



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellants: Glenn and Jo Fowler

Site: Lot 235 (10 Leitrim Close), Beaconsfield

Date: 31 March 2010

1.0 SUMMARY

- 1.1 The Department of Environment and Conservation (DEC) classified the property known as **Lot 235 (10 Leitrim Close), Beaconsfield** as *remediated for restricted use* (with a restriction on the use of groundwater and excavations below 1.0m) under the *Contaminated Sites Act 2003* (the Act) on 18 November 2008. DEC's reasons for the classification were set out in the 'Notice of Classification' given in accordance with section 15 of the Act on 18 November 2008.
- 1.2 On 31 December 2008 the Contaminated Sites Committee (Committee) received from the Appellants an appeal against the classification, lodged in accordance with sections 18 and 79 of the Act. The letter of appeal specified several grounds of appeal which are addressed below.
- 1.3 The Appellants advised that further information may be forthcoming, but no such information was received by the Committee.
- 1.4 On 14 July 2009, in accordance with section 80 of the Act, the Committee forwarded a copy of the appeal and supporting information to the CEO of DEC for a report.
- 1.5 The CEO's report, dated 27 August 2009, was forwarded to the Appellants for response. No response was received.
- 1.6 The Committee considered the appeal and the CEO's report and decided that **Lot 235 (10 Leitrim Close), Beaconsfield** should be classified *remediated for restricted use*, and that the restrictions on excavation and the use of groundwater established by the DEC should be retained. Under section 82(2) this decision of the Committee is final and without appeal.

REASONS FOR DECISION

- 2.0 **APPEAL GROUNDS (Appellants' wording in *italics*)**
- 2.1 **GROUND 1** *"our lot is on the very far south west corner opposite established houses for over 20 years. According to those residents, our block did not require excessive landfill and therefore only a small amount of clean fill was required to level out the land."*
- 2.2 ERM "Beaconsfield Landfill Soil Investigation (2003) reported that test pit P1 located on Lot 235 at depths below 1.2 m encountered "concrete blocks, rubble and rubbish comprising steel rods/mesh, plastic wrapping and concrete slabs".
- 2.3 DEC advises that "The contention that waste material extends under Lot 235 is further supported by historical aerial photographs showing the extent of waste disposal activities and subsequent remediation of the site".
- 2.4 **The Committee dismisses this ground of appeal.**
- 2.5 **GROUND 2** *"the house next to us (lot 53 Leitrim Lane) has not been included in your review even though this land is of the exact nature as ours."*
- 2.6 This is not a valid ground of appeal. The validity of the classification of the subject lot is independent of whether or not an adjacent lot has or has not been classified.
- 2.7 **The Committee dismisses this ground of appeal.**
- 2.8 **GROUND 3** *"We also had an analysis of the soil performed by Structerre Consulting on the 13 February 2006 which did not indicate any contamination.."*
- 2.9 The Structerre Site Assessment involved four bore holes, three to 750mm and one to 600mm where the drill refused in limestone. All holes would therefore appear to be within the 1m of clean fill installed by the developer across the entire site.
- 2.10 **The Committee dismisses this ground of appeal.**

Note: Section 82(2) of the Act provides that the Committee's decision under that section is final and without appeal. Section 83 of the Act provides that the CEO of DEC is to give effect to the outcome of the appeal as soon as practicable and to ensure that the details are published in the prescribed manner.



Jim Malcolm,
Chairman

and as agent for and on behalf of
the Contaminated Sites Committee