

Application No: 12/1445N

Location: Whittakers Green Farm, Pewit Lane, Bridgemere, Cheshire.

Proposal: Application to remove condition 11 of permission 7/P04/0124, condition 7 of permission 7/2006/CCC/11, condition 7 of permission 7/2007/CCC/7 and condition 7 of permission 7/2009/CCC/1.

Applicant: MR F H Rushton

Expiry Date: 14 – July - 2012

**SUMMARY RECOMMENDATION:**

**That the Committee endorse the view that the application would have been APPROVED subject to the replication of conditions on consents 7/P04/0124, 7/2006/CCC/11, 7/2007/CCC/7, 7/2009/CCC/1 aside from that being varied by this application.**

**MAIN ISSUES**

**Impact on Public Rights of Way  
Impact on Grade II Listed Building**

**BACKGROUND**

This application seeks to remove condition 11 of permission 7/P04/0124; and conditions 7 of permissions 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1 all of which restrict the export of compost from Whittakers Green Farm compost facility. The application was taken to Strategic Planning Board on 12<sup>th</sup> September 2012 with a recommendation for approval. Members resolved that the application be deferred for the following reasons:

- To assess the impact of the proposal on the public right of way;
- To assess the impact of the proposal on the Grade II listed building.

The applicant has subsequently lodged an appeal against non-determination and the application will now be determined at appeal by an Inspector.

Despite that, it is still necessary that the Committee consider what determination it would have reached in respect of the application. The reason for this is that the Council must decide whether or not it wishes to contest the appeal. In the event that the Committee decide it would have refused the application, it must give clear and precise reasons why it would have done so, and these reasons would form the basis of the case upon which the Council would contest the appeal. Should Committee decide that the application would have been approved, it must also give clear and precise reasons why it would have done so, but would not then contest the appeal.

It is generally accepted that failure to seek the committee's resolution on the application, with the case for the Authority relying on officer level views, will result in less weight being given to the Authority's case and there may be possible cost implications.

It is recommended that this report is read in conjunction with the Committee report, update report and the resolution of Strategic Planning Board on 12<sup>th</sup> September in respect of this application, all of which are attached in Appendix A to this report.

As a point of clarification, Members should note that the applicant has applied to vary 4 consents namely 7/P04/0124; 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1. All of these are extent consents for composting at the site. It is important to note that the applicant did not apply to vary the latest consent 11/3389N which approved a variation to 7/2009/CCC/1 to permit extended hours of operation as follows:

March to October:

0800-1800hrs Monday to Friday  
0800-1200hrs Saturday.

November to February:

0900-1500 Monday to Friday  
0800-1200hrs Saturday.

No importation of green waste taking place outside these times or on Sundays.

0830 to 1600 Bank/Public Holidays with no operations on Christmas Day, Boxing Day or New Years Day.

The corresponding condition on 11/3389N restricts vehicle movements to the site as follows:

Between 1 April and 31 October:

- A maximum of 40 (20 in, 20 out) on any one day Monday – Friday;
- A maximum of 18 (9 in, 9 out) on Saturday mornings (between 0800 and 1200)
- A maximum of 10 (5 in, 5 out) on Bank or Public Holidays (between 0830 – 1600)

No green waste vehicle movements on Sundays.

Between 1 November and 31 March:

- A maximum of 32 (16 in, 16 out) on any one day Monday to Friday.
- No green waste vehicle movements on Saturday or Sunday
- A maximum of 10 (5 in, 5 out) on Bank or Public Holidays

As such, should the appeal be granted by PINS, the applicant would only have consent to export compost from the site under the scope of these four extant consents as follows:

- 7/P04/0124 – where there were 10 vehicle movements (5 in and 5 out) between the hours of 0800 to 1800 Monday to Friday and 0800 to 1200 Saturdays.
- 7/2006/CCC/11 and 7/2007/CCC/7 – where there were 10 vehicle movements (5 in and 5 out) between hours of 0800 to 1800 Monday to Friday; 0800 to 1200 Saturdays; and 0830 to 1600 Bank/Public Holidays.
- 7/2009/CCC/1:
  - From April to October:  
Where there were 40 vehicle movements (20 in and 20 out) between the hours of 0900 to 1500 Monday to Friday; 18 movements (9 in and 9 out) on Saturday from 0900 to 1200; with no movements on Bank/Public Holidays.
  - From November to March:  
Where there were 32 vehicle movements (16 in and 16 out) between the hours of 0900 to 1500 Monday to Friday, with no vehicle movements on Saturday, Sunday or Bank/Public Holidays.

## **OBSERVATIONS OF CONSULTEES (in addition to those listed in the original committee report)**

### **Views of Public Rights of Way**

There are no specific grounds for objection to this application in terms of how it affects parts of Public Footpaths no. 4, 16 & 22 Hunterston. However, following a site visit we would like it to be noted that the condition of the surface of the footpaths are deteriorating and becoming pot holed from vehicular traffic. There is a course for redress to the surface issues through enforcement under the Highways Act.

Whilst the size of the vehicles in use could pose a potential safety issue for pedestrians where the access track and footpaths coincide, because of the number of vehicular movements (20 per day), it is felt this is sufficiently low to make the risk negligible in these circumstances.

### **Views of Built Heritage**

The proposed route down the track to the application site passes a range of traditional brick outbuildings within the curtilage of Pewit House which is a Grade II listed building. The outbuildings are included within the listing of Pewit House, by virtue of the fact that they would have been present within the curtilage of Pewit House prior to 1948.

### Wider context and setting:

Pewit House is a sixteenth century timber framed building with brick infill panels lying in the open countryside. It is set back off Pewit Lane and has a courtyard to its foreground. The courtyard is enclosed by a group of traditional one to two storey brick outbuildings in an L shape plan which back onto Pewit Lane and the track to the application site.

The two storey wing of this group of outbuildings lies immediately adjacent to the track to the application site and is separated from the track by a narrow grass verge. The part one to two storey group of outbuildings is set back off Pewit Lane and has a wider grass verge separating it from Pewit Lane.

### Assessment of proposal

The Supporting Statement indicates that vehicular movements from the site will not be increased, as the vehicles which currently deliver compost will take away the composted materials when leaving the site.

There are no size restrictions on the existing planning permission and the current proposals do not specify the size of vehicles proposed.

It is therefore difficult given the above to quantify the impact of the current proposals on the outbuildings both in terms of the impact of potential vibrations on their structure or in the event of actual damage caused by the physical impact of a passing vehicle touching the outbuildings, in the event that they use heavier/wider vehicles.

The outbuildings are however all brick built and fairly substantial and the presence of the grass verges should serve to distance the vehicles from the buildings and hence mitigate against potential damage resulting from vibrations or physical impact to a degree dependent upon the width of the verges. The protection afforded to the two storey outbuilding located by the narrow grass verge adjacent to the track to the application site will of course be more limited in this respect.

Whilst the current application may not intensify the use already permitted, it might be possible to condition the approval to restrict the size of vehicles to be used, to guard against further noise or potential damage to adjacent buildings as a result of vibrations or impact.

### Conclusions:

Is proposal acceptable and justified: Yes, provided the current proposals do not intensify the use already permitted.

### Recommended conditions:

- size, width and number of vehicles should not exceed the those currently in use, to mitigate against potential damage resulting from an increase in vibrations or impact;
- vehicle movements should remain restricted to daylight hours, to mitigate against potential impact damage or an increase in noise.

### **OFFICER APPRAISAL**

## **Main Issues**

The Committee deferred consideration of the application in order to assess the impact of the application on public right of way, and on the Grade II listed building. These issues are considered in turn.

### **Impact on public right of way**

CRWLP policy 20 requires applications to demonstrate that they would not have an unacceptable impact on public rights of way. Equally policy RT9 of CNBLP state that permission will not be granted for any development which would prejudice public access onto or through the network unless specific arrangements are made for suitable alternative routes.

Footpath FP22 runs north from the application site along the existing access track for approximately 420m to the junction of Pewit Lane. Footpath FP16 then follows the route of the access track west from this junction for approximately 200m, and further north footpath FP4 runs along the access track for approximately 250m.

Consent was first granted for the compost facility in 2004 (7/P04/0124) which utilised the existing access track from the application site to Pewit Lane. The impact of the green waste vehicles on users of footpath FP22 was considered acceptable at the time of granting consent and no objections were raised by public rights of way officers. No restrictions on vehicle sizes were imposed on the original consent.

In considering the impact of the new access track on users of footpaths FP16 and FP4 (consent 7/2008/CCC/7), no objections were raised by the public rights of way officer to the application and no vehicle size restrictions were imposed on the subsequent consent. Likewise no objections were raised by the public rights of way officer regarding the impact on footpath users to the subsequent application to increase vehicle movements to 40 a day (20 in and 20 out). The application was considered acceptable and no vehicle size restrictions were imposed on the consent.

This application proposes to remove one condition prohibiting export of compost from the site. All other controls on the consent would remain in place. Whilst it is acknowledged that this could result in larger vehicles using the access track, there are currently no conditions restricting the size of vehicles accessing the site. Therefore under the scope of the existing consents, the operator can accept vehicles of any size provided the restriction on numbers is adhered to. This application would not change that situation. The impact of vehicles on footpath users has already been considered acceptable through the various consents on the site and no restrictions on size of vehicles have previously been considered necessary.

It is also noted that the operator would only be permitted to export compost from the site under the hours and vehicle restrictions as set out in the extant consents that are being varied. Therefore, this would further limit any potential conflict with pedestrians, as the export would either be undertaken between the more limited hours of 0900 to 1500 than the site currently operates, or else in accordance with consents 7/2006/CCC/11 and 7/2007/CCC/7, there would be only 5 vehicles that could export compost from the site between 0800 and 1800 Mondays to Fridays. Thus he would not be permitted to export compost from the site utilising the extended hours and associated larger vehicle numbers granted under 11/3389N.

