

County Matter: Waste

Teignbridge District Council: Application to revise approved final levels at an existing inert landfill for the purposes of restoration at Foredown Landfill Site, Yannon Lane, Kingskerswell, Newton Abbot, TQ12 5LB

Applicant: John Craxford (Plant Hire) Ltd

Application No: 17/02059/DCC

Date application received by Devon County Council: 4 August 2017

Report of the Head of Planning, Transportation and Environment

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that Planning permission is granted subject to the conditions set out in to this report (with any subsequent minor changes to the wording of the conditions being agreed in consultation with the chairman and Local Member).

1. Summary

- 1.1 This report relates to a retrospective planning application for the approval of increased final levels at an existing inert waste landfill site at Foredown Landfill Site, Yannon Lane, Kingskerswell, Newton Abbot.
- 1.2 It is considered that the main material considerations in the determination of this application are impacts on residential amenity, with particular reference to noise; the visual impacts on the landscape; acceptability of the restoration scheme; and consideration against Planning Policy.
- 1.3 The planning application, representations received and consultation responses are available to view on the Council website under reference DCC/4008/2017 or by clicking on the following link:
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4008/2017>

2. The Proposal/Background

- 2.1 Foredown Landfill Site is located approximately 300 metres west of A380 (South Devon Link road) and 400 metres west of the village of Kingskerswell within Teignbridge. The application site is adjoined by agricultural land on the north, south and west and a residential property is located approximately 145 metres on the eastern boundary. The site is accessed by a recently constructed access road approximately 350 metres from Old Newton Road.
- 2.2 Consent for disposal of inert construction waste was initially granted at the site in 1988 (ref. 87/0215/16/4). Subsequent applications to extend the site and to increase levels to provide more capacity were approved in 1994 (ref. 92/92/1506/16/9), 1998 (ref. 97/3187/16/9/DCC) and 2001 (ref 2000/4031/16/9). The full extent of the site extends to 10.4 hectares. The site also contains an ancillary recycling operation which includes grading and screening of material, which is exported and used as

aggregate in construction. The remaining is deposited within the landfill site and the residual amount for landfill relates to approximately 25% of the total material imported. A 'portakabin' is located at the entrance to the site for staff welfare facilities.

- 2.3 As part of a formal monitoring visit it was thought that that in areas tipping had taken place that was in excess of the approved levels. A site levels survey was produced and demonstrated that this was the case. It was estimated that the site had been overfilled by 113,655 cubic metres (this equates to approximately 136,386 tonnes¹). Work at the site was suspended and the operator given the opportunity to address the issues which resulted in the submission of this application.
- 2.4 The application seeks to; retain waste on site; reprofile and regrade existing material; further import material to an additional capacity of 29,930 cubic metres; and, restore the site. The re-profiling of the site involves removing material from the highest section of approximately 2 metres, and increase levels on the least visually sensitive areas by up to 5 metres. The highest level of increase on the site area is approximately 8 metres above previously consented.
- 2.5 There is no proposed change to the site boundary area and no proposed change to the aggregate recycling process. In terms of operating hours the sites existing hours are 7.30 to 16.30 on Mondays to Fridays and 7.30 to 12.00 hours on a Saturday and there is also no proposed change in this regard.
- 2.6 The completion date for the proposed is 4 years with final restoration at the site to productive agricultural land with wooded areas.

3. Consultation Responses

- 3.1 Teignbridge District Council (Planning): No objections.
- 3.2 Teignbridge District Council (Environmental Health): Requested further information relating to how and where machinery will be located in relation to this proposal, together with the type of machinery to be used and the noise levels generated by each. Details of any bunding to be provided and identification of those premises which will have a direct line of site to the works being carried out.

Further information was provided which satisfied concerns and the objection was removed.

