

Application No: 15/1431W

Location: HENSHAWS WASTE MANAGEMENT, 150, MOSS LANE,
MACCLESFIELD, CHESHIRE, SK11 7XF

Proposal: The temporary use of an area within the existing Henshaw's building for the acceptance and storage of Council-collected recyclable wastes on selected Bank Holidays (for 2 years)

Applicant: CFM Henshaw

Expiry Date: 22-Jun-2015

SUMMARY

There is a presumption in the NPPF in favour of the sustainable development unless there are any adverse impacts that significantly and demonstrably outweigh the benefits.

The proposal would satisfy the economic sustainability role by providing a range of benefits in terms of sustainable waste management, in respect of providing increased capacity for bulking up recycled wastes on bank holidays which helps to contribute to WMS objectives and management of waste in accordance with the waste hierarchy. Equally a facility in this location serving waste generated from Macclesfield area would accord with the proximity principle and avoiding the unsustainable movement of waste to alternative facilities elsewhere which accords with the objectives of the WMS and the broad approach of the NPPW and CRWLP.

This should be balanced against the significant adverse impacts on residential amenity arising from the delivery and unloading/handling of waste during the extended hours of operation which would cause unacceptable levels of noise impact.

The benefits arising from the proposal are not considered sufficient to outweigh the potential significant adverse harm caused by the scheme. As such it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan. Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits. Accordingly it is recommended for refusal as it conflicts with policies 12, 23 and 29 of CRWLP, policy DC3 of MBLP and the approach of the NPPW and NPPF.

RECOMMENDATION

Refuse

DESCRIPTION OF SITE AND CONTEXT

The application site is situated on the Henshaws waste recycling business which is located at 150 Moss Lane, on the southern extent of Macclesfield urban area. Moss Lane connects the A536 Congleton Road to the west with the A523 London Road to the east.

The application boundary covers the western half of the existing waste transfer building and includes the vehicular access route to the site entrance onto Moss Lane. The waste recycling business is situated on a linear area of hardstanding. Aside from the waste transfer building, the site includes a number of steel framed buildings for the storage of wastes, a range of open air storage bays for various aggregates and materials, trommel screen, an area of stored skips and vehicles, and a two storey brick office building fronting onto Moss Lane.

Surrounding the waste recycling site to the north and east is a large residential estate, whilst to the south is a mixture of small industrial and waste management uses, along with smaller residential estates. Open fields edged with broken hedges and trees lie to the west and south of the site. Immediately adjoining the northern boundary of the waste recycling site are residential properties on Whiston Close and Sheldon Drive. These properties are afforded second floor views across the waste recycling business due to their elevated position.

Land to the south, perpendicular to the site, is also in the applicants ownership but does not form part of this application. This area is used for various storage and commercial uses including vehicular repair garage and these uses are served by a separate access off 140 Moss Lane.

DETAILS OF PROPOSAL

This is an application for the use of two of the three bays of the existing waste transfer building for a temporary two year period for the delivery, unloading and storage of Council-collected recyclable wastes on Bank/Public Holidays; with the exception of Christmas Day, Boxing Day or New Years Day.

The waste would be delivered in 17 refuse collection vehicles (generating 34 movements) during the hours of 1000 to 1500. No other vehicle movements or site activities would occur outside of these times.

At present the operating hours of the waste recycling business are restricted by virtue of permission 5/06/2496P to 0730 to 1800 Monday to Friday and 0800 to 1300 Saturday with no operations on Sundays or Bank Holidays. In addition four heavy goods vehicles are permitted to leave the site between the hours of 0630 to 0730 Monday to Friday. The site has permission for a maximum of 500 skip vehicles (250 in, 250 out) per week, with 118 (59 in, 59 out) per day; whilst 130 bulk vehicles (65 in, 65 out) are permitted per week, with 32 (16 in, 16 out) per day.

RELEVANT HISTORY

The waste recycling business at 150 Moss Lane, and the applicants adjacent land at 140 Moss Lane has a long planning history. Those of most relevant are:

At 150 Moss Lane:

- Use of the northern part of the site as a waste transfer station (5/71028) granted in 1992.
- Permission to alter and extend the waste transfer station (5/96/1339) granted 1996.

