

**JOINT OFFICERS REPORT  
TO  
CABINET**

**15 APRIL 2004**

***THE BEAL VALLEY***

**1. PURPOSE**

- 1.1 The purpose of this report is to
- a) advise upon the statutory and contractual controls which regulate the types of landfill materials that are permitted to be deposited within the Beal Valley Development and
  - b) consider what the site should be used for following completion of the landfill operations.

**2. BACKGROUND**

- 2.1 The Council entered into a development agreement with P & C Casey Ltd in August 1995 by which a 18 hole golf course would be developed on land within the Beal Valley following a major landfill operation.
- 2.2 It was always envisaged that there would be both inert and non-inert waste deposited in the site as part of the development. Inert waste comprises naturally occurring soils such as clay or shale as well as other waste which is non-biodegradable. An example of this would be demolition material such as bricks, concrete, tiles etc.
- 2.3 Non-inert waste is that which is biodegradable. This would include most manufactured products such as paper, metals as well as wood. These materials degrade and create leachate and gases. There are strict containment provisions which seek to seal all these materials within containment cells within a landfill site. The deposit of non-inert waste is controlled by a Waste Management Licence, which is granted by and subsequently monitored by the Environment Agency.
- 2.4 P & C Casey Ltd commenced tipping of inert waste on the site in January 1997. In August 2000 the Council resolved to renegotiate its agreement with P & C Casey Ltd with a view to preventing non-inert waste being deposited on the site.

- 2.5 In November 2002 the Council entered into a deed of variation with P & C Casey Ltd, which prohibited any non-inert waste being deposited in the Beal Valley site and restricted the type of waste to inert only.

### **3. PLANNING AND LICENSING MATTERS**

- 3.1 The original planning consent permitting the creation of the Beal Valley golf course and the preceding landfilling works was issued in November 1994. At that time it was envisaged that the total volume of imported material required in order to achieve the approved finished levels would be in the order of 1.6 million m<sup>3</sup>, split 50/50 between inert fill and non-inert dry industrial waste, together with a further 400,000 m<sup>3</sup> of golf course construction materials, such as gravel, peat, sand, subsoil and topsoil.
- 3.2 The approved scheme was subsequently modified and the proposed final contours altered, resulting in a reduction in the estimated volume of imported material from 2 million m<sup>3</sup> to some 1.8 million m<sup>3</sup>. The first consignments of fill material were deposited on the site in January 1997. In these early years the major proportion of the imported fill was emplaced in the elevated eastern part of the site, to create the landforms on which the greens, fairways and tees would eventually be laid out. At the same time, the containment cell, which would accommodate the non-inert wastes, was under construction in the central part of the site.
- 3.3 A Waste Management Licence was issued by the Environment Agency in July 1998, permitting the importation of domestic, commercial and industrial waste to the containment cell, once completed. (It should be noted, however, that the Council's development agreement with the site operator prohibited domestic waste originating from regular collection rounds; only waste from civic amenity sites was permitted under the 'domestic' heading). Under the heading of 'industrial waste', contaminated soils were permitted, and an appendix to the Licence listed the various contaminants, together with their maximum permitted concentrations. The only 'Special Waste' permitted was cement-bonded asbestos. The area covered by the Licence was confined to the containment cell; the remainder of the site, where inert fill was being (and continues to be) deposited, was the subject of an exemption from the licensing protocol, granted by the Agency under the terms of Schedule 3 to the Waste Management Licensing Regulations 1994. This exemption was granted because of the nature of the consented after-use of the land, which fell within the definition in the Regulations of 'the provision of recreational facilities on that land'.
- 3.4 Following a protracted period of negotiations, in November 2002 the Council entered into a deed of variation with the site operator, the

effect of which was to amend the terms of the original development agreement by restricting the nature of *all* the imported waste to inert materials only. From that date onward, the containment cell was no longer required; the site operator subsequently surrendered the Waste Management Licence to the Environment Agency, thereby formalising the agreement to deposit only inert waste over the whole of the site. Once the Agency had accepted the surrender of the Licence, previously stockpiled material together with new inputs was emplaced over the former cell area. This is now the main active tipping face. The whole site is now the subject of a Licence exemption, which also has the crucial effect of placing this landfill site outside the Landfill Tax regime.