The Inspectors report into application 10/2984W acknowledges that the average size of loads would increase, which would materially alter the character of traffic associated with the site. However, he concludes that concerns raised regarding HGVs using the local roads being intimidating and giving rise to a fear of accidents would not be sufficient on their own to justify withholding planning permission. The views of the public rights of way officer are also noted. They do not consider there are grounds for objection in terms of the effect on the public right of way and note that, whilst the size of vehicles could pose a potential safety issue for pedestrian where the track and footpath meet, the safety issue is sufficiently low to make the risk negligible.

On the basis of:

- the planning history of the site,
- the views of the public right of officer,
- the previous Inspectors appeal decision,
- and the fact that there is no current restriction on the size of HGVs which can access the site under the scope of the present consent

It is not considered that this proposal would present an unacceptable impact on public rights of way or prejudice public access on the network over and above that which is already created by the existing activities at the site. As such, the scheme is not considered to conflict with Policy 20 of CRWLP, or Policy RT9 of CNBLP.

### **Impact on grade II listed building**

The access track serving the application site passes Pewit House, a Grade II listed building situated on the junction of Pewit Lane. It is a sixteenth century timber framed building with brick infill panels which is set back from Pewit Lane by a courtyard to its foreground. The courtyard is enclosed by a group of traditional one and two storey brick outbuildings which lie within the curtilage of the listed building. The outbuildings are included within the listing by virtue of the fact that they would have been present within the curtilage of Pewit House prior to 1948.

The two storey wing of the outbuildings lies immediately adjacent to the access track serving the application site and is separated from the track by a narrow grass verge. The part one to two storey group of outbuildings have a wider grass verge separating them from Pewit Lane.

Planning Policy Statement 10 states that consideration should be given to the impacts of waste management proposals on the historic environment and built heritage, particularly with regards to any adverse effect on listed buildings. Corresponding policies in CRWLP require the full impacts of proposals on the historic environment to be evaluated, and mitigation identified to avoid, reduce or remedy unacceptable impacts (Policy 12). Regard should be given to the effect that a development will have on a listed building and its setting. Where there would be unacceptable impacts on a listed building, the development should not be approved (policy 16). The NPPF also provides for a similar level of protection for listed buildings and states that regard should be given to the desirability of sustaining and enhancing the significance of heritage assets.

As noted above, the site has always been operated on the basis that it uses the access track to Pewit Lane and thus vehicles must pass the listed building to reach the highway. The subsequent consents to increase vehicle numbers were also granted on the basis that vehicles entering and leaving the site will pass the listed building. The impact on the listed building was considered acceptable at the time of granting the original consent, and no restrictions have ever been imposed on vehicle sizes in order to address any concerns over impacts on the listed building across the other subsequent consents.

Given there is no increase in vehicle movements proposed, no vehicle size restrictions currently in place on the extant consents and no certainty over the size of vehicles associated with exporting compost, the Built Heritage Officer considers that it is difficult to quantify the impact on the listed building associated with potentially larger vehicles accessing the site. However, the officer notes that the outbuildings are brick built and considered to be of fairly substantial construction. In addition there is a grass verge separating the building from the access track which is considered to provide a degree of mitigation against potential for damage from passing vehicles. Overall the officer considers the proposal to be acceptable, provided the proposals do not intensify the use already permitted.

It is not considered that this proposal would generate any change in the nature or intensity of impact on the listed building over and above that already provided under the extant consents. The impacts of up to 40 vehicle movements (20 in and 20 out) passing the listed building have already been considered acceptable. There is no increase in vehicle numbers proposed, and whilst the proposal could lead to larger vehicles using the access track, this remains within the scope of the existing consent. Given these points, it is considered that the application does not conflict with Policies 12 or 16 of CRWLP, or the approach of PPS10 and the NPPF.

The recommendations of the Built Heritage Officer relating to the imposition of planning conditions to ensure the size, width and number of vehicles do not exceed those currently in use; and vehicle movements remaining restricted to daylight hours are noted. The existing conditions restrict the number of vehicles and hours of operation. In respect of controlling the nature of vehicles used, no restrictions were imposed on any of the extant consents. As such, it is not considered that imposition of such conditions would be justified given that the proposal would not generate any change in the nature or intensity of impact on the listed building over and above that already provided under the extant consents. Furthermore, the legislation concerning variations to conditions (s73 of the Act) restricts planning authorities from unacceptably altering the nature of the permissions or imposing more onerous conditions than originally granted. The imposition of restrictions on the size of vehicles accessing the site is considered to potentially go beyond the controls of the legislation and is not considered appropriate in this case.

## **CONCLUSIONS**

Based on:

- the views expressed by the technical officers,
- in light of the previous appeal decision and planning history on the site,
- the current scope of the existing consent

It is considered that the scheme would not present any unacceptable impact on public rights of way or prejudice public access on the network over and above that which is already created by the existing activities at the site. As such, the scheme is not considered to conflict with Policy 20 of CRWLP, or Policy RT9 of CNBLP.

It is not considered that this proposal would generate any change in the nature or intensity of impact on the listed building over and above that already provided under the extant consents. On this basis, it is considered that the application does not conflict with Policies 12 or 16 of CRWLP, or the approach of PPS10 and the NPPF.

In the light of the above, it is considered that Member's previous concerns and queries which led them to deferral of the application have been adequately addressed. It is therefore recommended that Committee endorse the view that application 12/1445N would have been approved subject to replication of all existing planning conditions of 7/P04/0124, 7/2006/CCC/1, 7/2007/CCC/7 and 7/2009/CCC/1 with the exception of that being varied by this application, and instruct the Head of Development to make representations to the Planning Inspectorate accordingly in respect of the forthcoming appeal against no determination.

## **RECOMMENDATION**

**That the Committee endorse the view that the application would have been APPROVED subject to the following:**

- **Replication of all conditions on consent 7/P04/0124, 7/2006/CCC/1, 7/2007/CCC/7 and 7/2009/CCC/1 with the exception of those conditions being removed by this application.**



## **APPENDIX A**

### **Strategic Planning Board Committee Report 12<sup>th</sup> September 2012**

Application No: 2/1445N

Location: WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CHESHIRE, CW5 7PP

Proposal: APPLICATION TO REMOVE CONDITION 11 OF PERMISSION 7/904/0124, CONDITION 7 OF PERMISSION 7/2006/CCC1, CONDITION 7 OF PERMISSION 7/2007/CCC7 AND CONDITION 7 OF PERMISSION 7/2009/CCC1

Applicant: MR F H RUSHTON

Expiry Date: 14-Jul-2012

#### **SUMMARY RECOMMENDATION: Approve**

#### **MAIN ISSUES**

**Impact on Living Conditions of Local Residents**

#### **REASON FOR REPORT AND NATURE OF APPLICATION**

Due to the site area, this application is considered to be a major waste application and should therefore be determined by the Strategic Planning Board in accordance with the established terms of reference.

#### **DESCRIPTION OF SITE**

The application site is an existing green waste composting facility, located within the open countryside, approximately 8.5 miles south east of Nantwich and a kilometre south of Hunsterson.

The surrounding countryside is slightly undulating, divided into medium sized fields utilised for arable production.

There are a number of isolated properties and farm units widely spaced surrounding the compost site. The nearest residential property, Fox Moss, is 230 metres to the north east of the site, with Pewit House a further 200 metres away to the north east. The Uplands lies 440 metres and Whittakers Green Farm is located 470 metres to the north of the application site. Woodend is 350 metres to the east of the site, and Woodfall Hall Farm is 670 metres to the south west.

The site has a weighbridge and small office and on-site facility building at its entrance. The reception of waste, shredding, composting and storage takes place upon a large sealed concrete pad.

Hunsterson Footpath No. 22 lies immediately on the eastern and southern boundary of the compost site.

## **SITE HISTORY**

The site has been operational for approximately 8 years. The original application (7/P04/0124) granted in 2004 established the use of the land for the composting of green waste, with the compost being spread on the applicants farm unit. Further consents have been granted over time, the most relevant being:

- **December 2006** application ref.7/2006/CCC/11 was approved for variation of condition 13 of permission 7/P04/0124 to allow importation of green waste on Bank Holidays except for Christmas. All conditions of 7/P04/0124, except those previously discharged, were replicated.
- **June 2007** application ref.7/2007/CCC/7 was approved for extension to the compost storage pad. Previous conditions were again replicated.
- **March 2009** application ref.7/2008/CCC/7 was approved for new access track to join Bridgemere Lane to Whittakers Green Farm and the compost site (and hence avoid the use of Pewit Lane) subject to legal agreement regarding routing.
- **July 2008** application ref.7/2008/CCC/9 was refused for variation of condition 14 of permission 7/P04/0124 to increase green waste vehicle movements from 10 to 40 a day. The subsequent was appeal dismissed **October 2008**. On refusing the appeal the Inspector considered that the increase in vehicle movement would generate a level of traffic which would be unsuitable on the local highway network and which would harm the safe movement of traffic on the local roads. It would also have an unacceptable impact on local communities and the local environment with regards to increased noise and disturbance contrary to Policy 28 of the Cheshire Replacement Waste Local Plan (CRWLP).
- **March 2009** application ref.7/2009/CCC/1 was approved as a resubmission of application to vary condition 14 of permission 7/P04/0124 to increase vehicle numbers but provide seasonal variations in maximum vehicle numbers and restricted hours of delivery to avoid conflict with school times.
- **October 2009** application ref.09/1624W approved for retrospective application for improvement and extension of an existing agricultural track for use in association with agricultural and green waste compost operations at Foxes Bank and Whittakers Green Farm. This permission regularised the development that took place to extend the track approved by 7/2008/CCC/7 and to join existing tracks.
- **November 2010** Applications ref.10/1005N and 10/2251N were refused for a broadening of the definition of green waste imported at the site and an allowance for a quantity of contaminated waste to be imported. The subsequent appeals (APP/R/0660/C/09/2140836 and 2141878) were allowed on the grounds that it would not cause unacceptable effects on the visual amenity of the surrounding area, on neighbouring land uses by reason of matters including noise, air quality, odour, dust, human health, water quality, litter and visual intrusion.
- **June 2011** application ref.10/4485N was refused for variation of condition 9 of 7/2009/CCC/1 to amend hours of working to resort back to that previously approved prior to the increase in vehicle numbers permitted. Application refused as being contrary to Policy 28 of CRWLP. In particular having an unacceptable environmental

impact on the safe movement of traffic on local roads and villages in the area and the arrival and departure of vehicles and people at local schools.