- 3.3 Kingskerswell Parish Council: Object to the application. Comment that significant sum has been gained by not adhering to the planning process set out, that granting consent would validate further instances of disregarding the authority of the council and not address the concerns of local residents. Further comment that the extent of refuse build up represents an increase in the landscape of several metres over what is consented and should not be treated as a minor infringement.
- 3.4 Environment Agency: No objections. Reminds applicant that site levels are also a condition of the Environmental Permit and that not objecting to this application does not preclude acceptability of change in regard to the permit.

¹ Figure based on conversion factors for 'Mixed Construction and Demolition' waste DEFRA. Figure is indicative and does not allow for settlement of material.

4. Advertisement/Representations

- 4.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. As a result of these procedures no letters of objection were received.

5. Planning Policy Considerations

- 5.1 In considering this application the County Council, as Waste Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan policies are:

Devon Waste Plan 2011-2031 (Adopted 2014)

W2 (Sustainable Waste Management), W3 (Spatial Strategy), W5 (Reuse, Recycling and Materials Recovery), W7 (Waste Disposal), W12 (Landscape and Visual Impact), W16 (Natural Resources), W17 (Transportation and Access), W18 (Quality of Life), W20 (Restoration & Aftercare)

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S2 (Quality Development), EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement), EN11 (Legally Protected and Priority Species)

NPPF - National Planning Policy Framework

NPPW – National Planning Policy for Waste (October 2014)

6. Comments/Issues

- 6.1 The main material considerations in the determination of this planning application are considered below:

Planning Policy Considerations

- 6.2 The National Planning Policy for Waste (October 2014) states, amongst other things, that when determining waste planning applications, waste planning authorities should:
- *Consider the likely impact on the local environment and on amenity against the criteria set out in Appendix II and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies; and*
 - *Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.*

- 6.3 Policy W7 (Waste Disposal) of the Devon Waste Plan (2011 to 2031) only allows for new landfill or other disposal capacity where there is a demonstrable need, where it will reduce the distance that waste is transported and where disposal is limited to residual non-recyclable waste.
- 6.4 Devon has seen a reduction in the number and distribution of inert landfill sites in recent years. Other than this site in question the only sites currently operating are three in the region of Exeter, one of which is likely to close prior to being filled, and one at Barnstaple. Further capacity is available for the use of inert waste in recovery operations such as in quarry restoration, but these tend to be intermittent and often short-term, and therefore not an appropriate replacement for a network of longer-term disposal sites.
- 6.5 Taking account of this, the proposal for additional capacity at Foredown is consistent with Policy W7 in that it will avoid the need to transport waste arising in Teignbridge and Torbay further afield, and will also encourage recycling in preference to disposal due to the co-location of the recycling operation.

Noise

- 6.6 Sources of noise from the site occur from the machinery in the recycling operation and from the movement of heavy vehicles in the grading associated with the waste disposal operation. There are two items of mechanical plant required for the recycling operation, a heavy duty crusher, and a screening plant. The maximum noise level recorded from these activities is 90 decibels at 7 metres from the activity. The nearest residential property is 400 metres from the recycling operation.
- 6.7 No noise related activity is proposed to be changed beyond existing. Approval of this application will increase the duration the site is active, however, there have been no recorded complaints to the Waste Planning Authority and no representations received. It is concluded that the current noise controls are reasonable and that the scheme which was approved in 2009 operates effectively. Further to this, operations are subject of an environmental permit issued and administered by the Environment Agency, this permit contains requirements with regard to control of emissions including noise and monitoring.
- 6.8 It is considered subject to a condition to maintain the existing scheme relating to noise, together with the controls exercised by the Environment Agency the operation is acceptable in terms of noise emission from the site.

Visual Impact/Landscape

- 6.9 The landfill site is in an elevated position in a landscape character which is defined by rolling hills and settled farmland. The visual influence of the site extends over a wide area and is on view to a number of properties. The increase in levels may increase to the visual impact of the development and a Landscape and Visual Impact Assessment (LVIA) was necessary to assess the acceptability of the proposal. The LVIA demonstrated that the proposed revised final landform would not detract from the quality of the sensitive viewpoints when compared to the predicted effects of the existing consented levels. The revised restoration plan reinstates woodland to ensure distant views of Haytor remain protected once trees are fully grown.

