



JUNE 2020

Planning Statement

Dunbar Landfill, Oxwell Mains, EH42 1SW

Iceni Projects Limited on behalf of
Viridor Waste Management Ltd.

June 2020

ICENI PROJECTS LIMITED
ON BEHALF OF VIRIDOR
WASTE MANAGEMENT LTD.

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Planning Statement
DUNBAR LANDFILL, OXWELL MAINS, EH42 1SW

CONTENTS

1.	INTRODUCTION	1
2.	THE APPLICATION SITE AND BACKGROUND.....	3
3.	THE PROPOSED DEVELOPMENT	6
4.	PLANNING POLICY	8
5.	PLANNING ASSESSMENT	10
6.	CONCLUSION	13

1. INTRODUCTION

1.1 This Planning Statement has been prepared by IcenI Projects Limited for a planning application made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended), in respect of the development proposals at the Dunbar Landfill, Oxwell Mains, EH42 1SW (hereafter referred to as 'the Site').

1.2 The proposed description of development is as follows:

Variation of condition 5 of planning permission P/0867/91 - to change the date of restoration to within 28 years from the first commencement of operations.

1.3 The Proposed Development comprises an extension of time application for the existing landfill operations at the Site. It does not seek consent for any other works other than the continued use of the Site for landfilling and associated works until 2025 within the parameters of the extant consent conditions and within the confines of the approved restorative contours.

1.4 This Planning Statement sets out the relevant planning background to the proposal, presents the application scheme and demonstrates how the planning matters associated with the development have been addressed and how they comply with planning policy at local and national level.

Submission Documents

1.5 The following documents and drawings have been prepared and submitted in support of this planning application:

Table 1.1 Planning Documents

Document	Consultant
Application Form	IcenI Projects
Planning Statement	IcenI Projects
Flood Risk Assessment	Sirius Environmental
Planning Application Fee	Viridor
Site Location Plan	Viridor

Planning Statement Structure

1.6 The purpose of this Planning Statement is to provide the determining authority with an overall summary of the existing site and surroundings; the relevant planning history for the site and to provide justification for the Proposed Development in the context of East Lothian Council's Development Plan and national planning policies. This Planning Statement is therefore structured as follows:

- Chapter 2 – The Application Site and Background
- Chapter 3 – The Development Proposals
- Chapter 4 – Planning Policy
- Chapter 5 - Planning Assessment
- Chapter 6 – Conclusion

