

## Monitoring of Mining and Landfill Sites

Higher Oxencombe Farm

20 April 2016

Report prepared by Devon County Council

Section 303 of the Town & Country Planning Act 1990  
as amended by the  
Section 53 of the Planning and Compulsory Purchase Act 2004

Town & Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012  
as amended

**Note:**

The information in this report/certificate reflects only those matters that were discussed at the Monitoring Visit. While every attempt has been made to make the Visit, Report and Certificate as comprehensive as possible, there can be no guarantee that all the requirements or obligations of the planning permission(s), approved scheme(s) and legal requirement(s) that may exist at the site have been included. The absence of any such obligation or requirement in the report and certificate cannot, therefore, be used as an indication of compliance.

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# MONITORING OF MINING AND LANDFILL SITES IN DEVON

<b>Name of Site:</b>	Higher Oxencombe Farm (101801)	
<b>Location</b>	<b>Higher Oxencombe Farm Chudleigh Newton Abbot TQ13 0DY</b>	<b>Easting: 288430 Northing: 82162</b>
<b>Operator</b>	Mr Chris Cox	
<b>Contact(s)</b>	Mr Chris Cox	
<b>Date of Visit</b>	20 April 2016	
<b>Time of Visit</b>	15:00 → 16:30	
<b>Weather Conditions (if relevant)</b>	Sunny	
<b>Type of Inspection</b>	Enforcement Monitoring Visit	
<b>Date of Notification (If Scheduled Visit)</b>	<b>Date:</b> 13/04/2016	
<b>Description of Visit</b>	Visit following complaint from Highways England. Met with Mr Jon MacKeen and Ms Kate Bennett (Kier Group) on site.	
<b>Monitoring Officer(s)</b>	<b>Name:</b> Stephen Boundy	<b>Title:</b> Graduate Planning Officer
<b>Operator Representative(s)</b>	<b>Name:</b> Mr Chris Cox	<b>Title:</b> Operator
<b>Operator Representative(s)</b>	<b>Name</b>	<b>Title:</b>

	Mr Richard Agnew	Agent
<b>Draft Report Details</b>	<b>Written:</b>	<b>Sent:</b>

## PLANNING HISTORY

Application Number	Date	Description	Comments
DCC/3691/2014	13/11/2014	Variation of condition 2 to remove existing approved plans and replace with amended working plans which allow for substantial improvements to the benefits granted under the existing permission 08/00895/MAJ	
08/00895/MAJ	01/05/2008	Formation of landscaped embankment and blocking up of existing access farm access to A38	

## CURRENT SITUATION

This visit was the first time that the site had been monitored by Devon County Council. The monitoring visit was arranged following a complaint received from Highways England concerning tipping that was affecting the trees immediately adjacent to the A38. Highways England also stated that they believed the operator was in breach of conditions 4 and 6 of Planning Permission Reference: DCC/3691/2014. This was the only complaint received by the Waste Planning Authority (WPA) regarding this site in the last 12 months.

The majority of the noise bund is now completed. Work is still outstanding to complete a short (approximately 100 metres) section of the bund at the southern end and a small section in the centre of the bund to raise it to the correct level.

The operator is hoping to have all of the work outstanding completed before planning permission expires on 30<sup>th</sup> October 2016. Issues with the Environment Agency permit for the site have meant that they are currently behind schedule and may need to apply to extend their temporary permission as a result.

With regards to the Highways England complaint, it is considered that the operator is not in breach of condition 6 of Planning Permission Reference: DCC/3691/2014.

There were questions raised by the representatives of Kier (on behalf of Highways England) regarding land ownership boundaries. What will happen going forward (particularly with regards to the trees potentially damaged by tipping) will largely depend on the outcome of this dispute. In the short term it was agreed that the operator will employ an arboriculturalist to determine whether the trees adjacent to the A38 pose an immediate danger to the road. If they do not, then their condition will need to be monitored on a yearly basis

by a suitably qualified arboriculturalist (it was verbally agreed during the visit that the WPA will be provided with a copy of the arboricultural report). If any of these trees are to be removed then the WPA would want the landscaping scheme outlined in condition 3 of the planning permission reference DCC/3691/2014 to be implemented as replacement planting.