- 3.5 Also in November 2002 a fresh planning consent was granted, extending the period permitted for completing the basic landfilling works by a further 3 years, to January 2009, and to permit restoration works to take place up until January 2010. (These dates pre-suppose that restoration will take place sequentially, as various parts of the site are brought up to their approved final levels). There will be no overall increase in the volume of fill material brought to the site; the necessity to extend the period allowed for landfilling operations was a consequence of two major influencing factors:
- 3.6 Firstly, the original estimate of a 9-year period was based on the assumption that both inert fill and non-inert wastes would be deposited, and that as soon as the non-inert waste disposal facility was opened, the rate of intake would increase significantly. With the renegotiated development agreement now in place, this will no longer be the case, and the present average rate of inputs is likely to continue, subject of course to periodic fluctuations (as happens now) as specific contracts are secured or come to an end.
- 3.7 Secondly, the proportion of waste arisings nationally going to landfill is set to reduce significantly. This will be as a result of various legislative changes, in particular the adoption into UK law of the EU Landfill Directive and the government's National Waste Strategy. Both these incorporate steadily increasing percentage recovery targets for certain waste streams which must be met by key dates; this is all part of the drive to manage waste by more sustainable methods, with landfill placed firmly at the bottom of the so-called Waste Hierarchy. Whilst these diversion targets concentrate on municipal waste, and thus will not themselves impact directly on the rate of fill at the Beal Valley site, complementary guidance addressing the need to increase recovery rates for construction and demolition waste is constantly being issued and revised. This material forms a substantial share of the total incoming fill material and any reduction in the percentage being sent to landfill, as the trends clearly indicate, will undoubtedly have an effect. There was a perceived risk that the approved final levels for the golf course development may not have been achieved by the originally set

end-date. This, together with the site operator's need for a degree of certainty, prompted the decision to seek the amended timescale now in place.

- 3.8 The site operator's efforts are and from the outset have been directed towards achieving the finished contours which form part of the approved golf course development scheme. The approved scheme builds on certain landscape elements which are being retained, the idea being that, as players progress around the 18 holes of the golf course, the landscaped setting will gradually change. This will be achieved by the incorporation of a sequence of vegetation types, from remnant wetland in the lowest part of the site close to the railway line, through woodland edge planting and more open grassland to heathland-type planting in the higher, eastern areas running up towards Ripponden Road. The opportunity would be taken to create a range of habitats based on these different areas of landscaping. The steep-sided cloughs which enter the site from the north-east will also be retained, together with a further extensive wetland area to the east of the buildings at Harleyroad Farm. Additional water areas would be created and a network of public rights of way, allowing access through these varying landscape zones, will thread their way between the playing areas.
- 3.9 This represents the approved restoration scheme as it currently stands. Other options have been suggested; the single most important criterion being that any alternative after-use must similarly qualify for Landfill Tax exemption.

## **5. FUTURE USE OF THE SITE**

### **5.1 Description of the site**

- 5.1.1 The site comprises an area of 170 acres of open land extending east from the Oldham – Rochdale railway line and south from Cop Road, incorporating a relatively level area running parallel to the railway line, rising quite steeply towards the north and east, towards Sholver estate and Ripponden Road.
- 5.1.2 It slopes steeply from the North to South and levels out to a plateau at the bottom of the slope up to the railway line.
- 5.1.3 The site has two main accesses. The site development access is via Meek Street and a bridge over the railway. This access will cease on completion of the landfill operations. The other access is via Cop Road and was previously the main access to the former Harley Road Farm. It is felt that this would provide the principal access to any future developments for the overall site.

- 5.1.4 There are a number of public footpaths which criss cross the site.
- 5.1.5 The only buildings remaining on the site are the remnants of Harley Road Farm which comprise the previous dwelling house as well as various outbuildings. These structures are capable of reuse but are generally in need of refurbishment if they are to be retained for longer term use.