- Relocation and extension of existing waste transfer buildings and waste recycling facilities granted in 2003 (5/03/3227).
- Extension of the site incorporating new buildings and a new site layout granted consent in 2007 (5/06/2496P)
- Variation of conditions to allow delivery of waste collection rounds and skips on weekends and Bank/Public holidays (11/2765W) – withdrawn
- Variation of conditions to allow delivery of skips/RCVs on weekends and public/bank holidays (12/3496W) – withdrawn

At 140 Moss Lane:

- Site extension and relocation of the Material Recycling Facility (11/2766W) – withdrawn
- Relocation of materials recycling plant, additional picking line shed, delivery/storage of waste during weekends and bank/public holidays (13/2776W) - withdrawn
- Relocation of materials recycling plant, additional picking line shed, delivery of waste during weekends and bank/public holidays (14/4265W) withdrawn

An application for a Lawful Development Certificate for 7 day skip hire deliveries was also refused in May 2008 and the subsequent appeal was withdrawn.

Enforcement action has been taken on the site on a number of occasions. Breach of condition notices have been served on the operator and upheld for:

- Operating screening plant within an unauthorised part of the site, causing noise nuisance. The plant has since been relocated.
- Failing to provide vehicle numbers when requested.
- Failing to submit a noise monitoring scheme

An Enforcement Notice was also served (September 2005) in relation to unauthorised use outside the permission boundary. Planning permission 5/06/2496P regularised this unauthorised use.

POLICIES

National Planning Policy Framework

National Planning Policy for Waste

Cheshire Replacement Waste Local Plan 2007

Policy 1 Sustainable Waste Management

Policy 12 Impact of proposals

Policy 23 Noise

Policy 24 Air Pollution: Air emissions including dust

Policy 26 Air pollution: Odour

Policy 28 Highways

Policy 29 Hours of Operation

Macclesfield Borough Local Plan 2004

DC1 Design

DC3 Amenity
DC13 Noise
DC14 Noise mitigation
Policy E5
Policy E6

Other Material Considerations
Cheshire East Local Plan Strategy
Government Review of Waste Policy in England 2011
Waste Management Plan for England
Cheshire East – Waste Needs Assessment 2015

CONSULTATIONS

Highways: no objection. The proposals involve 17 deliveries of recyclable wastes on Bank Holidays (except Christmas period Bank Holidays) using Refuse Collection Vehicles with a gross vehicle weight of 26 tonnes. Deliveries will be restricted to the hours between 1000 hours and 1500 hours limited to a two year period. The proposals would result in 34 two-way traffic movements per day, which over a 5 hour period of operation equates to, on average, around 7 vehicle movements per hour. The traffic associated with the development proposals would not be expected to have a material traffic impact on the adjacent or wider highway network.

Environmental Health: The application would effectively increase the site's usage by 10 days over the requested 2 year period. The potential impacts from this proposal are from noise and dust sources (vehicle movements and waste depositing / pushing) and odour (waste storage). Properties on Whiston Close and Sheldon Drive have rear gardens and elevations facing the site and the nearest property is located approximately 60 metres from the proposed waste storage area. There are currently no other waste related activities permitted on the site on Public Holidays. Dust should be controlled by damping down when necessary and odour should be controlled by the site's Environmental Permit.

The noise assessment uses BS4142:2014 to assess the noise from the proposed operations at the nearest sensitive residential receptors. This methodology requires an assessment of background levels and the specific noise of the proposed operations. The background noise was measured at a time that could be considered as representative of the proposed hours of operation. However the monitoring location was closer to the road and had a clearer line of sight than the nearest residential property on Whiston Close. Properties on Whiston Close are afforded additional screening from road noise by a 3 metre fence to the east and it is likely that background levels here are perceptibly lower than that used in the assessment.

The noise assessment used measured noise levels of the proposed vehicle movements and waste activities to calculate the specific levels at the nearest residential properties. The calculation assumes that a 10 decibel (dB) noise attenuation could be achieved by the 3 metre fence. However, the 3 metre barrier is located to the east of these properties. A much shorter fence (approximately 1.5 metres in height) is on the site-facing southern border of properties on Whiston Close. Given the overlooking position of these properties it can only be assumed that these houses are afforded only partial screening from the proposed activities

and therefore it would be more reasonable to assume that a 5dB attenuation is the best that could be achieved by the fencing.