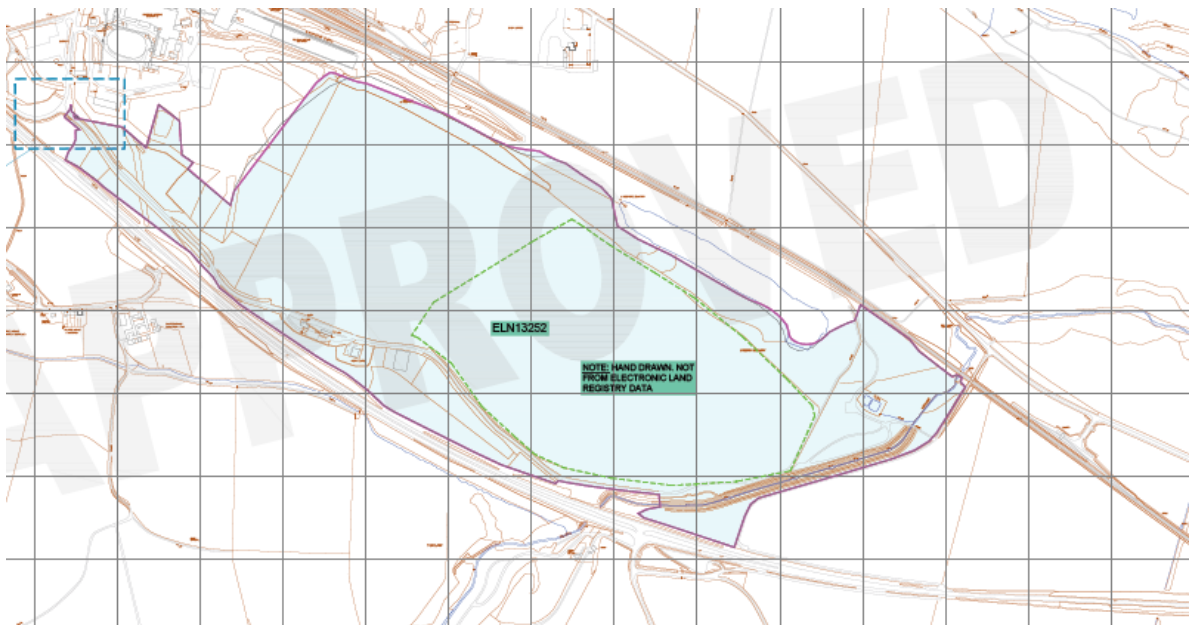
2. THE APPLICATION SITE AND BACKGROUND

- 2.1 Following the cessation of historic quarrying activities at the Site, there has been a long-established use as a major waste treatment hub for over 20 years. Viridor first commenced operations of the landfill facility at Dunbar in 1997, which has been in operation ever since. Up to 250,000 tonnes of solid domestic waste are disposed at the Site each year. Additionally, the methane released from the landfill process is harnessed to generate energy. Furthermore, Viridor began operating an Energy Recovery Facility at the Site in early 2019. The facility diverts approximately 325,000 tonnes of domestic, commercial and industrial waste from landfill, whilst generating 258GWh of base-load renewable energy which feeds directly into the National Grid.

Site Description and Context

- 2.2 The Site comprises approximately 111.85 hectares of land within the administrative boundary of East Lothian Council and contains an existing operational landfill facility which was originally approved on 15 June 1993 (reference: P/0867/91). It is located approximately 1.2km north-west of Innerwick and 3.2km south-east of Dunbar town.

Figure 1 Site Location Plan



- 2.3 The Site is bounded by the A1 dual carriageway to the south, the landfill site at the Dunbar cement works (Lafarge) to the west, the East Coast Mainline railway to the north and agricultural fields to the east.

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- 2.4 Flood mapping from the Scottish Environmental Protection Authority¹ shows that the majority of the Site is considered to be a low risk of flooding, with the exception of a few small areas to the east and north of the Site.
- 2.5 There are no statutory ecological designations located on-site or within a 250 metre radius of the Site boundary. The nearest statutory designation is the Barns Ness Coast Site of Special Scientific Interest (SSSI) is located approximately 780 metres to the north of the Site.
- 2.6 The East Lothian Local Development Plan also designates a number of Local Biodiversity Sites under Policy NH3: Protection of Local Sites and Areas. The nearest of these is located along the southern boundary of the Site and is designated for its woodland.
- 2.7 There are no known heritage assets on-site and the Site is not located within a Conservation Area. However, the Site is partially located within the Battlefields Inventory Boundary for the Battle of Dunbar II². The Site is partially subject to a landscape designation under Policy CH5: Battlefields of the East Lothian Local Development Plan.
- 2.8 The areas immediately surrounding the Site are rural in nature, and predominantly comprise arable fields and agricultural land.
- 2.9 The Site is not located within an Air Quality Management Area³ and the Torness nuclear power station is located around 2.5km to the south-east.

Planning History

- 2.10 The Site has been subject to numerous planning applications associated with the existing waste management operations. The most relevant planning applications are detailed below.
- 2.11 On 15 June 1993, East Lothian Council approved planning consent for the restoration of a quarry to agriculture by infilling with controlled waste (Application Reference P/0867/91). This consent was subject to 32 conditions including Condition 5 which stipulates that the entire site will have been infilled and restored in accordance with the restoration plan within 23 years from first commencement

¹ Scottish Environmental Protection Authority, (2019); Floodmap. Available at: <http://map.sepa.org.uk/floodmap/map.htm>

² Historic Scotland, (2019); Designations Map Search. Available at: <http://historicscotland.maps.arcgis.com/apps/Viewer/index.html?appid=18d2608ac1284066ba3927312710d16d>

³ Ricardo Energy and Environment (2019); Air Quality in Scotland. Available at: <http://www.scottishairquality.scot/laqm/agma?id=368>

of landfill operations. The permission was implemented in 1997, and was anticipated to cease infilling on 31 August 2020.