## 5.2 Development Constraints

- 5.2.1 The site is located within the designated green belt. Any development that takes place is limited to those uses which are in compliance with green belt policy. These are generally limited to agriculture, recreation and leisure uses. Uses such as residential, industrial etc are naturally precluded.
- 5.2.2 Access to the site is limited. It is considered that the access from Cop Road would provide the main development access. Depending upon the nature of any future development on the site Cop Road itself will need improvement as it's carriageway width is severely restricted in places and lacks footpaths.
- 5.2.3 The bridge that spans the railway close to the site entrance with Cop Road has a weight restriction prohibiting heavy vehicles.
- 5.2.4 Any development will need to take account of the fact that a large proportion of the site has been subject to landfill. This would be a factor in the siting of any proposed buildings, structures etc.
- 5.2.5 The inert landfill section of the site currently enjoys exemption from landfill tax due to its designated use as a 'golf course'. This exemption gives the site a significant commercial advantage. Any alternative use which did not enjoy this status would dramatically affect the level of income generated from the site and may result in future payments of landfill tax and, possibly, back-payments in respect of material already deposited.

## 5.3 Use as a golf course

- 5.3.1 The development agreement entered into by the Council with the developer provided that a 18 hole golf course would be constructed on the site on completion of the landfill operations. Monies received from the Council's share of the tipping royalties would fund the cost of constructing the golf course based upon its estimated cost in 1995 of £1m (this figure is subject to indexation and its current cost is around £1.3m).

- 5.3.2 The Deed of Variation of November 2002 did not alter the contractual position, however, it did provide the Council with the ability to substitute an alternative use to that of a golf course. An alternative use must be one for which planning permission has been granted and which would benefit from being exempt from landfill tax. To qualify for such an exemption any alternative use must be a recreation use. This would exclude any commercial or residential use.
- 5.3.3 If the Council does wish to seek an alternative use then it must notify the developer by July 2004. Planning consent for the alternative use would also have to be in place within twelve months of the developer having been notified by the Council of any change in the future use of the site. Should the Council decide it does not wish to change the after-use then no further action is required and the original agreement remains in place.
- 5.3.4 The Deed of Variation allows the Council the option of leasing the site to the developer on completion of the landfill operations. In this event the Council would receive a premium of £750,000 and all development costs associated with the golf course would be at the developer's cost. The Council does not, however, need to decide whether to pursue this option until the end of the tipping activities, estimated to be in 2008/2009.

#### 5.4 Alternative use options

- 5.4.1 Country Park: One option which would be suitable for this locality is the development of a 'Country Park', incorporating a series of managed open spaces, where habitat development would be encouraged; a network of footpaths and tracks, linking into the Beal Valley Way, incorporating boardwalks (across marshy areas), viewing platforms, bridges and feature areas at main junctions; the development of water features (streams, cascades and ponds, as well as the existing wetland areas); and possibly a visitor centre, providing a focal point for the whole scheme. The emphasis would be very much on informal recreation activity, encouraging maximum public use. A decision to pursue a scheme such as this would require some regrading of the emplaced fill material, to 'smooth out' the rather obvious embryonic greens and tees. The extent of such required earthworks would depend on how quickly this decision was taken.
- 5.4.2 Community Woodland: An alternative to the Country Park option could be the establishment of a Community Woodland, involving the carrying out of mass amenity woodland planting over most of the site. One of the key environmental objectives in Oldham's Agenda 21 Plan (and reiterated in emerging Replacement Unitary Development Plan policies) is to increase the Borough's woodland cover, which is at present minimal. Blocks of mixed woodland with glades or clearings

incorporated - perhaps with public art included - would be linked by footpaths and tracks. Existing areas of habitat value, principally the wetland tracts, would again be retained.

5.4.3 The Environment Agency has confirmed that, provided an alternative after-use falls within the same definition of 'the provision of recreational facilities', it will similarly qualify as an exempt site for licensing purposes, and hence, waste inputs will not be liable for Landfill Tax. It would, however, be necessary for a fresh exemption to be issued; the existing exemption cannot simply be 'transferred' to the new after-use. Both the above options would qualify; any end-use which was of a commercial nature, such as an equestrian centre, agriculture or 'cash crop' forestry, under the present regulations would not.