The BS4142 assessment requires that an assessment is made of the character of noise from the operations and, in our opinion, correctly assesses that impact noises (impulsivity) would be perceivable. BS4142 states that the following penalty ratings are then applied to the specific noise depending on the magnitude of the impact noise:

Just perceptible: + 3dB

Clearly perceptible: +6dB

Highly perceptible: +9dB

From our experience of waste activities, the published noise levels and from previous site visits, the impulsivity of these activities could, at best, be considered as 'clearly perceptible'. This would result in at least a 6dB rating penalty.

Despite the discrepancies between our assessment of the noise and that of the noise report submitted, we consider that there is sufficient information in the report for a robust assessment of the expected noise impacts to be made by this section.

Given that:

- Background levels at the most sensitive residential properties is likely to be lower than those submitted;
- Less attenuation is likely to be provided by the site boundary fencing than assumed in the report; and
- Impulse noises would be more perceptible than stated in the report;

We would assess that the specific noise rating from the proposed activities according to BS4142:2014 would be in the order of 50 dB(A) rather than the 42 dB(A) given in the report. This would translate as being in excess of 10 dB(A) over background levels and would be an indication of a 'significant adverse impact' at the closest sensitive receptors.

BS4142 requires that this assessment is placed in context. This section recognises that the applicant has made some effective measures in the proposal to reduce the likely noise impacts by limiting the hours of use and by minimising the associated waste processing activities on the site to include only depositing and 'pushing up'.

In this proposal we should consider that these impacts would only occur during 10 days over a 2 year period. However, these days are considered as the most sensitive to noise disturbance as residents are more likely to be at home and at times of the year when the outside of the properties are more likely to be used. Residences are subject to raised noise levels during existing permitted working hours not dissimilar to those proposed albeit over longer periods. Public holidays can be considered as a respite for residences from such noise. There is a history of complaints due to noise from waste activities at the site and this would indicate that such noise levels could be considered as an annoyance to residents.

On balance and from an Environmental Protection perspective it is considered that the noise impacts on the requested Public Holidays would not be acceptable at this location due to the

levels and nature of noise, the close proximity of residential housing and the need for respite from existing operations.

Recommend refusal as the noise impacts would be considered to cause significant adverse impacts and disturbance to nearby residential properties on Public Holidays.

Should a decision be made to accept this proposal then planning conditions should set out to control the hours of use, the permitted activities and the lifetime of the permission. Other potential impacts relating to dust, litter and odour should also be controlled.

Environment Agency: no objection and no comments

Macclesfield Civic Society – Bearing in mind the history of proposals for this and other sites in the area (dating back to the 1970s) it is important to try and strike a reasonable balance between operation of the activity (which provides a valuable service to the town) and the reasonable expectations of nearby occupiers within the existing residential area. No doubt the Council will carefully assess the impact of traffic flow and noise with the imposition of suitable planning conditions where necessary.

VIEWS OF THE PARISH / TOWN COUNCIL - no comments received

OTHER REPRESENTATIONS

In excess of 39 letters have been received objecting on the following grounds:

- Adverse impact on residents enjoying outdoor space due to noise and disruption
- Noise assessment is flawed, conclusions drawn are incorrect
- Impacts on residential amenity in terms of noise, disruption, dust and odour from increased vehicle movements on highway and on site, and increased site activity
- Additional odour over extended timescales
- Increased hazard to vulnerable road users
- Additional litter
- Increased traffic on local residential roads unsuitable for this nature of vehicle
- No justification/need and no explanation why existing arrangements are not sufficient
- Potential for further increases in hours or vehicle numbers in future
- Potential for pollution and contamination to soils, and impact on future site redevelopment
- Breaches of existing conditions frequent; potential for further breaches of planning conditions
- Submission is inconsistent
- Potential vibration to residential properties
- Concern over Cheshire East councils interest in the application and ensuring fair assessment of the application
- No other business allowed to operate on bank holidays
- Potential for vermin
- Red line will prevent vehicle manoeuvring on site
- Overshadowing of gardens from vehicle passing

OFFICER APPRAISAL

Sustainability

The proposed development should be considered against the National Planning Policy Framework (NPPF) which identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

Economic Sustainability

Sustainable Waste Management

One of the key principles in waste policy at a national and local level is the sustainable management of waste with priority given to prevention, preparing for re-use, recycling, recovery and disposal as a last resort. NPPW requires communities to be able to take responsibility for their own waste, with waste managed as far as possible in accordance with the proximity principle. Appropriate waste management facilities should be sustainably located to avoid the carriage of waste over long distances and the NPPW requires waste management to be considered alongside other spatial planning concerns, including transport and economic growth, recognising the positive contribution that it can make to the development of sustainable communities.

