

NEC?blocks fill from going in Cheltenham pits

By Bill Rea

Brampton Brick's idea to put imported fill into its pits in Cheltenham has been blocked by the Niagara Escarpment Commission (NEC).

Caledon Councillor Richard Paterak, Peel Region's representative on NEC, put forth a motion of support for the proposal at last Thursday's meeting, tacking on a condition that there be a community liaison group formed to keep track of things. But it was defeated in a 13-3 vote. The next motion was to approve the staff recommendation to refuse the application, and that quickly passed. Brampton Brick has been mining shale from the Cheltenham Brickworks property for some 20 years. The original plan was to take material from three pits, then fill them with water and create three ponds. There had been concerns that it would take years to fill one pit with water, while there are large quantities of fill being generated by development projects. It was thought this material has to go somewhere.

The NEC?staff report stated the proposal involves a development permit application to NEC, which has been set up as an ?alternate rehabilitation plan.?

The pond proposed in the original rehabilitation plan would cover about 42 acres, according to the staff report.

NEC?Planner Michael Baran told commissioners it would take about five years to put about 1.8 million cubic metres of fill into the first pit, meaning about 28,800 truck loads annually.

The staff report concluded the proposal fails to comply with the Niagara Escarpment Plan (NEP) on several levels. It cited that importation of fill is not a permitted use in a resource extraction area of NEP. It also pointed out the Ministry of Natural Resources (MNR) is not likely to support an amendment to the site plan that was approved for the operation through the Aggregate Resources Act. The report also referred to public opposition to the proposal, as well as concerns about possible precedents for rehabilitation operations throughout the Escarpment.

NEC?Manager Ken Whitbread explained that the MNR?position on this is the original rehabilitation plan is fine, and they would prefer not to see any changes.

?It's their legislation,? he added.

The staff report stated that MNR has already authorized the importation of 200,000 cubic metres of fill in order to meet requirements for the slope in the pit. Baran said it was part of the progressive rehabilitation of the site during extraction. ?It's built in the site plan,? he said.

The staff report agreed there is a need in Peel, as well as the rest of the Greater Toronto Area (GTA) for places to put fill.

?However, it is important to recognize that the excess fill is a byproduct of urban development,? it stated. ?Alternate means are available to utilize the fill material . . . where impacts on the local population and natural environment would be averted.?

Whitbread added a lot of fill is produced in Brampton and Mississauga. The issue is whether the Escarpment should be expected to accommodate it. He said staff believes it's not a permitted use.

Commissioner Corwin Cambray observed that the approved rehabilitation of the site was almost done, and now the Commission was being asked to approve a commercial fill operation there. He said they shouldn't accept all that fill for free.

He was also concerned that they couldn't rely on approved rehabilitation plans.

?They're just blowing in the wind,? he said. ?Here today, gone tomorrow.?

Baran told Commission Cecil Louis he's not aware of a case on the Escarpment in which the plans were amended to allow fill.

Paterak said this involves a shale quarry, not bedrock or a gravel pit. He was looking at the application, not as rehabilitation, but as restoration. He said the Commission issues restoration orders all the time, adding this could be a method to put the site back to the way it used to be.

The proposal did have some support from the public.

Dave Rutherford, president of the Terra Cotta Community Centre, pointed out the staff report didn't refer to Terra Cotta at all.

?In other words, we don't exist,? he remarked. ?I'm frankly very disturbed.?

One of his concerns dealt with the possibility of standing water in the proposed ponds. He said they could become breeding grounds for mosquitoes, raising fears about West Nile Virus.

Rutherford also observed an area south of Terra Cotta (in Halton Region) was rehabilitated. The truck traffic was a bother, but he said it helped get rid of ?scars on our landscape.?

?I think, in the long-term, it's a good things to happen right now,? he commented.

Former Town councillor Al Frost, a director with the Cheltenham Area Residents' Association (CARA), complained about the lack

of notice when this idea first came up. The staff report had said the initial application was made in December 2009, but Frost said he first learned what was going on when Brampton Brick hosted a public session last summer.

"We are in total support of the staff report," he said, adding that considering all the fill that could be trucked in, it's almost impossible that it will all be clean.

Lawyer Ron Webb, representing Brampton Brick, said the consultants have produced two reports on the proposal (in 2009 and 2011) dealing with such matter as ecology and impacts on the environment.

"There will be no negative impact," he said the reports concluded.

Webb also pointed out the proposal would eventually include forest, watercourses and wetlands, although he agreed it would take some years for the forests to grow. He also said it would provide habitat for various species, some of which are endangered.

He argued this will be an improvement over what was approved some 25 years ago. Times change, he pointed out, noting Provincially mandated intensification means more fill is being produced, with less opportunity to just spread it around.

Webb also stressed this was not an experimental proposal. He said the company had already imported fill as part of the progressive rehabilitation.

"To my knowledge, no recorded complaints came in to that operation," he remarked.

He cited some examples of fill being used in pits, including Brampton Brick's old quarry, which was filled in for development with the approval of MNR and the Ministry of the Environment (MOE).

"This is not, by any stretch of the imagination, and experimental project," he declared.

Webb observed that Caledon council, in April, approved a number of conditions that the Town would want fulfilled if the application were approved. He said they were "very stringent conditions," including provisions that the fill is clean, in order to protect the environment and neighbours.

"This is a well thought-out plan," Webb maintained, adding it wouldn't have received support from the Town, Region and Credit Valley Conservation (CVC) had it not been. "Brampton Brick wants to make this work."

Webb also addressed the suggestions of this being a commercial fill site.

"The intent was not to make money out of the importing of fill," he maintained, adding it was to restore the lands.

He stressed the conditions imposed would be followed, and company president Jeffrey Kerbel agreed.

"The cost of non-compliance is much higher," he observed, adding it makes sense for them to follow the rules.

Paterak argued that filling in the pit would be more positive than having stagnant water there.

But Commissioner Brian Baty, representing Niagara Region, was concerned that it would set a precedent.

"I don't want to see the Escarpment to be the depository of that material," he said.

"We should not be using the Niagara Escarpment as a fill site," commented Commissioner Joan Little.

There was talk of the company appealing the ruling.

"I'll certainly recommend an appeal," Webb said.