- 2.12 On 11 October 1995, East Lothian Council granted planning consent for the variation of conditions 7, 8 and 12 of the parent consent in relation to the quantum of waste (up to 250,000 tonnes per annum), highway works and hours of operation. This planning permission has since been implemented.
- 2.13 The current, approved phasing plan DU130 is included as Appendix A1.
- 2.14 On 21 January 2020, East Lothian Council issued an EIA Screening Opinion confirming the proposals subject to this planning application does not constitute EIA development under the terms of the EIA (Scotland) Regulations 2017.
- 2.15 The Screening Opinion also stated that '*The applicant must consider flood risk and mitigation works in any future planning application*'. Therefore, as mentioned in Table 1.1 of this report, an indicative FRA report has been provided,
- 2.16 In addition to the landfill operations, planning permission for an Energy Recovery Facility at the Site was secured under appeal ref. P/PPA/210/2012 and amended on 03 October 2012 by planning permission ref. 12/00263/PM (which allowed a variation of Condition 5 to increase the catchment area so that waste could be brought to the Site from the whole of Scotland). The facility has been constructed and commenced operations in early 2019.

3. THE PROPOSED DEVELOPMENT

3.1 The Proposed Development will not deviate for the existing use of the Site as a landfill facility; the proposals simply seek an extension of time to the existing operations at the Site. The Site will continue to operate within the existing capacity and does not seek to increase this capacity. The Site will continue to operate with the confines the conditions attached to the extant planning consent and environmental permit.

3.2 This planning application relates to existing planning permissions P/0867/91 (and subsequent permission P/0582/95), in seeking to apply for an extension of time (i.e. a variation in condition 5 of P/0867/91) until 31st August 2025. The description of development is as follows:

Variation of condition 5 of planning permission P/0867/91 - to change the date of restoration to within 28 years from the first commencement of operations.

3.3 It is therefore respectfully suggested that the condition should be amended to read:

'5. Landfilling shall cease no later than 28 years from the date on which landfill operations first commence, which date will be notified in writing to the District Planning Authority, unless any extension to this time is granted in advance by the District Planning Authority'

3.4 Due to the presence of the afore-mentioned ERF and also due to a drop off landfilling rates it will not be possible to infill and restore the 'entire site' as referenced in the original condition it is respectfully suggested that two addition conditions are required, namely:

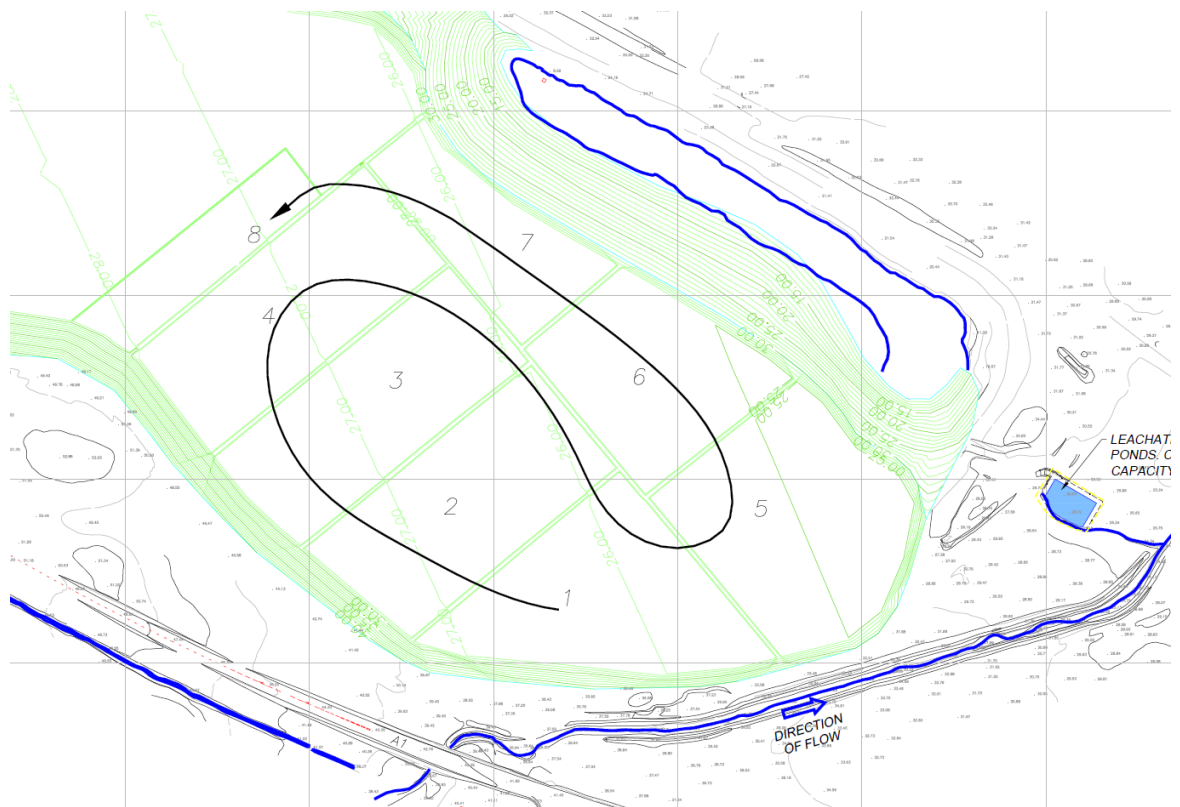
a. *'Within 3 years of this approval a scheme shall be submitted to the District Planning Authority for their written approval detailing the final restorative contours. These contours should not exceed the height of any previously approved pre-settlement contours'*