The Cheshire East Municipal Waste Management Strategy (WMS) identifies that the authority was responsible for the management of 179,646 tonnes of municipal waste in 2013/14 and whilst 53% was recycled, composted or re-used, 41% was sent to landfill. An objective of the WMS is to reduce the level of landfilling to zero. The proposal would enable waste to be bulked up for onward transportation to a recycling facility, thereby contributing to the

management of waste in accordance with the waste hierarchy and assisting in meeting the WMS objectives.

It is noted that there are few waste transfer facilities located in the north of the authority, and the provision of additional capacity to accommodate bulking up of co-mingled waste for recycling from the Macclesfield area on bank holidays would accord with the proximity principle, and would avoid unsustainable waste movements in transporting it to an alternative facility in the south.

The applicant has submitted a letter of support from Ansa Environmental Services Ltd who identify that the current arrangements result in the need for additional collection vehicles and drivers, and has additional financial implications. The applicant makes the case that this proposal would allow for more cost effective waste management.

The direct and indirect sustainability benefits arising from the application in respect of providing further capacity within the Macclesfield urban area for the bulking up of recycled waste, compliance with waste hierarchy and proximity principle, and the sustainable transportation of waste are considered to accord with the approach of NPPW and CRWLP policy 1.

Environmental and Social Sustainability

Impacts on amenity - noise

CRWLP requires the full direct, indirect and cumulative impacts of development to be evaluated, along with appropriate mitigation (policy 12), and where there would be unacceptable levels of noise pollution, permission will not be granted (Policy 23). Policy DC3 of MBLP also states that proposals should not injure the amenities of adjoining or nearby residential properties due to matters which include impacts from noise and vibration.

In considering proposals, Local Planning Authorities should consider the likely impact on the local environment and on amenity against criteria identified in the NPPW which includes (in respect of noise) the proximity of sensitive receptors. It identifies that the 'operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not managed'.

The NPPF also seeks to avoid noise from new development giving rise to significant adverse impacts on health and quality of life but recognises that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

The application site has been operating as a commercial business for a number of decades. Residential development has brought properties within close proximity of the site; particularly to the north on Whiston Close/Sheldon Drive (which have private gardens backing onto the site and first floor views over the yard area). In granting permission for residential development on the northern boundary of this industrial use, it must be assumed that the impact of its continued use on residential amenity was considered acceptable at that time.

The Environmental Health Officer has reviewed the noise assessment submitted and considers that background levels at the most sensitive residential properties are likely to be lower than those identified, less attenuation is likely to be provided by the site boundary fencing than assumed in the report; and impulse noises would be more perceptible than stated. As such it is concluded that the noise levels during these periods would be likely to be in excess of 10 dB(A) over background levels, and would at best be 'clearly perceptible' and be an indication of a 'significant adverse impact' at the closest sensitive receptors.

Whilst the impacts are temporary (10 days over a 2 year period) and no waste processing is proposed during these times; it would prolong the period when residents are subject to noise impacts associated with vehicle movements and on-site activity from unloading, moving waste using loading shovels and vehicle manoeuvring. This would be on days when there are lower background noise levels and more residents likely to be at home. The Environmental Health Officer notes that noise levels generated during existing permitted hours are not dissimilar to those generated by this proposal; and there is a history of noise related complaints which indicates that such noise levels could be considered as an annoyance to residents; and the level of complaints is a further indication that there is little capacity for any increase in the frequency of site activity without a negative impact on residential amenity.

The Environmental Health Officer concludes that noise impacts generated by this proposal would cause significant adverse noise impacts and disturbance to nearby residential properties on bank/public holidays which would not be acceptable at this location due to the levels and nature of noise, the close proximity of residential housing and the need for respite from existing operations. Given these conclusions it is not considered that the proposal would accord with the NPPW and NPPF, and would conflict with policies 12 and 23 of CRWLP, and policy DC3 of MBLP.