- **January 2012** application ref.10/2984W – removal of conditions to enable export of waste from the site. Appealed against non-determination. Appeal dismissed due to the harm that the proposal would cause to the living conditions of local residents, with particular reference to noise and disturbance.
- **May 2012** application ref.11/3389N was approved as a resubmission of variation of condition 9 of 7/2009/CCC/1 to amend hours of working to resort back to that previously approved prior to the increase in vehicle numbers permitted, with slight variations to winter operational hours.

Enforcement Appeal; APP/Z0645/C/09/2098882

- **January 2009** enforcement notice was served for the alleged change of use to a waste transfer station operation including mixed waste being brought on site. The Notice was appealed and the appeal dismissed. A subsequent appeal to High Court was also dismissed.

## DETAILS OF PROPOSAL

The application seeks the removal of condition 11 of 7/P04/0124; and conditions 7 of permissions 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1; all of which state:

*'No compost shall be exported from the area edged in blue....'. The area edged blue being the farm unit.*

The reason for the conditions is to:

*'control the scale of the development, in the interests of residential amenity and to comply with Policy R7 of the Cheshire Replacement Structure Plan, Policies 7 and 12 of the Cheshire Replacement Waste Local Plan, Policy BE1 of the Crewe and Nantwich Replacement Local Plan and Policy DP 7 of the RSS'.*

These policies seek to protect amenity, promote environmental quality, control the impact of development and ensure correct location of facilities.

It is stated in the planning statement that the intensity of operations at the site is currently controlled by restricting vehicle movements to and from the site and the size of the composting pad. The applicant wishes to export compost, whilst at the same time adhering to current vehicle restrictions imposed on consent 7/2009/CCC/1. The applicant envisages compost being exported from the site in the same vehicles used for importation of green waste.

This application seeks to address the concerns raised by the Inspector at appeal into application 10/2984W, which also considered the principle of permitting export of compost from the site. Specifically, it seeks to address the concerns raised regarding the potential noise and disturbance impacts associated with export of compost from the site on local residents close to the site access track. As such, the applicant has submitted a noise assessment in support of the application.

## PLANNING POLICIES

**Regional Spatial Strategy**

DP 7 Promote Environmental Quality

EM10: A Regional Approach to Waste Management

**Cheshire Replacement Waste Local Plan (CRWLP)**

Policy 1: Sustainable Waste Management

Policy 12: Impact of Development Proposals

Policy 14: Landscape

Policy 17: Natural Environment

Policy 18: Water Resource Protection and Flood Risk

Policy 20: Public Rights of Way

Policy 23: Noise

Policy 24: Air Pollution; Air Emissions Including Dust

Policy 25: Litter

Policy 26: Odour

Policy 28: Highways

**Borough of Crewe and Nantwich Adopted Local Plan 2011**

BE.1 Amenity

BE.4: Drainage, Utilities and Resources

NE.2 Open Countryside

NE.5 Nature Conservation and Habitats

NE.9 Protected Species

NE.12 Agricultural Land Quality

NE.17: Pollution Control

RT.9: Footpaths and Bridal ways

**National Policy**

Planning Policy Statement 10: Planning for Sustainable Waste Management

National Planning Policy Framework

**Other Material Considerations**

Waste Strategy (2007)

Government Review of Waste Policy in England 2011

**CONSULTATIONS (External to Planning)****The Strategic Highways and Transport Manager**

The conditions being varied by this application currently prevent any exportation of material from Whittakers Green Farm. This application seeks to remove these conditions without increasing vehicular movements with no proposals to the existing operational hours. Some residents have expressed a concern regarding noise, but it is evident that vehicles arriving at this site make less noise full, then when leaving empty. In view of the above, the Strategic Highways and Transportation Manager has no objections to this proposal.

**The Borough Council's Environmental Health Officer**

The application seeks to allow the export of compost from the above site. This would be a move away from the current use where the compost can only be used on the surrounding farm land. Therefore, the amount of on site activity, processing and production of compost and subsequent potential for noise, dust, odour and air quality impacts, were limited by this condition. As the supporting statement accompanying this application clearly points out, the stated reasons for this limit are:

*“to control the scale of the development and to comply with Policy R7 of the Cheshire Replacement Structure Plan” and “to control the scale of the development; in the interests of residential amenity and to comply with Policies 7 and 12 of the Cheshire Replacement Plan...”*

Permission to allow the export of compost would remove this limiting factor and therefore have the potential to increase impacts on the environment, regardless of limits on vehicle movements.

From looking at the noise report, it can be seen that there is very little difference in the noise results of articulated (6 axle) lorries when they are loaded or empty. Hence as these lorries can already access the site loaded, there would be very little difference in the overall noise level, if they were to leave the site loaded, rather than empty. In fact, lorries leaving the site loaded would also reduce the amount of body panel rattle, which can arise from empty vehicles accessing the site. It is also noted that the 2/3 axle lorries would not be used to export compost from the site. Therefore, as there would appear to be no apparent significant increase in noise levels, we do not object to this proposal.

The noise report states that a 2 metre high acoustic fence alongside the eastern boundary of the access road alongside and south of Fox Moss, would provide an additional 13dB(A) of attenuation against vehicle noise. Similarly, a 2 metre acoustic fence immediately south of the access road and opposite The Uplands would provide an additional 13dB(A) attenuation. For the calculations, it has been assumed that it would be a close boarded wooden fence of a surface mass of at least 7.5kg/square metre, immediately adjacent to the access road. Should the Planning Officer feel this additional noise protection is necessary to protect the local residents; then a suitably worded condition needs to be attached to any permission granted.

#### **The Environment Agency**

No comments received

#### **VIEWS OF THE PARISH / TOWN COUNCIL**

None received

#### **OTHER REPRESENTATIONS**

Approximately 33 letters of objection have been received from local residents and an objection on behalf of Bridgemere School. These raise concerns over the following issues.

Amenity:

- Close proximity of the site to residential properties and the school – Concern raised over impacts on local amenity associated with increased on-site activities, including use of more mechanical equipment, potential for increased vehicle movements and potential change in nature of vehicles being used. Concerns particularly relate to the

impacts of noise and disruption, vibration, air pollution including odour and dust, loss of privacy from passing vehicles overlooking gardens;

- Deterioration of tranquillity of countryside;
- Site is not operated with the usual standards of governance;
- impact of large vehicles on grass verges and hedges;

#### Highways:

- Impact of increased vehicles or change in size of vehicles on the condition of local roads;
- Adequacy of local road network for increased vehicles or change in size of vehicles in relation to capacity, road width and visibility;
- Conflict of future site traffic with non-vehicular road users, including pedestrians, cyclists, walkers, horse riders and school users. Particular concern over risk of accidents and potential for intimidation to these users by the larger HGV traffic from the site;
- View of Highways Officer are inconsistent and does not take into account potential change in character of traffic;
- Uncertainty over the current 7.5 tonnes weight limit on Bridgemere Lane;

#### Visual Impact

- Visual impact of stockpiles of material;
- Potential for additional infrastructure/plant/buildings required to facilitate export;

#### Land Use

- Intensification of the site and whether this is appropriate in the open countryside;
- There is no need for export to be permitted on the site;

#### Enforcement:

- Removing this condition means there will be no control over the scale of the development and this is the only condition protecting against harm to the living conditions of local residents;
- Use of same vehicles for import and export cannot be enforced;
- Will result in heavier vehicles being used permanently which cannot be controlled through the consent;
- potential for unauthorised activity on the site concerning vehicle movements, hours of operation, and stockpile heights. Earlier enforcement history on the site also raised as a concern;
- Concern there are factors affecting noise that cannot be controlled by condition including size and type of vehicle, speed of vehicle, potential for convoy of vehicles and frequency of vehicles;

#### Other:

- Potential for increased water pollution
- Council should not treat on-farm and commercial composting impacts differently;
- questioned the adequacy of the noise assessment; in terms of the monitoring undertaken, predictions made, locations used and number/type of vehicles assessed; questioned whether it had taken into account other factors affecting noise generated.
- Concern that noise assessment does not reflect the fact there is already a noise nuisance from the site which will be increased; and that the noise assessment shows

the current noise levels to be comparable to a busy public house operating 14 hours a day;

- Loss of human rights;
- Stockpiles of compost currently on site are in excess of the nitrate vulnerability zone capacity for the farm;
- The new nitrate vulnerability zone regulations will affect how much compost can be spread on the land, and this could affect the Inspectors view on the use of limitations of waste to be imported.

Letters of representation have been received by the local ward member in response to which she has written a letter of objection which is included as Appendix A to this report.

In response to this letter, the agent has also submitted representations. Copies of these submissions are also contained in Appendix A.