b. *'Within 4 years of this approval a scheme shall be submitted to the District Planning Authority for their written approval detailing the restoration and aftercare management plan'*

3.5 The red line boundary remains as per the existing landfill facility and is shown in the Site Location Plan submitted with the planning application. The Proposed Development will not comprise any physical works and all activities associated with the Proposed Development will occur within the same capacity parameters as the previous consents.

3.6 The proposed, revised phasing of the landfilling will be as shown in the following image.

Figure 2 **Revised Phasing**



3.7 Cells 1-3 inclusive and 5-7 inclusive have been filled capped and restored. Cell 4 is currently being filled and of the remaining cells, only Cell 8 will be (partially) filled.

4. PLANNING POLICY

Local Policy

4.1 There are two components to the Development Plan for East Lothian:

- The Strategic Development Plan (SDP) for Edinburgh and South East Scotland (SES)⁴ (adopted in 2013); and
- The East Lothian Local Development Plan 2018⁵ (adopted in September 2018).

4.2 The SDP sets out the broad strategic planning vision, strategy and policies for the region, and provides the context for the LDP. The second version of the SES SDP ('SESplan 2') was rejected by Scottish Ministers in May 2019 on the basis that strategic transport infrastructure issues were not properly considered. Consequently, the 2013 version remains the relevant SDP.

4.3 The LDP sets out the how and where the objectives of the SES SDP can be delivered within East Lothian. Alongside the consideration of the SES SDP, the waste policies for East Lothian have also been developed with reference to the Scottish Government's Zero Waste Plan. Scottish Planning Policy confirms the Scottish Government's position regarding proximity and need and establishes a 'national' need for additional waste management facilities in the context of a current shortfall in provision. As the Site comprises an existing and consented waste management site, it is safeguarded under Policy W1: Waste Management Safeguards of the LDP (Dunbar Landfill, Oxwell Mains, Dunbar) and also within the adopted SDP for future waste management uses.

National Policy

4.4 The Biodegradable Municipal Waste Landfill Ban⁶ stipulates that from the 1st January 2021 landfill operators in Scotland will be prohibited from accepting Biodegradable Municipal Waste for disposal at landfill. Annex 1 of the SEPA Guidance details the various codes that were sent to landfill in 2016 that may fall within Biodegradable Municipal Waste which equates to in excess of 2 million tonnes of waste.

⁴ The Strategic Development Planning Authority for Edinburgh and South East Scotland, (2013); Strategic Development Plan

⁵ East Lothian District Council, (2018); Local Development Plan 2018

⁶ SEPA, (2018); The Biodegradable Municipal Waste Landfill Ban

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- 4.5 The Scottish Government Waste Markets Study – Full Report (April 2019)⁷ confirms that Scottish Councils remain unprepared for the ban and are unlikely to meet the deadline. The Government has acknowledged that there are significant challenges being faced in delivering the ban within the current timeline and therefore to avoid the need for new facilities, authorities should maximise the efficient use of existing landfill facilities.
- 4.6 In a letter dated 19th September 2019 the Cabinet Secretary for Environment, Climate Change and Land Reform stated that full enforcement of the Biodegradable Municipal Waste Landfill Ban would be delayed until 2025⁸. Despite the progress made, full compliance by 2021 would not be possible without significant reliance on export options, including landfill in England, with consequent environmental impact and additional financial implications for local authorities. The additional 4 years allows for procurement, development, planning and building of waste processing infrastructure, over and above that which is already in the pipeline. There will be a centrally supported procurement intervention to enable those without solutions to secure alternative solutions for remaining BMW tonnage. Scottish Landfill Tax will be used to provide a further incentive to ensure that transitional work proceeds at the necessary pace.
- 4.7 To this end the Proposed Development conforms to both Development Plan policy and national waste policy objectives.