Restoration Proposals

- 6.10 The landfill has undergone tree planting and seeding on the south-western boundary bordering Teignwood Plantation and more recently on the western border of the site boundary. The trees are well established on these areas. The existing restoration to smooth undulating profile with woodland and agricultural fields is deemed appropriate in the context and would respect the character of the landscape setting.
- 6.11 It is considered that the restoration plan is acceptable in its location subject to a condition requiring that a Landscape Restoration Scheme and management plan be submitted that identifies existing vegetation to be retained and protected during remaining operations and describes proposed vegetation types shown on the Proposed Reinstatement Plan (Drg.1063/PL12). The plan will include details of planting, seeding, establishment. This is to ensure the protection of the existing established planting.

Other Matters

- 6.12 The objection raised by the Parish Council referenced that the operator had not operated in accordance with the approved plans and that approving the application would validate instances of disregarding the planning consent.
- 6.13 In planning terms, the assessment of suitability of further importation must be based on whether the landscape has capacity to accommodate the increased levels. The submitted LVIA is deemed adequate and it concluded the landscape could accommodate the increased levels without damaging the visual integrity of the area.
- 6.14 It is considered that the Waste Planning Authority has suitable control of the site subject to the introduction of a condition which time limits the operation to a definitive date for completion.

7. Reasons for Recommendation/Alternatives Options Considered

- 7.1 The Committee has the option of approving, deferring or refusing this planning application.
- 7.2 Should the application be refused the planning authority would need to consider enforcement action. In this case it is likely that this would result in a requirement that the site is re-profiled in order to provide an appropriate landform (without importing any further material). In this case it is considered that the approval of this planning application would achieve the same result whilst providing some additional landfill capacity in the area.
- 7.3 Taking all material considerations into account it is considered appropriate to grant planning permission in accordance with the recommendation of this Report.

Dave Black
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Electoral Division: Ipplepen & The Kerswells