### **APPLICANT'S SUPPORTING INFORMATION**

Planning Application Form dated 12<sup>th</sup> April 2012

A Supporting Planning Statement dated April 2012

Noise Report and Assessment

Location Plan

### **OFFICER APPRAISAL**

#### Background

The planning history of the site is of direct relevance to the consideration of the scheme. Consent was first granted in 2004 (ref 7/P04/0124) for the use of the land for green waste composting, which was intended to be used on the applicants farm to assist in obtaining organic status. In granting the consent, a restriction was imposed on the export of compost from the site, stating:

*'No compost shall be exported from the area edged blue on plan 9'.*

The area edged blue was the applicants farm unit.

Subsequent permissions have all replicated this same condition. The stated reasons for the conditions are:

*'to control the scale of the development, in the interests of residential amenity'.*

Whilst application 7/P04/0124 indicated an estimated 10,000 tons of green waste to be imported to the site annually, no restrictions were placed on the consent, or any subsequent consent, in terms of quantities of waste to be imported. However, the site is subject to an Environmental Permit which is regulated by the Environment Agency. Amongst other environmental controls, the permit places a cap on the importation of waste of 75,000 tons per annum.

The current planning permission restricts vehicle movements to the following:

*Between 1 April to 31 October:*

*A maximum of 198 movements (99 in, 99 out) a week; of which no more than:*

- A maximum of 40 (20 in, 20 out) on any one day Monday – Friday;*
- A maximum of 18 (9 in, 9 out) on Saturday mornings (between 0800 and 1200);*
- A maximum of 10 (5 in, 5 out) on Bank or Public Holidays (between 0830 – 1600);*

*No green waste vehicle movements on Sundays.*

*Between 1 November and 31 March:*

*A maximum of 140 movements (70 in, 70 out) a week, of which no more than:*

- A maximum of 32 (16 in, 16 out) on any one day Monday to Friday.*
- No green waste vehicle movements on Saturday or Sunday;*
- A maximum of 10 (5 in, 5 out) on Bank or Public Holidays.*

The reason for this condition is:

*‘To control the scale of the development; in order to safeguard the amenities of both the area and local residents and in the interests of highway safety; and to comply with Policy 28 of Cheshire Replacement Waste Local Plan, and Policy BE.1 of the Crewe and Nantwich Local Plan’.*

The facility has been operational for approximately eight years with all compost being used on the farm unit. Over time, the quality of the compost produced has improved and is now of sufficient standard to confirm to PAS 100 standards as a soil improver. The applicant now wishes to export compost from the site. The planning statement suggests that compost material could be exported using the same vehicles used for the importation of green waste.

The principle of exporting compost from the site has previously been considered at the appeal into application 10/2984W. One of the main issues addressed by the Inspector was the effect of allowing export on the living conditions of local residents, with particular reference to noise, dust, litter, odour and bio-aerosols, and the safety and convenience of highway users.

The Inspectors Report took into account the fact that current restrictions on vehicle movements would remain in force, and that it may not be possible for vehicles importing waste to be used to export compost. He also acknowledged that allowing export would not automatically result in reduced vehicle movements or less material being composted, and that it would be possible for the applicant to increase the size of vehicles accessing the site within the remit of the existing consent. On the basis of these factors, he assessed the application in terms of the scale of the activity likely to result from the proposal; and then whether there would be any implications for the living conditions of local residents, with regard also given in this context to the safety and convenience of highway users.

In the Inspectors opinion, the effect of allowing export on the safety and convenience of highway users was acceptable. However, he did not consider that this outweighed the harm the scheme would cause to the living conditions of local residents. He considered that the change in the character of traffic would materially increase the noise and disturbance experienced by residents located close to the access track, thereby causing unacceptable



harm to their living conditions. This was considered contrary to the aims of CRWLP Policy 12, CNRLP .Policy BE1. For these reasons the appeal was dismissed.

### **Main Issues**

Given the appeal decision on application 10/2984W, the main issue in the determination of this application is whether the further information submitted in respect of noise and disturbance would address the concerns raised by the Inspector regarding the potential harm to those residential properties located close to the access track arising from the change in character of traffic likely to be generated by this scheme.

### **Impact on the living conditions of local residents**

Policy 12 of CRWLP does not permit development which would have any unacceptable impacts. Equally, Policy 23 does not permit proposals which would give rise to unacceptable levels of noise pollution. This approach is supported in CNRLP Policy BE1 which requires new development to be:

- compatible with surrounding land uses;
- not prejudice the amenity adjacent properties by (amongst other things) noise and disturbance or odour; and
- not lead to an increase in air, noise or water pollution insofar as this might have an adverse effect on the other use of land.

At a national level, PPS10 requires schemes to help secure the recovery or disposal of waste without endangering human health and without harming the environment. It states that full consideration should be given to the impacts on the local environment and amenity, with particular regard given to air emissions including dust, odours, and noise and vibration (Annex E of PPS10). Likewise NPPF states that:

*“Planning policies and decisions should aim to:*

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions” (NPPF, page 29, para 123)*

A large proportion of concerns raised by local residents relate to the potential amenity impacts associated with allowing export of compost, especially in relation to increased site activity, and the impact of vehicular traffic on local roads and the access track.

### **Scale of activity**

The Inspector gave full consideration to these issues, particularly in relation to the potential increase in the scale of the activity likely to be generated, and whether there would be any implications for the living conditions of local residents. He noted that the consent does not restrict the amount of green waste imported (although the original application did provide an estimate of 10,000 tons per annum). On the basis of the area of farm land available, it was calculated that approximately 2880 tons per annum of compost could be spread on the land. However, the actual composting rate is currently 5000 tons per annum which equates to 15,000 tons of green waste imported. This is over and above the capacity of the farm land and has resulted in stockpiles of compost around the site.

The Inspector considered that the rate at which the compost can be spread does not

automatically limit compost production but, along with the limit on export, acts as a disincentive to increased importation of waste. Other factors limiting compost production were noted as being:

- time taken to produce PAS100 standard compost;
- the maximum stockpile heights of 3m;
- the useable area of the concrete processing pad.

In the view of the Inspector, the processing capacity of the site would be used more fully should export be permitted. This could result in a significant increase in waste importation potentially up to 36000 tons per annum, with corresponding 9000 tons of compost being exported. He considered that this would increase the number of HGVs accessing the site, along with the average size of loads, materially altering the character of traffic associated with the site.

#### Impact of this change on the living conditions of local residents

The potential for such a material change in the character of traffic accessing the site was then considered in relation to the living conditions of local residents. He noted that the access track serving the site passes a number of residential properties which occupy relatively isolated positions in the open countryside. He considered that these were sensitive to increases in traffic noise associated with the site; and the change in character of traffic would materially increase the noise and disturbance experienced by residents close to the access track. This was deemed to present unacceptable harm to their living conditions.

It is important to note at the time of the appeal and in forming the decision, the Inspector did not have sight of any technical assessment of the noise impacts associated with the scheme.

The noise assessment submitted in support of the application undertook noise monitoring of empty articulated HGVs on an unmetalled section of the access road to the site. The measurements were then used to calculate the maximum predicted noise levels at sensitive receptors. The noise assessment concluded that exporting compost using the existing 20 consented vehicle movements would result in a reduction of up to 4dBA maximum noise level than currently experienced from those lorries leaving the site empty.

The assessment identified that a very noticeable aspect of noise from empty 5 axle HGVs arose from banging and rattling of trailer panels which was not present in HGVs carrying a full load. It noted that certain acoustic features can increase the likelihood of complaint, and the banging and rattling of body panels on the trailers of empty lorries are more likely to attract attention. This could be prevented by allowing the articulated heavy goods vehicles to depart loaded.

Overall, the assessment concludes that permitting export of compost from the site would not result in an increase in noise levels from the situation as currently permitted. If anything the situation would be improved by reducing the amount of body panel rattle experienced from empty vehicles.

Some deliveries to the site are made by refuse vehicles that collect green waste from households in Cheshire East. These are either 2 or 3 axle rigid heavy goods vehicles. The maximum noise levels produced by these vehicles is little different whether or not they are

loaded or empty and they produced no evident body panel rattle. This type of vehicle would not be suitable for exporting compost from the site.

The Environmental Protection Officer has considered both the noise assessment submitted, and the concerns raised by local residents, particularly in relation to the adequacy of the technical assessment.

They consider that the restriction on export limits the amount of on site activity, processing and production of compost and subsequently, the potential for noise, dust, odour and air quality impacts. They also acknowledge that removing this restriction has the potential to increase impacts on the environment regardless of limits on vehicle movements. However, the officer notes that there is very little difference in the noise results of articulated (6 axle) lorries when they are loaded or empty. Hence as these lorries can already access the site loaded, there would be very little difference in the overall noise level, if they were to leave the site loaded, rather than empty. In fact, lorries leaving the site loaded would also reduce the amount of body panel rattle, which can arise from empty vehicles accessing the site. It is also noted that the 2/3 axle lorries would not be used to export compost from the site. Therefore as there would appear to be no apparent significant increase in noise levels, no objection is raised.

In relation to the concerns expressed by local residents relating to the scope of the noise assessment, the Environmental Protection Officer considers that the noise assessment submitted adequately assesses the potential noise impacts generated by the scheme. They consider the scope of the assessment is acceptable given the nature of the application and issues raised by the Inspector. In particular, the following points are noted with regards to issues of concern raised by local residents:

- background noise readings used include normal operational noise from the site as the scope of the assessment is to assess the impact of export of compost on a normal working day;
- the report does include a number of readings with only the machines operating on the site;
- whilst the report cannot replicate the full effect of export, the assessment used full vehicles arriving at the site to try and estimate the noise level generated by full vehicles used in export as the material being brought to the site is similar to that being exported.
- Concern was raised over readings monitoring a single vehicle rather than a number arriving and unloading at the same time. It is considered that if a number of vehicles leave and arrive at the same time, there would be less individual noise emissions hence reducing the overall noise level through the day which will have a beneficial effect on the noise. It should also be noted that where multiple noise sources are added together, it is on a logarithmic scale so would not necessarily result in a material impact on the noise level in the area.
- The report makes reference to noise levels from a range of lorries with 2, 3, 5 and 6 axles and for the purposes of the noise calculation the worst case was taken as set out in section 3.3 of the report.