⁷ Scottish Government, (2019); Waste Markets Study – Full Report (April 2019)

⁸ <https://www.gov.scot/publications/climate-change-plan-monitoring-report-2019/pages/7/>

5. PLANNING ASSESSMENT

- 5.1 This section reviews the key planning considerations arising from the Proposed Development. It provides a reasoned justification for the Proposed Development in the context of relevant policy and the specifics of the Site and its surroundings.

Principle of development

- 5.2 The Proposed Development comprises an existing landfill facility which seeks an extension of time of the existing operations at the Site. Landfilling remains a valid method of disposal when considering an holistic and sustainable waste management strategy. To this end, the Site is safeguarded for existing and future waste management uses under Policy W1: Waste Management Safeguards within the East Lothian Council Local Development Plan 2018. The policy also supports the principle of additional complementary waste management uses at Dunbar Landfill. The SES Strategic Development Plan 2013 makes reference to the Scottish Government's Zero Waste Plan and seeks to ensure that the function of operational waste sites is not compromised.
- 5.3 The existing landfill use is well-established and the extension of time is requested to coincide with the Biodegradable Municipal Waste Landfill Ban, which is not due to be enforced in 2025. This is when it is hoped that Scottish Councils will be prepared and able to meet the proposed deadline. The Government has acknowledged that in order to avoid the need for new facilities, authorities should maximise the efficient use of existing landfill facilities. This planning application will therefore utilise existing infrastructure and optimise the use of the Site, without any changes to current operations. It will allow the operator to continue utilising the existing void capacity at the Site and will avoid the premature ceasing of operations whilst landfill capacity is still required and provide opportunity to develop a longer-term strategy for the Site.
- 5.4 Once landfill operations do cease, the Site will then be restored, albeit five years later than previously envisioned and with lower restorative contours. Due to these additional five years and to ensure satisfactory restoration, the applicant would welcome the inclusion of additional planning conditions requiring the final restoration plan and restorative contours to be agreed with East Lothian Council.
- 5.5 With the above taken into account, the Proposed Development accords with Policy W1 of the East Lothian Council Local Development Plan as well as assist in preparing for the Biodegradable Municipal Waste Landfill Ban under Government ambitions.

Flood risk and drainage

5.6 Flood mapping from the SEPA shows that the majority of the Site is considered to be a low risk of flooding. A Flood Risk Assessment (including a Surface Water Management and Drainage Assessment) has been prepared by Sirius Environmental Ltd and is submitted with this planning application to ensure the proposals comply with Policy NH10 'Sustainable Drainage Systems' and Policy NH11 'Flood Risk' of the East Lothian Council Local Development Plan and Scottish Planning Policy related to flood risk. The report considers the main risks are associated with:

- fluvial flooding of the Dry Burn on the eastern boundary of the Site;
- pluvial flooding of small depression on the capping layer from differential settlement of the waste; and
- flooding of the surface water bodies (Blue Lake and Arthurs Lake) on the northern boundary of the site.

5.7 The fluvial assessment show there is a level difference between the top of the bank and the elevation of the landfill where the fluvial flooding is indicated of approximately 4m. This 4m difference will prevent flooding onto the landfill and will be restricted to the base of the slope. The pluvial assessment show that the for a 1 in 100 year event plus a 35% climate change allowance, the maximum water level reaches 10.096mAOD for Blue Lake and 10.073mAOD for Arthurs Lake.

5.8 Once waste has been infilled at the Site up to 2025 and following subsequent restoration works, additional surface water features will be constructed to convey surface water runoff to the Blue Lake. The SuDS strategy incorporates a series of grassed ditches to restrict the off-site flows to greenfield runoff rates or below. Section 7 of the report outlines the maintenance requirements for these ditches and surface water lagoons.

