment land would be acceptable in principle. As above, the application site is within the applicant's (FCC's) landholding, has not been used for landfilling purposes in the past, but instead has been used for purposes ancillary to the landfill such as the siting of gas monitoring boreholes and Ambient Air Monitoring stations. The proposal would similarly see the site used for a purpose that is ancillary to the adjacent landfilling operation. In sum, in the absence of other relevant land designations in policy it follows that the development, supporting use of the site for landfill purposes, will be acceptable in principle.

However, beyond the issue of the principle of development, the development proposal still needs to accord with the Development Control Policies in the MK Waste DPD and other policies elsewhere within the local development plan, including those within Chapter 11 of Plan:MK (2019) 'Managing and Reducing Flood Risk' and Part C of Policy NE6. Regard should also be had to the potential impacts on biodiversity and the Biological Notification Site.

Ecology and Biodiversity

During the course of the application it was highlighted that insufficient information had been provided to support the proposal. Consequently additional information was provided in the form of a Preliminary Ecological Appraisal (PEA) (AECOM, Nov 2020).

The PEA identifies the proposals as falling partially within the boundary of the 'Newton Longville Brickworks' Biological Notification Site (4.1.2). Biological Notification Sites are cited at Section 12.8 of Plan: MK and Policy NE1c;

12.8 - It is important to recognise that there are many other sites which can be equally important as SSSIs, but which do not have the same level of protection. Many of these sites have been identified in the Borough and are classified as Milton Keynes Wildlife Sites



(MKWS). There are 16 MKWS and approximately 200 local wildlife sites in the Borough. MKWS are equivalent of Local Wildlife Sites (LWS) in other Buckinghamshire districts while our smaller local wildlife sites have a status of Biological Notification Sites (BNS).

NE1c: Development proposals which would be likely to harm the biodiversity or geological conservation value of a site of countywide or local importance as shown on the Policies Maps or which serve as a 'biodiversity offset site' will only be permitted where:

- The local development needs significantly outweigh the biodiversity or geological conservation value of the site;
- All reasonable possibilities for mitigation have been put in place; and
- Compensatory provision in line with the mitigation hierarchy can be secured to ensure that the overall coherence of the site is protected and with the intent to achieve a net gain in biodiversity.

5.7% of the area of the BNS will be lost to the proposed development (5.2.2). The PEA details that due to the specifics of the proposals there is little to scope to mitigate this loss within the development boundary and proposes offsetting the losses via habitat compensation on nearby land in the applicant's ownership (5.2.2).

Priority species and habitats are cited at Section 12.19 and Policy NE2 of Plan: MK;

12.19 - A number of priority habitats and legally protected and priority species and their habitats, as listed in the Buckinghamshire and Milton Keynes Biodiversity Action Plan, occur throughout the Borough. Where there is a reasonable likelihood that priority habitats and protected or priority species, or the habitats upon which they depend, may be affected by a development proposal, planning applications will not be validated until survey information has been submitted that shows the presence (or otherwise) and extent of the species or habitat over the course of the year.

NE2a - Where there is a reasonable likelihood of the presence of statutorily protected species or their habitats development will not be permitted unless it has been demonstrated that the proposed development will not result in a negative impact upon those species and habitats.

The PEA identifies the following habitats on or adjacent to the site that may qualify as Priority Habitat and will be impacted by the proposals (4.2.2):

- a. Open Mosaic Habitat (on-site);
- b. Semi-Natural Broadleaved Woodland (on-site);
- c. Reedbed (off-site).

The PEA details that these assessments are preliminary and further investigation may be required to determine their value (4.2.2). Section 5.3 of the PEA goes on to state it is unlikely

these habitats qualify as Priority Habitats. It is unclear how this conclusion has been drawn without further survey (4.2.2). The PEA indicates the loss of these habitats may be mitigated by the proposed lagoon providing potential features of biodiversity interest, and through the proposed offsetting of habitat losses (5.2.2 & 5.3). Again, this would be premature without establishing the habitats ecological value.

The PEA identifies the site has habitats that may support the following protected and/or priority species;

- d. Badger - Site has suitable habitat, minor signs of foraging observed (4.3.1);
- e. Bats - Suitable foraging/commuting habitat (4.3.2);
- f. Birds - Site provides suitable nesting and foraging habitat for a broad range of species; undisturbed areas of grassland may provide nesting opportunities for Skylark (4.3.3);
- g. Invertebrates - Site includes habitats likely to be of high value to many rare/notable species (4.3.5);
- h. Reptiles - Site contains suitable foraging, basking and hibernating habitat; and
- i. Hedgehog - Site contains habitat capable of supporting Hedgehog (4.3.9).
- j. GCN - please see comments from GCN Licensing Officer already provided.