- Whilst only one monitoring location was used, this is an accepted approach. This enabled a reference noise level to be obtained, which was at the point where the noise levels would have been at their highest, hence using the worst case scenario.
- The speed of lorries is a factor which needs to be taken into account. However in this situation, their speed is limited to the type and length of the track, and is not considered to affect noise levels on the site.

Whilst one of the principle concerns raised by residents relates to the potential for unacceptable amenity impacts associated with noise and disruption arising from this scheme, this is an operational waste management facility which, in carrying out normal activities, will generate some degree of noise and disruption. The Inspector dismissed the appeal on the basis that the change in character of traffic resulting from the scheme could materially increase noise and disruption to local residents, thereby causing unacceptable harm to their living conditions. This view was taken without the benefit of a technical assessment of the impacts of noise from the scheme on the local sensitive receptors.

On the basis of the noise assessment submitted, and the views of the Environmental Protection Officer, it is not considered that there is sufficient evidence to demonstrate that this scheme would result in a material increase in noise and disruption experienced by residents located close to the access track which could causing unacceptable harm to their living conditions. On balance, it is not considered that the scheme would not conflict with the aims of CRWLP Policy 12 and Policy 23; and CNBLP Policy BE1 and NE17, the approach of PPS10 or NPPF.

Whilst no material increase in noise and disruption is anticipated by this scheme, the submitted noise report does calculate that a 2 metre high acoustic fence alongside the eastern boundary of the access road alongside and south of Fox Moss would provide an additional 13dB(A) of attenuation against vehicle noise. Similarly, a 2 metre acoustic fence immediately south of the access road and opposite The Uplands would provide an additional 13dB(A) attenuation. Whilst not being required to provide direct acoustic mitigation, this additional noise protection could go some way to alleviating the fear of noise associated with the proposal. The provision of this mitigation could be secured by suitable planning condition. In addition, a planning condition could be used to ensure all vehicles exporting compost from the site are suitably sheeted to minimise dust and ensure no debris is deposited on the highway.

### Other issues

#### *On-site activity*

A large number of objections to the scheme raised concerns over the potential intensification of the site and increase in on-site activity. Significant concerns have also been made in relation to the impacts associated with potential change in character of traffic on the safety and convenience of highway users. These issues were considered previously by the Inspector when assessing the impact on the living conditions of local residents.

In relation to on-site activity, concerns expressed in representations to the application relate to the potential increase in amenity issues arising from the site, including increased noise and vibration, dust, odour, bio-aerosols and overall impacts on health. The Inspector considered that the proposal would increase the likelihood of the processing capacity of the site being

utilised to the full. However, he acknowledged that the composting process and emissions are subject to controls under the Environmental Permit. PPS10 and NPPF make it clear that the planning system should not concern itself with the control of pollution which are a matter for the pollution control authorities. Whilst the annual throughput would be likely to increase as a result of the proposal, no changes to the composting process were anticipated by this scheme. Given the safeguards provided by the Permit, and the absence of evidence to suggest that existing site operations have caused significant problems, the Inspector considered it unlikely that the on site activities as a result of this proposal would present unacceptable impacts on residential amenity associated with noise, dust, litter, odour or bio-aerosols arising from the composting site itself. As such, these issues have been addressed and discounted at appeal and have not been given any further consideration in the assessment of this case.

### *Safety and convenience of highway users*

Significant concerns have also been raised in relation to the impact of larger vehicles on local rural roads surrounding the site. In particular, the adequacy of the road network and risk of accidents arising from conflict of HGV traffic on local roads with non-vehicular users such as pedestrians, cyclists, horse riders and school users. Concern has also been raised that the Highways Officer has not considered the potential effect of larger vehicles on local roads arising from the scheme.

Policy 12 of CRWLP requires applications to address relevant environmental issues which include highway management and safety. CNRLP Policy BE1 requires new development to (amongst other things) ensure that it does not generate levels of traffic that would prejudice the safe movement of traffic on surrounding roads, or have an adverse impact on neighbouring uses.

The impact of the scheme on the safety and convenience of highways users has also previously been addressed by the Inspector. He gave regard to the concerns of the previous Inspector into the appeal of 7/2008/CCC/9 concerning the potential impact on highway safety of increasing vehicle movements to 40 a day. He also took into account the findings of previous transport assessments provided in relation to application 7/2009/CCC/1. The Inspector acknowledged the concerns of local residents regarding fear of accidents on non-vehicular users, particularly school users and considered these to be material planning considerations. Whilst he accepted that the proposal would be likely to lead to changes in the character of traffic to and from the site, with an increased numbers of HGVs, he noted that no evidence had been provided to demonstrate that an increased number of HGVs could not be safely accommodated on the highway. He also noted that there is no substantial evidence to show that the increased vehicle movements associated with previous planning permissions on the site has caused significant highway safety problems.

The Inspector acknowledged the measures in place to control vehicles on the highway which includes:

- the experimental weight restriction order along Bridgemere Lane;
- restriction on site vehicles turning right out of the site access road;
- restrictions on the site concerning deliveries around school peak times.

However he recognised that the operator could give no guarantee that vehicles travelling to and from the site would adhere to these requirements. On this basis, the weight given to these factors in his decision is reduced but nevertheless, he considered that they still weighed in favour of the proposal.

It is noted that since the appeal decision, the restrictions concerning vehicle movements around school peak times have been removed by virtue of consent 11/3389N. However, the Highways Officer has assessed this scheme and does not raise any objection. Equally, it is still considered that vehicular conflict with school users could be adequately managed by of good site management practice as is the case with other waste management facilities.

The Inspector concluded on this matter by stating that he considered on balance, the concerns raised regarding impacts of HGVs using the highway network would not be sufficient on their own to justify refusing planning permission. In his opinion, the effect of the proposal on the safety and convenience of highway users would be likely to be acceptable and would not conflict with the aims of CRWLP Policy 12, CNBLP Policy BE1 or Policy DP7 of RSS. On the basis of the lack of concern expressed by the Highways Officer, and in view of the weight given by the Inspector to the restricted movements of traffic at school times, it is not considered that there are sufficient grounds to refuse planning permission solely based on this one change in circumstance. As such, it is not considered that the scheme would conflict with the aims of CRWLP Policy 12, and CNRLP Policy BE1.

It is noted that some representations have raised concerns over the previous enforcement issues on the site and potential for further breach of planning control in the future. However, each application should be considered on the planning merits of each case, and these issues are not considered to be of relevance in the assessment of this application.

## **CONCLUSIONS**

The application seeks the removal of condition 11 of 7/P04/0124; and conditions 7 of permissions 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1, all of which state:

‘No compost shall be exported from the area edged in blue....’.

The area edged blue being the farm unit. The condition has been applied to every relevant consent on the site in order to:

*‘control the scale of the development, in the interests of residential amenity and to comply with Policy R7 of the Cheshire Replacement Structure Plan, Policies 7 and 12 of the Cheshire Replacement Waste Local Plan, Policy BE1 of the Crewe and Nantwich Replacement Local Plan and Policy DP 7 of the RSS’.*

These policies seek to protect amenity, promote environmental quality, control the impact of development and ensure correct location of facilities.

There are no restrictions on the existing consent concerning the importation of waste from the site. There are however restrictions on the vehicle movements and the applicant has also indicated that any exportation of compost would be achieved within the existing vehicle movements permitted and they intend to use the same vehicles to export compost that would

also be used to import waste. The importation of waste to the site is capped through the Environmental Permit which restricts to an annual level of 75,000 tons per annum.

The principle of export at the site has previously been considered at appeal. The Inspector considered the scale of activity likely to result from the scheme and the impact of this on the living conditions of local residents. He gave regard to the fact that the scheme could result in potentially larger vehicles accessing the site than at present and that this would materially change the character of traffic accessing the site. However, he concluded that the effect of allowing export on the safety and convenience of highway users was acceptable. Nevertheless, he did not consider that this outweighed the harm the scheme would be likely to cause to the living conditions of local residents. He considered that the change in the character of traffic to and from the proposal site that would result from the proposal would materially increase the noise and disturbance experienced by adjacent residents located close to the access track, thereby causing unacceptable harm to their living conditions. This was considered contrary to the aims of CRWLP Policy 12, CNRLP .Policy BE1. For these stated reasons, the appeal was dismissed.

In order to address the concerns of the Inspector, a noise assessment has been carried out to assess impacts on sensitive properties close to the access track. The noise assessment demonstrates that overall, it is likely that a fully loaded large HGV would generate lower noise levels than one which would be empty. In particular, it noted that empty vehicles created a noticeable noise from body panel rattle, which is reduced when carrying a full load.

The Environmental Protection Officer raises no objection to the scheme on the basis that the noise assessment does not identify that there would be any significant increases in noise levels from the scheme. Based on the results of the noise assessment submitted, and the views of the Environmental Protection Officer, it is not considered that there is sufficient evidence to demonstrate that this scheme would result in a material increase in noise and disruption experienced by adjacent residents to the access track which could causing unacceptable harm to their living conditions. As such, it is considered that, on balance, the scheme accords with the aims of CRWLP Policy 12 and Policy 23; and CNBLP Policy BE1 and NE17, as well as the approach of PPS10 and the NPPF.