Transport and highways

5.9 The Site is well connected to the urban centres in the surrounding area, with the A1 dual carriageway located immediately to the south.

5.10 This application does not propose any amendments to the parameters approved under previous consents for the landfill operations. Unless otherwise agreed with the Council, no more than 250,000 tonnes of waste per annum will be delivered to Site by road, with deliveries between 7am-4:30pm and the Site operating 7am-6pm on Mondays-Saturdays.

5.11 As there will be no changes to the established parameters previously consented via P/0582/95, the vehicle movements and impacts on the highway network will remain as existing. As such, the

proposals will continue to comply with Policy T2 'General Transport Impact' of the East Lothian Council Local Development Plan.

Noise and Air Quality

- 5.1 The Site does not fall within an Air Quality Management Area and the nearest residential properties are located approximately 1.2 kilometres to the south-east of the Site in the civil parish of Innerwick. The nature of the proposals will be identical to the existing operations (quantum of waste, highway works and hours of operation etc). Therefore, it is unlikely that the extension of time would give rise to significant environmental effects beyond those already approved and will not breach National Air Quality Standards. There is no likelihood of significant pollution or nuisance impacts arising from the Proposed Development, which will continue to accord with Policy NH12 'Air Quality' and Policy NH13 'Noise' of the East Lothian Council Local Development Plan.

Historic Environment

- 5.2 The Site is not identified as having any archaeological significance and there are no listed buildings or scheduled monuments located on-site. The Site is not located within a Conservation Area, however, is partially located within the Battlefields Inventory Boundary for the Battle of Dunbar II. The nearest listed buildings are located approximately 140 to 200 metres to the north and west of the Site boundary. As the Proposed Development is similar in nature to the existing uses at the Site, with no physical works or changes to the capacity parameters proposed, significant impacts on the setting of heritage assets are considered unlikely. The proposals will therefore accord with the policies relating to cultural heritage in the East Lothian Council Local Development Plan.

Ecology and Arboriculture

- 5.3 There are no statutory designations for nature conservation interests on-site or nearby. However, a Local Biodiversity Site is located immediately to the south of the Site and is designated for its woodland. There are also several existing trees located along the southern boundary of the Site.
- 5.4 The Proposed Development will not comprise any physical works (including means of access). Consequently, no impacts in relation to ecology or arboriculture are anticipated meaning the Proposed Development will accord with Policy NH3 'Protection of Local Sites and Areas' and Policy NH8 'Trees and Development' of the East Lothian Council Local Development Plan.

6. CONCLUSION

6.1 This Planning Statement has been prepared by Icen Projects Ltd on behalf of Viridor Waste Management Ltd in accordance with Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended).

6.2 Policy W1: Waste Management Safeguards of the ELDC LDP safeguards the existing Dunbar Landfill, Oxwell Mains facility and supports the principle of future waste management uses at the Site. In addition, the Site is safeguarded for waste management uses in the SES Strategic Development Plan 2013.

6.3 The application seeks to vary Condition 5 of planning permission P/0867/91 to extend the operational lifetime of the landfill site as follows:

'5. Landfilling shall cease no later than 28 years from the date on which landfill operations first commence, which date will be notified in writing to the District Planning Authority, unless any extension to this time is granted in advance by the District Planning Authority'

a. 'Within 3 years of this approval a scheme shall be submitted to the District Planning Authority for their written approval detailing the final restorative contours. These contours should not exceed the height of any previously approved pre-settlement contours'