Local Government Act 1972: List of Background Papers

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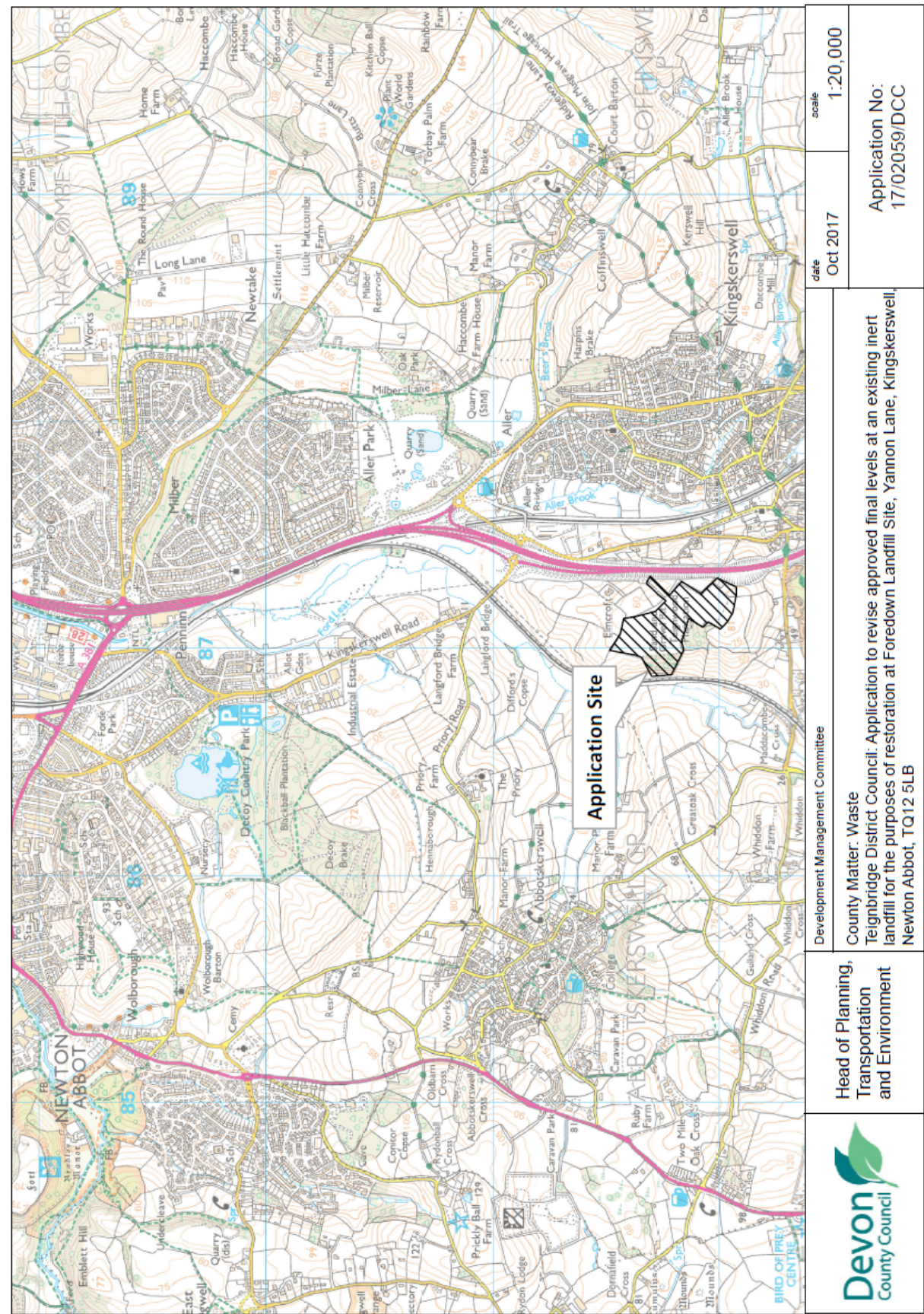
Background Paper	Date	File Ref.
Casework File	Current	17/02059/DCC