Significant concern has been raised by local residents regarding the potential for unacceptable amenity impacts associated with on-site activities of the scheme. In addition concern is raised regarding the impact of the scheme in relation to the safety and adequacy of the highways network. Particular concern relates to the conflict between HGVs and non-vehicular traffic, such as pedestrians, cyclists and school users.

Given the safeguards provided by the Environmental Permit, and the absence of evidence to suggest that existing site operations have caused significant problems, the Inspector has previously considered it unlikely that the on site activities would present unacceptable impacts on residential amenity associated with noise, dust, litter, odour or bio-aerosols arising from the composting site itself. As such, these issues have been addressed and discounted at appeal and have not been given any further consideration in the assessment of this case.

Likewise, the Inspector has previously considered the impacts of the scheme on the safety and convenience of highway users. He considered the concerns of local residents regarding fear of accidents on non-vehicular users, particularly school users, to be material planning

considerations. Whilst he accepted that the proposal would be likely to lead to changes in the character of traffic to and from the site, with an increased numbers of HGVs, he noted that no evidence had been provided to demonstrate that an increased number of HGVs could not be safely accommodated on the highway. He also noted that there is no substantial evidence to show that the increased vehicle movements associated with previous planning permissions on the site have caused significant highway safety problems.

The Inspector previously took into account the fact that there were restrictions on the site concerning deliveries around school peak times. However he recognised that the operator could give no guarantee that vehicles travelling to and from the site would adhere to these requirements. On this basis, the weight given to these factors in his decision was reduced, but nevertheless, still weighed in favour of the proposal.

Whilst the restrictions on deliveries times have now been removed by subsequent planning permissions, the Highways Officer has assessed this scheme and does not raise any objection. Equally, it is still considered that vehicular conflict with school users could be adequately managed by good site management practice, as is the case with other waste management facilities.

The Inspector concluded on this matter by stating that he considered, on balance, the concerns raised regarding impacts of HGVs using the highway network would not be sufficient on their own to justify refusing planning permission. In his opinion, the effect of the proposal on the safety and convenience of highway users would be likely to be acceptable and would not conflict with the aims of CRWLP Policy 12, CNBLP Policy BE1 or Policy DP7 of RSS. On the basis of the lack of concern expressed by the Highways Officer and in view of the weight given by the Inspector to this issue, it is not considered that there are sufficient grounds to refuse planning permission solely based on this one change in circumstance. As such, it is not considered that the scheme would conflict with the aims of CRWLP Policy 12, and CNRLP Policy BE1.

## **RECOMMENDATION**

**That the application be approved and the amendments made as follows:**

***Removal of condition 11 of planning permission 7/P04/0124;  
Removal of conditions 7 of planning permissions 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1.***

**This is subject to the following:**

- **Imposition of all other conditions as stipulated on consents 7/P04/0124; 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1**
- **Imposition of planning condition requiring construction of an acoustic fence as per the recommendations of the noise survey, details of which to be agreed in writing with the Local Planning Authority.**
- **Imposition of condition requiring sheeting of all vehicles exporting compost from the site.**



## Appendix A

### Representations from Local Ward Councillor

#### Letter dated 30/05/2012

I am writing in my role as Ward Councillor for the Wybunbury Ward in which this development is situated, in response to concerns from:

- The Doddington and District Parish Council
- Local Residents situated in the Hunsterson Parish
- Director of Public Health (Cheshire East Council, East Cheshire & South Cheshire PCTs)

This application is the latest in a series of past applications to remove **conditions related to the export of compost** from this site.

To date, each application has been refused and most recently an Appeal to the Planning Inspectorate (29<sup>th</sup> and 30<sup>th</sup> June 2011), where I was in attendance, was also refused.(Appeal Decision APP/RO660/A/10/2138836)

#### **The principal reasons for the Inspector's decision are as follows:**

1) He explains that whilst vehicles movements are restricted to 20 vehicles in (and 20 out) each weekday, the permitting of export of compost would enable the applicant to maximise imports through the use of larger vehicles upon which there are no conditions.

At the hearing, the applicant explained that, at that time, he was receiving between 14 and 18 vehicles each day (28 & 36 vehicle movements). The inspector concluded that permitting export would enable the maximum number of vehicle imports to be made and that:

*"In my judgement, it is likely that, as a result of the proposal, the number of HGVs travelling to and from the site would increase along with the average size of the loads being carried, materially altering the character of the traffic associated with the site". (Page 7: Para 27)*

2).The inspector then considered the implications for the living conditions of local residents in relation to the likely changes in the character of traffic associated with the compost site. He concluded that:

*" These dwellings occupy relatively isolated positions in the open countryside, away from public highways, and so they are likely to be particularly sensitive to increases in traffic noise likely to be associated with passing appeal site HGVs. (page 7, Para 29).*

In turn permitting export "...would materially increase the noise and disturbance experienced by the residents of dwellings located close to the access-way leading to the appeal site, thereby causing unacceptable harm to their living conditions contrary to CRWLP Policy 12 and LP Policy BE1". (Page 8. Para 30)

It is important to note that the inspector refers clearly to both noise AND disturbance and in this context states that the proposed development would;

*"...conflict with the aims of CRWLP Policy 12, LP Policy BW1 and NE17 as well as Policy DP7 of the RSS"*

His concludes that the conditions under dispute are

***"... reasonable and necessary as a means of limiting the scale of development in order to safeguard amenity and I am content that they meet the other conditions set out in Circular 11/95".***  
(Page 9, Para 35)

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### **Appellant's Response:**

In response the applicant has challenged the Inspector's findings in his Supporting Planning Statement (SPS) with regard to possible alterations to the character of traffic accessing the site and in relation to noise experienced by residents.

#### **1) Character of the Traffic**

It is suggested (SPS Para 3,.1) that compost could be removed from the site in the same vehicles in which it came thus reducing the noise impact of empty vehicles.

However;

At present the majority of vehicles are contracted from Cheshire East Council (CEC) and are roadside waste collection vehicles. These are not suitable for re-loading with compost (as is clearly reported by the appellant in the inspectors report page 5, para 17).

It is also noted that occasionally green waste imports are sent to another site for 'bulking up' onto much larger HGVs which then come to Whittaker's Green Farm. These vehicles are capable of being filled with compost for export but their size confirms the Inspector's concerns regarding altering the character of traffic accessing the site to the detriment of residents.

#### **2) Commissioned Noise Report**

I am concerned about this report for a number of reasons:

- a) Noise was monitored on just two occasions at just one site on the access road.
- b) The report was conducted in February 2012 – this is the quietest time of year for green waste collection as it precedes the growing season. Each session was just 1.5 hours and both took place at the same time of day.
- d) The report has made no attempt to monitor the level of noise created by heavy plant machinery actually on-site as it operates the open-air Windrow system.
- e) The report has focused on measurements of 'loudness' (dBA) which is important but has failed to evaluate the ways in which vehicle noise may violate legislation in relation to **Statutory Noise Nuisance**.

This is a highly selective analysis and the results fail to mitigate residents' loss of amenity as clearly identified in the Inspector's report.

It is important to note that the Inspector refers to (what was then) **the Draft National Planning Policy Framework** which is important in this regard.

*"In light of my conclusion in relation to the likely impact on the living conditions of local residents, I consider on balance that the proposal would not be sustainable economic development. Furthermore the DNPPF does not indicate otherwise. ...sustainable development means, among other things, protecting and enhancing the natural environment by preventing existing development from being adversely affected by unacceptable levels of noise pollution".(Page 11, para 50)*

**The Planning Policy Framework** has now been in force since 27.03.2012 and these parts of the draft have since been included in full in the definitive legislation (NPPF Page 2, para 7) and so must now be given due weight.

The impact of noise on amenity and Health and well-being are later explicitly highlighted in the NPPF:

*"Planning policies and decisions should aim to:*

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions" (NPPF, page 29, para 123)*

The NPPF also directs planning authorities to give weight to **The Noise Policy Statement for England** (NPSE; March 2010)

This guidance suggests a **Noise Policy Vision** to;

*“Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development”.*

Furthermore noise can cause annoyance and fatigue, interfere with communication and sleep, reduce efficiency and damage hearing. The World Health Organisation recommends a guideline daytime level for outdoor sound levels of 50dB to prevent people from becoming "moderately annoyed" (Guidelines for Community Noise 2000). And the concept of 'annoyance' is further developed by the WHO on the **Noise Policy Statement 2010** within the context of sustainability and 'adverse affect'.

**It is interesting to note that the independent Noise Report cited by the appellant in this application, even in the very brief time and selective format when that noise was monitored, still registered noise at levels that would exceed WHO recommendations for daytime outdoor sound levels, and constitute 'moderate' or 'severe' adverse affect.**

### **Statutory Noise Nuisance**

As stated earlier, this area of legislation is pertinent as it relates to the 'nature' and character of noise. Duration, intensity, vibrations, unpredictability, times of day can all contribute to noise nuisance and is monitored by Environmental Health Officers.

At the time that the appeal was heard (June 2011), the Inspector found AGAINST the appeal on the grounds of loss of amenity and disturbance - this was at a time when the site opening hours were limited by condition.

In March 2012, those conditions were altered to extend site opening hours on Mondays to Fridays 8am – 6pm, Saturdays and Bank Holidays.

Since that time residents have experienced severe 'adverse effect'. During the Spring, Summer and Autumn, green waste imports increase (in line with seasonal expectation) and the extended hours have already enabled maximum vehicle movements to take place since the decision was made

### **However, this has resulted in further loss of amenity for residents in the following ways:**

- Residents having to access the access road to get to, or returning from work or school are now having significant problems as they encounter HGVs on the narrow access track.
- Children are unable to ride their bikes, residents are unable to walk the dog safely.
- At times when rural residents can legitimately expect to enjoy the tranquillity and amenity of the countryside (evenings, weekends, bank holidays), there is frequent unpredictable noise disturbance and visual impact that has a greater impact because this is an isolated rural setting.
- Already the extended hours have resulted in maximum imports. On average a roadside waste collection vehicle will take 15 – 25 minutes to navigate the access road from Bridgemere Lane, drive into the site onto the weighing plate, complete paperwork, reverse to the concrete pads, unload the green waste and drive off the site.