Impacts on amenity – dust and odour

NPPW is clear that planning authorities should consider the likely impact of waste development schemes on the local environment and on amenity, but should work on the assumption that the relevant pollution control regime will operate effectively. There is potential for odour and dust impacts to arise from waste handling/storage and manoeuvring of vehicles during the extended hours of operation. The operation of the site is controlled by an environmental permit which ensures that appropriate measures are employed to prevent and minimise pollution so as to not endanger human health or harm the environment. This includes controls on the receipt, handling and storage of waste to limit impacts of matters as mud, debris, odour and dust creation. Equally planning conditions could be imposed to ensure these matters do not cause any detrimental impact to residential amenity or the environment. This would accord with the approach of NPPW and CRWLP, particularly policies 12, 24 and 26.

Compliance with policy 29

The normal permitted hours of operation for waste management facilities are 0730 to 1800 Mondays to Fridays; 0730 to 1300 Saturdays with no working at any time on Sundays or Bank Holidays (Policy 29 of CRWLP). In exceptional circumstances, longer working hours may be permitted under this policy, provided there are no consequent unacceptable impacts and

there is demonstration of the mitigation methods to be used to minimise any impacts arising from such extended hours.

It is noted that there are few waste transfer facilities located in the north of the authority and the operation of this site on bank holidays prevents the carriage of waste over long distances. The sustainability benefits identified above in terms of proximity principle and according with the waste hierarchy are also noted and a case could be made that these amount to such exceptional circumstances required by the policy. Despite this, the policy is clear that there should be no consequent unacceptable impacts arising from the longer working hours; and this has not been demonstrated, nor has any mitigation been identified which would minimise the noise impacts to an acceptable level. On the basis of the noise impacts highlighted above, it is not considered that the proposal would accord with this policy.

Highways

The proposal would result in an additional 34 RCV movements (17 in, 17 out). Policy 28 of CRWLP requires new development to demonstrate that the level and type of traffic generated would not exceed the capacity of the road network or raise any concerns over highway safety; similarly policy 12 states that if the Local Planning Authority consider that the proposal would have any unacceptable impacts on (amongst others) highway management and safety the application will not be permitted. The proposal would equate to, on average approximately 7 vehicle movements an hour. The Highways Officer does not consider that this level of vehicle movements would have a material traffic impact on the adjacent or wider highway network. On this basis, no unacceptable impacts are anticipated on the highway network and as such the proposal is considered to accord with policies 12 and 28 of CRWLP and the approach of the NPPW which requires there to be consideration of the suitability of the road network.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the material planning considerations raised are addressed within the individual sections of the report.

PLANNING BALANCE

The NPPW identifies that planning plays a pivotal role in delivering the country's waste ambitions through the development of sustainable development and resource efficiency by driving waste management up the waste hierarchy. The NPPW should be read in conjunction with the NPPF; and all local authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

In accordance with paragraph 14 of the NPPF, applications should be considered in the context of the presumption in favour of sustainable development. It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes "sustainable development" in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case the development would provide a range of benefits in terms of sustainable waste management, in respect of providing increased capacity for bulking up recycled wastes on bank holidays which helps to contribute to WMS objectives and management of waste in accordance with the waste hierarchy. Equally a facility in this location serving waste generated from Macclesfield area would accord with the proximity principle and avoiding the unsustainable movement of waste to alternative facilities elsewhere which accords with the objectives of the WMS and the broad approach of the NPPW and CRWLP.

Balanced against these benefits must be the significant adverse impacts on residential amenity arising from the delivery and unloading/handling of waste during the extended hours of operation.

On the basis of the above, it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan. Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits. Accordingly it is recommended for refusal for the reasons set out below.

RECOMMENDATION

REFUSE for the following reasons:

- 1. The hours of operation proposed would result in significant adverse impacts on residential amenity due to noise disturbance associated with the delivery, receipt and handling of waste. This is contrary to policies 12, and 23 of the Cheshire Replacement Waste Local Plan; as well as policy DC3 of Macclesfield Borough Local Plan; paragraph 7 of NPPW and paragraph 123 of NPPF.**
- 2. The proposed hours of operation do not conform with those stipulated in the development plan and would result in unacceptable impacts on residential amenity due to noise disturbance. This conflicts with policy 29 of the Cheshire Replacement Waste Local Plan.**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