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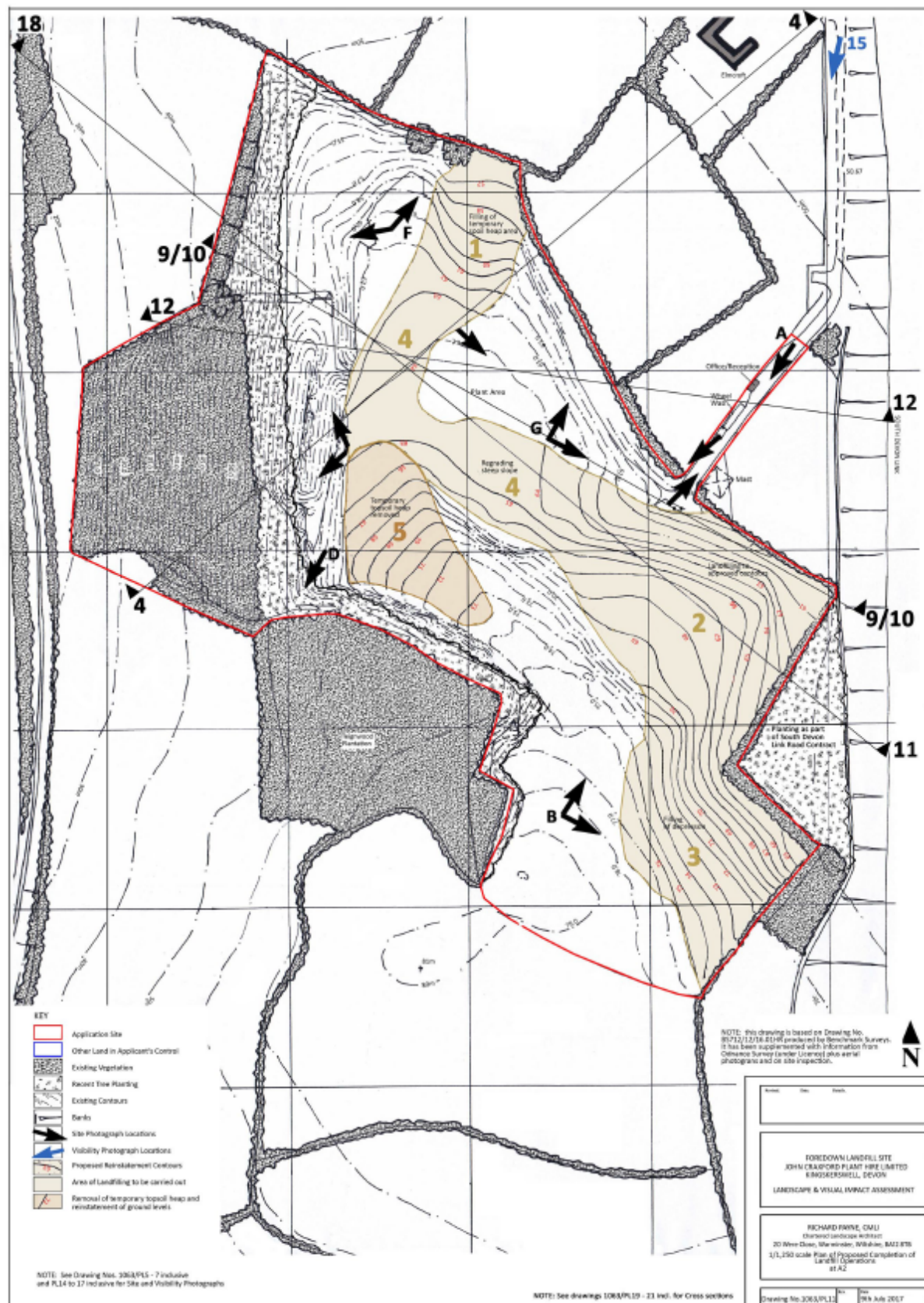
sc/cr/revise restoration foredown landfill site yannon lane Kingskerswell

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Location Plan



Site Plan



**Schedule of Conditions - Teignbridge District Council Application No. 17/02059/DCC
Devon County Council Ref. DCC/4008/2017**

1. This permission shall be limited to a period of 5 years from the date of this Decision Notice by which time tipping and waste processing operations shall have ceased and the site restored in accordance with the scheme approved under condition below.

REASON: For the protection of the local landscape in accordance with the Development Plan specifically policy W20 of the Devon Waste Plan (Adopted December 2014).

2. The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered; BS712/02.17/01/HR; 3172.02; 3172.03; 3172.04; 1063/PL11 and 1063/PL12 except as varied by the conditions below.

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

3. The site shall only be used for the disposal of inert waste.

REASON: To minimise the risk of pollution to local watercourses and supplies and to protect the character of the area in accordance with the Development Plan specifically policy W16 of the Devon Waste Plan (Adopted December 2014).

4. No topsoil and subsoil shall be removed from the site except for purposes of restoration.

REASON: To ensure that soils are protected for restoration and to comply with policies of the Development Plan specifically policy W16 and W20 of the Devon Waste Plan (Adopted December 2014).

5. The existing hedgerows adjoining the site shall be protected and any damage or losses shall be made good in conjunction with the proposed reinstatement of existing Devon banks and hedges within the site which is to be carried out upon completion of the tipping operations.

REASON: To ensure the maintenance of characteristic landscape features in accordance with the Development Plan specifically policy W11 and W12 of the Devon Waste Plan (Adopted December 2014).