Larger HGVs will take commensurately longer (25 – 30 minutes).

As soon as green waste has been imported, **heavy plant machinery on site** must sort the material, install it on the concrete pads appropriately to start the process, turn previous deliveries to aerate and move material in various stages of the composting process further down the processing site. This is an on-going process (taking approximately 12 weeks in total) until the compost product has reached an appropriate standard for use.

- There is already active HGV / heavy plant noise nuisance for 6 – 10 hours each week day. Heavy Plant activity has been recorded after 6pm by residents.
- Lifting conditions on export will result in larger vehicles to maximise imports, facilitate export and will increase on-site processing.
- Loading empty vehicles with compost will lengthen the period of time each vehicle will spend on site and will increase noise nuisance exponentially.
- The Appellant's Noise Monitoring Report has already identified levels that exceed WHO guidelines for daytime noise levels. The cumulative impact of the intensification of activity that export activity will bring is a legitimate material concern that will cause unacceptable harm to residents' living conditions (Inspector's Report Page 8, para 30)

It is important to highlight that the Health & Social Care Bill has now been enacted bringing Public Health Roles and Responsibilities from the NHS into Local Government. Sustainable Planning is also a feature of this legislation and noise issues are included in the Public Health Indicator Framework to which Local Government must now adhere.

The Director of Public Health is usually consulted regarding planning matters related to Waste Sites in conjunction with Environment Agency issues, but may also be called upon to offer advice on other matters impacting on Public Health.

At the time of writing this report (29.05.2012), Dr Heather Grimbaldeston has not been contacted by planning officers or by the environment agency.

In conclusion, on behalf of local residents and the Doddington & District Parish Council,

**We believe that the appellant has failed to produce substantive evidence that would warrant removal of conditions related to export of compost.**

Indeed, since operating hours at the site were extended in March 2012, there is evidence that noise and disturbance to residents has been significantly exacerbated which further supports the conclusions of the Planning Inspector's Appeal report.

We support the decision made by the Appeal Inspector (APP/RO660/A/10/2138836) and conclude (that in the absence of further evidence from the appellant) that

- this application conflicts with the aims of CRWLP Policy 12, LP Policy BE1 and NE17, Policy DP 7 of the RSS.
- In addition this application fails to meet the NPPF (2012) requirement for sustainable economic and social development (NPPF Para 7 & 171)
- It contravenes the Noise Policy Statement for England (NPSE) March 2010 and
- constitutes a Statutory Noise Nuisance as described by the WHO day-time noise level indicators and verified by the appellant's Noise Monitoring Report.

**We therefore recommend that the application for removal of planning conditions be rejected**

Yours sincerely

Cllr Janet Clowes MSc. BSc. PGCE. RGN.  
Ward Member: Wybunbury Ward  
Portfolio Holder: Health & Well-Being

Letter dated 28/08/2012

Thank you for your email outlining the concerns of Mr Thorley of Civitas Planning Limited dated 6<sup>th</sup> August 2012.

I am surprised that Mr Thorley has raised these concerns but I would like to reassure him, his client and yourself of the following points:-

1. I was asked, in my role as Ward Councillor, to respond to the application by Doddington & District Parish Council and Hatherton Parish Council by the required May 2012 deadline. This is a legitimate function of my role as Ward Councillor.
1. I was asked by residents living at Whittaker's Green (not Bridgemere Lane) to include their material concerns as part of this report – this I have done and again would reiterate that this is a legitimate function of my role as Ward Councillor.
2. I did contact the Director of Public Health prior to submitting the response in May as planning applications related to Waste Sites may often be referred to the DPH via planning or the environment agency. At that point no referral had been made and I felt it was important that this was noted (even if in the consequent period it was determined that this was not required in this case). My understanding at this time (28.08.2012) is that a public health referral has not been required / requested. (I did make this very clear that this may be the case in the report on page 5)
3. Mr Thorley has suggested that I have 'abused my position as portfolio holder for Health and Adult Social Care' by including material that is not in the public domain. I would like to reassure Mr Thorley and his client that all comments and material referred to in my report is very definitely in the public domain and can be accessed either via the Cheshire East website or any internet search engine. In addition I have referenced material that was accessed in the report so that readers may read this material for themselves if they so wish.
4. Clearly my response had to be submitted by the end of May before all planning reports and requests for information were obtained. In particular the second Environmental Health report had not been submitted at that stage. I would like to make it clear that I do not take issue with Ms Edge's report.
5. Nonetheless there are other aspects to loss of amenity and noise nuisance mentioned in the Appeal Inspector's report that are still highly relevant and must not be ignored. These are clearly described in my response and are an essential part of any discussion related to changes in conditions – hence their inclusion.

I hope this clarifies the context in which my response was written and has allayed the concerns raised.

Yours sincerely

Cllr Janet Clowes: Wybunbury Ward

Representations on behalf of the applicant made by Agent

Email dated 09/07/2012 from David Erskine on behalf of the Applicant in response to the representation from ward member.

Cllr Clowes indicates that she is writing in response to concerns that have been raised by the Director of Public Health (Cheshire East Council, East Cheshire and South Cheshire PCTs). These alleged concerns are not in the public arena. There are no comments raised by the Director of Public Health either on the council website or as far as we are aware in writing. If there are any relevant comments relating to planning matters raised by the Director of Public Health then we would wish to be able to see them. However in the absence of any comments then no weight may be attached to this in any planning decision.

Cllr Clowes summarises the principal reasons for the Inspectors decision. It is important to note that the comments quoted from the Inspectors decision relate only to those properties on the private access way from the highway to the appeal site. This conclusion was made by the Inspector without any quantifiable assessment of the noise impact. The current application includes an assessment from a professionally qualified noise consultant which demonstrates that there will not be any unacceptable increase in noise from the proposal. This view is shared by the Local Planning Authority Environmental Health Officer who has considered the submitted noise report.

The concerns raised about the noise report in respect of the times and extent of the survey are not relevant. The procedures followed in the noise report follow accepted professional methods and have been used to establish the only issue of relevance, namely the noise from passing HGV,s. The assessment examines the worst case scenario. The Local Planning Authority has professionally commented on the assessment and has not raised any concerns about the procedure adopted. The concern regarding failure to monitor noise from the machinery on site is not relevant as the Inspector has already concluded that this is not an issue. Reference is made to statutory noise nuisance and it is asserted that this legislation may be violated. However this is an entirely speculative and separate issue and no evidence has been provided to suggest that a statutory noise nuisance exists. The LPA have since 2004 had the ability to consider whether a statutory noise nuisance exists. They have never considered it necessary to investigate this matter.

It should be noted that dB is not the same as dBA or LAeq, L90 or LAmax. The noise assessment needs to take place within the context of the locality. The correct assessment of noise impact has indicated that there would not be any increase in noise levels beyond that already permitted.

Cllr Clowes indicates that she has raised the concern of local residents encountering HGV, s on the private access track. . Only one resident on the access track has objected. The four other residents along the access road have not raised any objection. The asserted loss of amenity raised by Cllr Clowes is unfounded and not supported by the views of the majority of residents on the access track.

The issue of visual impact raised by Cllr Clowes is not relevant as the Inspector has not found any relevant planning issue with regard to visual impact.

The issues raised concerning the use of machinery on the site and the time taken for processing are not relevant. The Inspector has found no issue with noise from the composting site.

Cllr Clowes indicates that she is writing in her role as ward councillor in response to concerns that have been raised. However the letter concludes with the phrase "we recommend". The implication is that this response is with the approval of local residents, Doddington and District Parish Council and the Director of Public Health. There is no indication that these individuals or bodies share the views expressed in this letter and it must therefore be taken as an individual point of view.

Email dated 21/06/2012 from David Erskine in relation to comments made by members of the public.

I have looked at all the neighbour objections to this application that have been posted on the Council website. Of those that have provided an address I would point out the following.

- The majority of the objections relate to matters which have already been addressed and dismissed by the Inspector at the most recent appeal.
- In respect of the only outstanding planning matter, namely noise from traffic on the internal access road and the noise assessment provided with the application, I have set out on the attached plan the location of those residents that have raised this issue. It is clear that all of these residents, with the exception of the objection of the residents of Pewit House, are some considerable distance from the internal haul road and the composting site. It is noted that there are five residential properties located along the internal access road of which only one (Pewit House) has raised an objection.
- Three objections relate to the shortcomings of the professional noise assessment which has been provided with the application. We remain of the view that the noise assessment has been carried out in accordance within recognised professional standards and the conclusions are both sound and based on relevant measurements and assessments.

## **Update Report 12<sup>th</sup> September 2012-11-05**

### ***STRATEGIC PLANNING BOARD – 12<sup>th</sup> September 2012***

#### ***UPDATE TO AGENDA***

**APPLICATION NUMBER:** 12/1445N

**LOCATION:** Whittakers Green Farm, Pewit Lane, Hunterson

#### **Further response from Local Ward Member following representation from agent dated 9<sup>th</sup> July 2012**

Letter dated 28.08.2012.