5.4.4 Under the terms of the Council's development agreement with the site operator, any change to the originally approved after-use must have received by July 2004 and planning permission for such use must be obtained no later than July 2005. This leaves very little leeway given the time required to carry out pre-submission consultations, both with all other interested bodies and residents' and other interest groups, and to then process a planning application.

## **6. FINANCIAL IMPLICATIONS**

6.1 The Council would need to fund the development of the after-use of the site as the income available from the royalties is no longer available. The highest cost of the three options is that of a golf course at around £1.3m, a country park is estimated to cost £0.6m and a community woodland slightly less. There would also be revenue implications with each of the options.

6.2 Should the Council wish to continue with the golf course then consideration could be given to involving a private sector partner who has experience in developing and operating a golf course. Other development costs associated with a golf course would include a club house and site infrastructure, including access road and car parking. These may add a further £0.75m to the cost.

6.3 The use as a country park would incur an ongoing revenue cost with the employment of park wardens as well as maintenance costs. Similar costs would be incurred in relation to the use as a community woodland.

## **7. TREASURERS COMMENTS**

- 7.1 The report refers to a deed of variation dated November 2002. That deed included three linked provisions. The Council was obliged to pay Casey's £975k at the end of the landfill period, Casey's were obliged to purchase land on Meek Street at a value of £225k and the Council could require Casey's to acquire the golf course site, and undertake construction of the course, in return for a payment to the Council of £750k. These transactions effectively self cancel.
- 7.2 As reported herein should the Council undertake the development of the golf course itself, it will have to invest approximately £2m in constructing the course, club house and ancillary facilities. This sum would be a charge against capital resources in the years of construction (2009 and 2010).
- 7.3 The revenue earning power of the course depends upon the intensity of use. Estimates varied between a breakeven situation and an annual surplus of up to £70k.
- 7.4 The alternatives, of providing a country park or community woodland both would require Council investment of up to £600k and then require revenue maintenance for which there is currently no provision. (GW)

## **8. LEGAL COMMENTS**

- 8.1 The Deed of Variation gives to the Council the right within 2 years of the date of the Deed of Variation to substitute an alternative use for Beal Valley to that of a golf course providing that the following conditions are satisfied;
- 8.1.1 any such alternative use will not affect the existing exemption for Landfill Tax;
- 8.1.2 a planning permission for such alternative use is granted not later than 12 months after the Council has given notice to the developer specifying the alternative use;
- 8.1.3 the parties agree to the cost to be paid by the Council to the developer for the works (to be specified by the Council) to be constructed for such alternative use and
- 8.1.4 the total airspace shall not be prejudiced.
- 8.2 All of the above conditions have to be satisfied within 18 months of the date on which notice of the alternative use is given to the developer

- 8.3 In the event that the Council gives notice to the developer specifying an alternative use for Beal Valley and the above conditions are satisfied then the Council is to pay all costs incurred by the developer attributable solely to the construction of the golf course and maintaining and securing the site until the alternative use of Beal Valley is commenced.
- 8.4 In the event that the Council does not exercise its right to specify an alternative use the Council has on completion of the landfill operations an option to require the developer to take a lease of the Beal Valley for a term of 250 years at a premium of £750,000 plus VAT. PJO

## **9. COMMUNITY COHESION IMPLICATIONS**

- 9.1 The reuse of the Beal Valley site following completion of landfill operations will provide an opportunity to create recreational facilities for the benefit of all sections of the community.

## **10. ENVIRONMENTAL IMPLICATIONS**

- 10.1 The Beal Valley development occupies a 170 acre site adjacent to residential areas and open countryside. Its' reinstatement following landfill will present an opportunity to create an environment, which will maximise upon its semi rural location. There are opportunities to include areas of woodland, as well as wetlands.

## **11. CONSULTATION**

- 11.1 This report was considered by the Health and Environment Overview and Scrutiny Committee on 11 March 2004. The Committee recommended that the use of the Beal Valley site should remain as a golf course following completion of the landfill operations

## **12. RECOMMENDATION**

- 12.1 The Committee is requested to note the licensing and other controls relating to the deposit of waste in the Beal Valley site and
- 12.2 to consider what the site should be used for following completion of the landfill operations.