## PLANNING CONDITIONS

The following tables contain details of all those conditions, together with any requirements and obligations of any Approved Schemes and Planning Agreements that were the subject of discussion at the monitoring meeting.

These fall into one of three categories:

**Green** monitoring requirements

**Work carried out/condition discharged.**  
(Requirements Carried Out)

This identifies certain ongoing activities that fulfil the requirements of planning conditions, and those conditions that have been complied with by the required deadline or as a result of earlier monitoring exercises.

The table specifies what was required to be carried out and gives a brief description of how compliance was achieved.

**Amber** monitoring comments

**Work Required.**  
(Requirements Needing Action within a Specified Period)

Undertaking compliance with the identified conditions were agreed at the monitoring meeting be considered as a priority as compliance is either required within a nearby deadline, before parts of the development can be undertaken, or involve parts of the development that will be required to be addressed in the near future (within the next 12 months).

The table identifies the condition, the reason the condition has not yet been complied with and the course of action agreed at the monitoring meeting (or if there was no agreement reached, the County Council's required course of action).

**Red** monitoring comments

**Non Compliance.**  
(Requirements Needing Immediate Compliance)

These are failures to comply with a planning condition, agreement or obligation and must be dealt with as a priority as failure to comply with the requirement can lead to possible enforcement action. (A monitoring report containing a red comment can prejudice ISO 14001 or EMAS accreditation).

The table identifies the condition, the reason for non-compliance and the course of action agreed at the monitoring meeting (or if there was no agreement reached, the County Council's required course of action).

Where there is a red warning on a specific condition it means that the County Council requires compliance for environmental or legal reasons and will state, on the monitoring report the date by which compliance should

be reached and, if appropriate the steps agreed with the operator to undertake compliance. **If these timescales are not met and no other agreement has been reached with the County Council then this may result in automatic action to achieve compliance.**

Higher Oxencombe Farm (20 April 2016) – Conditions Monitoring Schedule

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## CONDITIONS, SCHEMES AND S106 MONITORING

### Work Required

**Application Number:** DCC/3691/2014

**Condition Number:** 1.

**Compliance Status:** Work is required by the following date 30/10/2016 (see comments below).

**Condition:**

The development permitted shall cease by 30 October 2016 and the site restored in accordance with Condition 3 below.

REASON: The development is only required for a temporary period

**Comments/ Course of Action:**

The operator is intending to have the development completed within this timescale. There have been complications with the Environmental Permit for the site, meaning that work is currently behind schedule. This may require an application to extend the temporary permission.

### Work Carried Out/ Condition Discharged

**Application Number:** DCC/3691/2014

**Condition Number:** 2.

**Compliance Status:** WORK CARRIED OUT.

No further action required at this time (see comments below).

**Condition:**

The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered unless varied by the conditions below.

REASON: To ensure that the development is carried out in accordance with the approved details.

**Comments/ Course of Action:**

The most recent levels survey (March 2016) illustrates that this is being complied with.

**Application Number:** DCC/3691/2014

**Condition Number:** 5.

**Compliance Status:** WORK CARRIED OUT.

No further action required at this time (see comments below).

**Condition:**

No vehicle shall use the noise bund access track during the hours of darkness.

REASON: In the interest of the safety of users of the A38 Trunk Road

**Comments/ Course of Action:**

There is no evidence to suggest that this condition is not being complied with.

**Application Number: DCC/3691/2014**

**Condition Number: 6.**

**Compliance Status: WORK CARRIED OUT.**

No further action required at this time (see comments below).

**Condition:**

No waste materials other than sub and tops soil shall be deposited on any part of the permission area.

REASON: To ensure the development is carried out in accordance with the submitted application and approved details.

**Comments/ Course of Action:**

No waste other than sub and top soil was observed within the permission area.

**Application Number: DCC/3691/2014**

**Condition Number: 7.**

**Compliance Status: WORK CARRIED OUT.**

No further action required at this time (see comments below).

**Condition:**

Prior to further material being brought on site the limits of the area to be landfilled shall be clearly defined on the ground by use of posts. Thereafter (a) no waste shall be deposited outside of the defined area.