Dear Ms Williams

Thank you for your email outlining the concerns of Mr Thorley of Civitas Planning Limited dated 6<sup>th</sup> August 2012. I am surprised that Mr Thorley has raised these concerns but I would like to reassure him, his client and yourself of the following points:-

1. I was asked, in my role as Ward Councillor, to respond to the application by Doddington & District Parish Council and Hatherton Parish Council by the required May 2012 deadline. This is a legitimate function of my role as Ward Councillor.
2. I was asked by residents living at Whittaker's Green (not Bridgemere Lane) to include their material concerns as part of this report – this I have done and again would reiterate that this is a legitimate function of my role as Ward Councillor.
3. I did contact the Director of Public Health prior to submitting the response in May as planning applications related to Waste Sites may often be referred to the DPH via planning or the environment agency. At that point no referral had been made and I felt it was important that this was noted in the report (even if in the consequent period it was determined that this was not required in this case). The Director of Public Health raised no concerns at this time but simply confirmed that she had not yet been contacted (and I did make this very clear in the report on page 5). My understanding at this time (28.08.2012) is that a public health referral has not been required / requested.
4. Mr Thorley has suggested that I have 'abused my position as portfolio holder for Health and Adult Social Care' by including material that is not in the public domain. I would like to reassure Mr Thorley and his client that all comments and material referred to in my report is very definitely in the public domain and can be accessed either via the Cheshire East website or any internet search engine. In addition I have referenced material that was accessed in the report so that readers may read this material for themselves if they so wish.
5. Clearly my response had to be submitted by the end of May before all planning reports and requests for information were obtained. In particular the second Environmental Health report had not been submitted at that stage. I would like to make it clear that I do not take issue with Ms Edge's report.



6. Nonetheless there are other aspects to loss of amenity and noise nuisance mentioned in the Appeal Inspector's report that are still highly relevant and must not be ignored. These are clearly described in my response and are an essential part of any discussion related to changes in conditions – hence their inclusion.

I hope this clarifies the context in which my response was written and has allayed the concerns raised.

Yours sincerely

Cllr Janet Clowes: Wybunbury Ward

**Further response received from Environmental Protection Officer dated 30<sup>th</sup> August 2012 addressing points raised in local representations regarding scope of noise assessment.**

I have had chance to look at the letters of objection received relating to the application to export material from the above site. Before I comment on each of the points raised it is vital that everyone understands that the application just relates to the export of material from the site and does not involve any intensification of the site or extra vehicle movements, as set out in Sarah's response.

Response to points raised (concerns raised are in bold)

- **There are no readings taken when there is no activity at the site, to give a base level of noise** – As stated above, the application and the acoustic report are only for exporting material off site. As such, the readings would only look at vehicle movements leaving the site, hence any background would include the noise from the site and any other noises in the surrounding area happening at the time lorries are exporting material from the site. As the site will be operating at this time it is correct that this should be included as part of the background readings. If the application was for an intensification of the use of the site then, depending on the circumstances, it would be correct to exclude the site noise from the background noise readings.
- **There are no readings with just the site machinery operating** – Appendix 1 of the report does include a number of readings with only the machines operating on the site. This is specifically referenced in the Table - Measurement 2 for the period 9:32 – 9:37, along with a number of other such readings included in the results table for the 22/2/2012.
- **Readings when everything is operational are also omitted** – The answer given to the point above does address this as there were readings taken with machinery operating on the site and the aim of this is to replicate the normal noise level coming from the site at the time when material is being exported. In addition, it should be noted that the report is aimed at the noise from material being exported from the site, not the noise from the site itself.
- **The report cannot replicate the full effect of export as this is not yet in place** – This is technically correct but, to try and estimate the noise level of full vehicles, section 3.3 of the assessment explains that vehicles arriving at the site full were used as a reference for the noise

level emitted when lorries are full, especially as the material being brought to the site is similar to that being exported.

- **The readings monitor a single vehicle rather than two or three arriving, being loaded and departing at the same time** – There are a couple of points to note. The first is that were a number of vehicles are leaving and arriving at the same time, this will mean that there will be less individual vehicles movements through the day. For example if 3 vehicles arrived at once, then this would mean 3 of the permitted 20 but as they were all together, there would only be one noise emission hence reducing the overall noise level which will have a beneficial effect on the noise. The second point to note is that, when multiple noise sources are added you have to remember it is on a logarithmic scale so simply add 50dB to 50dB does not make 100dB. It would in fact result in a marginal increase in the noise level of 3dB, giving an overall level of 53dB, which is only just perceptible by the ear. Therefore, this would not result in a material impact on the noise level in the area.
- The letter then goes on to make a number of points relating to factors which will affect noise nuisance, which are all correct, and where relevant to this situation they have been referred to in the report.
- They also make reference to the noise from the site being at a level similar to a busy country pub which is why the report recommends that suitable acoustic fencing/barriers are installed to reduce the noise level.

In relation to other points raised by local residents

A. The report has to try and replicate the condition present at the site. As such, this report does make reference to noise levels from a range of lorries with 2, 3, 5 and 6 axles and, for the purposes of the noise calculation, the worst case was taken as set out in section 3.3 of the report.

B. The reason why the monitoring was limited to a single location has been explained in the report in section 3.2. It is an accepted method to then use tried and tested acoustic calculations to predict the noise levels at a number of locations. In this case the reason for taking the noise level from a single location was to get a reference noise level which, as set out in the report, was at the point where the noise levels would have been at their highest (hence using the worst case scenario).

C. The issue of the speed of the lorries is a factor which needs to be taken into account but, in this situation it is limited to the type and length of the track. In my opinion, this means that they would not be able to achieve high speeds and hence there will be no affect on the current noise levels from the site.

Overall, it is my assessment that, by allowing the lorries to leave the site full, the proposal will actually reduce the noise levels in the area. The reason for this is because when a vehicle is empty you will get the trailer and the side panels rattling as the lorry travels over the road. When the vehicle is full the weight of the material in the lorry will prevent this from happening. As it will be soft material (i.e. compost), it will not cause extra noise from banging and rattling in the lorry.

**Further representations from local residents**

A further 2 letters of objection have been received from local residents, in addition to those as detailed in the committee report. Aside from the issues already listed, the following additional matters are raised.

- **Potential for Importation of Green Waste.**

Concern is raised that there could be potential for the import of the following quantities of green waste (based on using the maximum vehicle numbers permitted at the site).

March/October: 118/week x 25 tonnes = 2950 tonnes x 35 weeks = 103,250 tonnes

November/February: 80/week x 25 tonnes = 2000 tonnes x 17 weeks = 34,000 tonnes

The representation notes that both the LPA and the Inspector accepted there was scope to increase the size of vehicles from those presently accessing the site. Concern is raised that if this condition was removed, irrespective of the compost being taken away in back loads or by vehicles not used to deliver green waste, there is a huge opportunity to increase the scale of development which in effect would create an industry in the open countryside that may not even be linked to agriculture. This expansion could take place within the permitted number of vehicles.

Representation also queries whether the compost could be bagged up and removed on flat bed lorries should export be permitted, or whether it could be sold to the public.

### **Response to representation**

As detailed in the committee report, the impact of a potential increase in the production of compost should export be permitted was considered by the Inspector at the previous appeal. He did not consider that potential changes to on-site activity would present unacceptable impacts on residential amenity. It is also noted that the vehicle movements quoted in the representation do not reflect the planning condition on the current consent. Condition 8 of the consent restricts vehicle movements to:

Between 1 April and 31 October:

- 198 green waste vehicle movements (99 in, 99 out) over a 5.5 day week; of which no more than:
  - 40 (20 in, 20 out) on any one day Monday – Friday;
  - 18 (9 in, 9 out) on Saturday mornings; and
  - 10 (5 in, 5 out) on Bank/Public Holidays with no movements on Sundays.

Between 1 November and 31 March:

- 140 green waste vehicle movements (70 in, 70 out) over a 5 day week of which no more than:
  - 32 (16 in, 16 out) on any one day Monday to Friday;
  - 10 (5 in, 5 out) on Bank/Public Holidays;
  - No movements on Saturdays or Sundays.

In order to assist in alleviating the concerns of local residents and prevent further on-site activity, and provide further control over the development planning conditions are recommended to restrict sales of compost directly from the site and bagging activities on site.

A revised recommendation is proposed as follows:

### **RECOMMENDATION**

**That the application be approved and the amendments made as follows:**

***Removal of condition 11 of planning permission 7/P04/0124;  
Removal of conditions 7 of planning permissions 7/2006/CCC/11, 7/2007/CCC/7 and  
7/2009/CCC/1.***

**This is subject to the following:**

- Imposition of all other conditions as stipulated on consents 7/P04/0124; 7/2006/CCC/11, 7/2007/CCC/7 and 7/2009/CCC/1**
- Imposition of planning condition requiring construction of an acoustic fence as per the recommendations of the noise survey, details of which to be agreed in writing with the Local Planning Authority;**
- Imposition of condition requiring sheeting of all vehicles exporting compost from the site;**
- Imposition of condition restricting the sale of compost direct from the site;**
- Imposition of condition restricting the bagging of compost at the site.**

#### **Minutes of Strategic Planning Board 12<sup>th</sup> September 2012-11-05**

**12/1445N-APPLICATION TO REMOVE CONDITION 11 OF PERMISSION 7/904/0124, CONDITION 7 OF PERMISSION 7/2006/CCC1, CONDITION 7 OF PERMISSION 7/2007/CCC7 AND CONDITION 7 OF PERMISSION 7/2009/CCC1, WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CHESHIRE FOR**

**MR F H RUSHTON**

Consideration was given to the above application.

(Councillor Mrs J Clowes, the Ward Councillor, Parish Councillor Leighton, representing Doddington and District Parish Council, Mr Frodsham, an objector and Mr Schofield, an objector attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be deferred in order to assess the impact of the proposal on the PRoW and to assess the impact on the Grade II listed building.

(This was against the Officers recommendation of approval).

(During consideration of the application, Councillor Mrs J Jackson left the meeting and did not return).

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