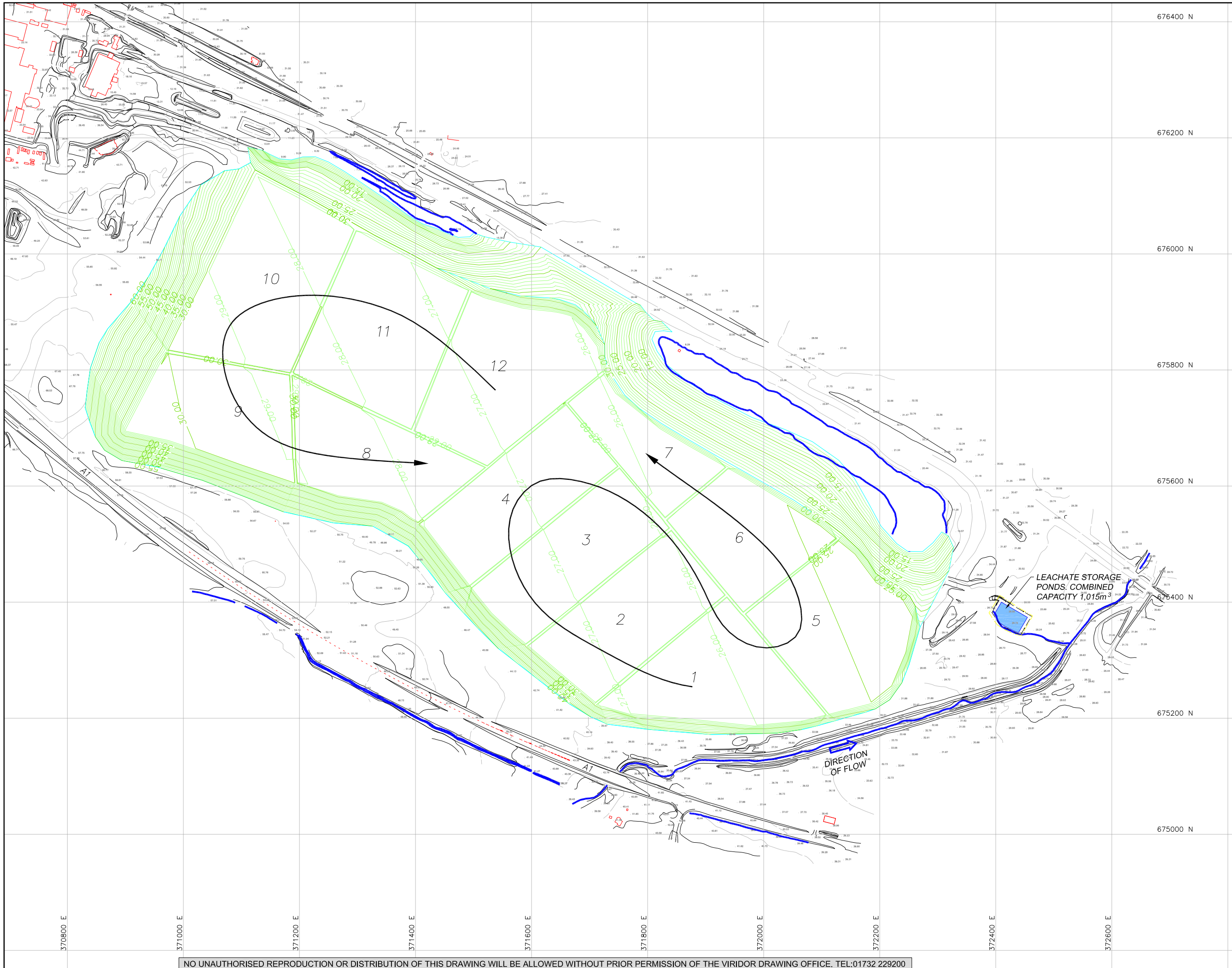
b. 'Within 4 years of this approval a scheme shall be submitted to the District Planning Authority for their written approval detailing the restoration and aftercare management plan'

6.4 The scheme is considered to accord with all relevant planning policies and provide the following benefits:

- Maximise the beneficial use of the site and avoid the need for new facilities;
- Avoids the premature ceasing of operations and utilises existing infrastructure to its full capacity; and
- Allows the Council to be better prepared for the Biodegradable Municipal Waste Landfill Ban in 2025.

6.5 The Proposed Development will remain as per the existing use and will operate within the same red line boundary and capacity parameters as the existing landfill facility. As demonstrated by both this Planning Statement and the supporting documentation the Proposed Development is considered acceptable. Consequently, we consider that planning permission should be granted, having regard to relevant guidance and the clear planning justification for the development.

A1. ORIGINAL PHASING PLAN



THIS DRAWING IS UNCONTROLLED CONTACT D.O. FOR LATEST ISSUE



SITE NAME
DUNBAR LANDFILL

DRAWING TITLE
PHASING PLAN

SCALE 1:6000	DU130
OI DATE MAR 2010 OI DRN AT OI APP MH	
REVISION DRN APP DATE	
FOR ALL HISTORIC REVISION INFORMATION, SEE SPREADSHEET DRAWING BASED UPON SURVEY DRAWING	