(b) a survey of levels shall be carried out and submitted to the Waste Planning Authority at intervals of not less than every six months starting from the date of this permission.

(c) As the operation approaches final fill levels and in any case before the final grading of cover and before the spreading of topsoil, the levels shall be checked and markers erected to indicate the approved final fill levels and approved restored surface levels.

REASON: To ensure the proper restoration of the site.

**Comments/ Course of Action:**

a) - It appears that no waste is being deposited outside of the defined area

b) - This had not been complied with on the date of the monitoring visit. It was stated by the agent during the visit that a levels survey had been recently undertaken (March 2016), however had not been forwarded to the Waste Planning Authority. This survey has now been received.

c) - A further levels survey will be required as the operation approaches final fill levels (before the final grading of cover and before the spreading of topsoil). Markers have already been erected to indicate the approved final fill levels and approved restored surface levels.

## Other

**Application Number:** DCC/3691/2014

**Condition Number:** 3.

**Compliance Status:** For information (see comments below).

### **Scheme:**

The additional landscaping and planting scheme shown on plans GCE00137-Fig 2, GCE00137-Fig 3, GCE00137-Fig 4 and detailed within the design and access statement submitted to and approved by Teignbridge District Council on 31st July 2008 shall be carried out in the first planting and seeding seasons following completion of the bund or within three years of the date of this permission, whichever is the sooner. The approved scheme shall be maintained for a period of five years. Any trees, plants or grassed areas, or replacement of it, that is removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

**REASON:** To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage throughout the construction period, in the interests of visual amenity and nature conservation in accordance with policy WPP25

### **Comments/ Course of Action:**

The line of planting closest to the A38 has not been planted as the original trees in this location have been retained. If the trees that were retained are removed as a result of the upcoming arboricultural survey. Then this line of planting will need to be implemented within the first planting season following completion of the bund.

**Application Number:** DCC/3691/2014

**Condition Number:** 4.

**Compliance Status:** For information (see comments below).

### **Scheme:**

No development shall take place until a scheme to safeguard all trees, shrubs and other natural features not scheduled for removal during site works and building operations has been submitted to and approved in writing by the County Planning Authority. The scheme shall be in accordance with BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations.' The development shall be carried out in accordance with the approved scheme.

**REASON:** To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage throughout the construction period, in the interests of visual amenity and nature conservation in accordance with policy WPP25 and WP17 of the emerging Devon Waste Local Plan.

### **Comments/ Course of Action:**

This scheme has not been submitted. The trees that were retained during the development were the line of (mostly) mature trees adjacent to the A38. It does not appear that these trees were scheduled to be retained on the original plans. Whilst the operator outlined that he wishes to retain these trees, it has not been possible to do so in accordance with BS5837:2012 (Trees in relation to design, demolition and construction), as the plans show tipping of waste within the root protection area (RPA). An arboricultural report is now to be undertaken to ascertain if these trees need to be removed or are safe to be retained (subject to a yearly monitoring plan required by Highways England). If the trees are required to be removed, the Waste Planning Authority would expect to see the approved planting scheme implemented to replace these trees (See Condition 3).



Alternatively, it may be an option to amend the volume and area of tipping so that these trees will not be affected and could therefore be retained.

## APPENDIX 1: FULL LIST OF APPROVED PLANS/ SCHEMES & DOCUMENTS

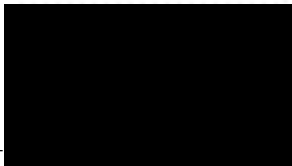
### Approved Drawings/ Schemes –

(<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3691/2014>)

Drawing Number	Description	Comment
GCE00137-Fig2	Cross Section A	
GCE00137-Fig3	Cross Section B	
GCE00137-Fig4	Cross Section C	
Amended Site Plan		
Application Form		
Planning Statement		
Landscape and Visual Impact Assessment		
Roadside Barrier Assessment - Acoustics		

On behalf of Mr. Dave Black, Head of Planning, Transportation and Environment, Devon County Council

Signed:



Date: 18/05/2016