6. For the duration of the operations the access to the public highway shall be maintained to ensure that no mud or surface water drainage is discharged onto the public highway and that wheel cleaning facilities maintained.

REASON: In the interests of road safety in accordance with the Development Plan specifically policy W17 and W18 of the Devon Waste Plan (Adopted December 2014).

7. Appropriate measures for both noise and dust suppression on the site access road and within the permission area shall be carried out in accordance with the Noise and Dust Suppression Scheme approved by Waste Planning Authority on 22 September

2009 consented in regard to condition 9 of 92/92/1506/16/9, condition 7 of 97/3187/16/9/DCC and condition 6 of 2000/4031/16/9.

REASON: To protect the amenities of local residents and adjoining site users in accordance with the Development Plan specifically policy W18 of the Devon Waste Plan (Adopted December 2014).

8. No operations shall be carried out on the site other than between 0730 and 1630 hours on Mondays to Fridays inclusive, 0730 and 1200 hours on Saturdays and no such operations shall take place on Sundays or on the following Public Holidays:
- (i) New Years Day,
 - (ii) Good Friday,
 - (iii) Easter Monday,
 - (iv) May Day Bank Holiday,
 - (v) Spring Bank Holiday,
 - (vi) Summer Bank Holiday,
 - (vii) Christmas Day,
 - (viii) Boxing Day,
 - (ix) Such other Public Holidays as may subsequently be declared,

unless otherwise agreed in writing with the Waste Planning Authority.

This condition shall not, however, operate so as to prevent, outside these working hours, the carrying out of essential maintenance to plant and machinery used on the site and the operation of the pumps and ancillary machinery for water management purposes.

REASON: To protect the amenities of local residents in accordance with the Development Plan specifically policy W18 of the Devon Waste Plan (Adopted December 2014).

9. In the event of any cessation of tipping operations (lasting more than 12 months - prior to the achievement of the levels indicated in the approved plans), a restoration scheme to include details of aftercare shall be submitted for approval to the Waste Planning Authority. Scheme shall include measures as may be necessary to establish control of pollution and surface water run-off, together with the adequate maintenance of any gas vents and any structures formed or erected in connection with the operation of the tip and the associated waste processing.

REASON: To ensure control in the event of a prior cessation of tipping and to secure against pollution arising from unfinished works in accordance with the Development Plan specifically policy W16 and W20 of the Devon Waste Plan (Adopted December 2014).

10. On the cessation of tipping and waste processing on the land any structures formed or erected in connection with the operation shall be removed.

REASON: To protect the character and appearance of the locality in accordance with the Development Plan specifically policy W20 and W18 of the Devon Waste Plan (Adopted December 2014).

11. No later than 3 months from the date of this permission a Restoration and Aftercare Scheme shall be submitted to the Waste Planning Authority for written approval. The scheme shall include:

- a) Final treatment of restored surface to achieve agriculturally productive land including drainage and the depth and nature of final soil structure
- b) Details of planting/seeding
- c) Details of aftercare for a period of five years following completion of restoration including a programme of monitoring of all planting and seeding and land drainage provision, together with details of how the developer will remediate any problems that arise during the aftercare period

The restoration scheme shall be approved in writing by the Waste Planning Authority and shall be fully implemented within 12 months of the date of reaching the approved site levels.

The site shall be subject to an aftercare period of five years following completion of the site restoration, in accordance with the submitted details.

REASON: To ensure effective restoration of the site to minimise the impact on the local landscape in accordance with the Development Plan specifically policy W20 of the Devon Waste Plan (Adopted December 2014).

12. The date of the completion of the tipping hereby approved shall be notified in writing to the Waste Planning Authority. A final contour plan shall accompany this notification.

REASON: To facilitate the monitoring of compliance with the conditions of consent in accordance with the Development Plan specifically policy W18 of the Devon Waste Plan (Adopted December 2014).