The PEA acknowledges that whilst design efforts would be made to minimise the loss of habitats, most of the site will be lost to the creation of the lagoon (5.4.1).

The PEA recommends that pre-commencement check is made for badger setts within 50m of the site boundary, and any licenses applied for as necessary (5.4.5). The PEA recommends that removal of any suitable nesting habitat takes place outside of the nesting season or following checks by a suitably qualified ecologist (5.4.6). The report acknowledges there is little scope for mitigation/compensation within the proposals but cites that enhancement off site will provide habitat (5.4.6). No breeding bird surveys have been provided to indicate the sites use by protected/priority species, such as Skylark - in response to indication the site contains suitable habitat for such species (4.3.3).

The site includes habitat that have the potential to support species of principal importance (5.4.7). The PEA argues the proposed site is a small part of a much larger BNS containing similar habitats, thus the loss of 2.3Ha to the proposals are not likely significant and habitat provision elsewhere would mitigate the loss (5.4.7) however no invertebrate surveys have been provided in support of the proposals.

The PEA recommends that as the site contains suitable habitat for reptiles, Reasonable Avoidance Measures (RAMs) are required to avoid killing/injury of these species. Concluding that if followed, there would be no likely significant impact on any reptiles that may be present (5.4.8). No reptile surveys have been provided in support of the proposals.

The development proposals and accompanying PEA are over reliant on providing habitat compensation off site. They do not comply with the mitigation hierarchy principles of avoidance, reduction, restoration, and lastly offsetting. The premise that there is little scope to reduce or mitigate impact is frequently referenced within the PEA. It is unclear as to whether there has been any consideration of how to relocate or redesign the proposed lagoon to avoid or reduce impacts on biodiversity. The proposals will result in the loss of habitats of designated biodiversity value (Biological Notification Site). The PEA argues this loss is not significant when compared to the extent of the wider designation - this is not acceptable.

The PEA details habitats on site that may qualify as Priority Habitats, which in turn likely supports protected/priority species. The PEA proposes to mitigate the cumulative impact of this via offsite enhancements. Aside from the above principle issues the proposals are not supported by the necessary information to wholly consider ecological impact, detailed below. The application is not supported by the following surveys deemed necessary based on the potential impacts of the proposals on protected/priority species and habitats:

- a. An assessment of the site's habitats against the Priority Habitat Classifications for Open Mosaic and Semi-Natural Broadleaved Woodland.
- b. A breeding bird survey.
- c. A reptile survey.
- d. An invertebrate survey.

The PEA frequently references documents such as CEMPs and biodiversity offsetting plans as containing the details of species RAMs and habitat compensation. The application is not supported by such documents.

Taking into account all of the above considerations the proposal as submitted fails to demonstrate sufficiently that the scheme would adequately protect species and habitats on site contrary to Policy NE1 and NE2 of Plan: MK. The loss of habitats and designated biodiversity value is unacceptable. Consequently the scheme fails to comply with Policy NE3 of Plan: MK and overall there are fundamental concerns regarding the impact overall in terms of wildlife, ecology and biodiversity impacts.

Surface Water Drainage

After an initial objection regarding the application as proposed additional information was duly provided and revised comments from the LLFA were received. This included design details of the proposed lagoon, hydraulic calculations and updated climate change allowances. A suggested condition was provided to be attached should the application be approved. The revised comments from the LLFA confirm that the proposed works would be compliant with Policy FR1 and FR2 of Plan: MK.

Other matters

The proposed development would result in a newly created feature in the existing landscape within the landfill site. It is considered that the works would not create any negative impacts upon the wider local amenity in terms of visual impact. The creation of a water body could be considered as a positive addition to the existing operation. On this basis under the relevant criteria of Policy D5 of Plan: MK relating to amenity there are no objections raised.

8.0 CONCLUSIONS

The application is unacceptable.

9.0 REASONS FOR REFUSAL

1. By virtue of the development proposed the application would cause an unacceptable level of harm to habitats which provide protection for priority species in contravention of Policy NE2 of Plan: MK (2019). Furthermore, insufficient detail has been provided to evidence how any mitigation measures would be implemented therefore failing to comply with Policy NE1 of Plan: MK (2019). In addition, the submitted Preliminary Ecological Appraisal fails to comply with the mitigation hierarchy principles of avoidance, reduction, restoration, and lastly offsetting contrary to Policy NE3 of Plan:MK.

Case Officer:	Katy Lycett Senior Planning Officer
Report Date:	21.12.2020
Reviewed by:	Elizabeth Verdegem Team Leader - West Team
Date:	21st December 2020