

Application No: 10/4485N

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

Proposal: Application for Removal or Variation of a Condition following Grant of Planning Permission: 7/09/CCC/0001

Applicant: Mr Rushton

Expiry Date: 14-Jan-2011

SUMMARY RECOMMENDATION:

Partial approval, amended condition.

MAIN ISSUES:

Impact of HGV movements on residential amenity and conflict with school drop off and pick up times.

Use of the site to receive green waste from Household waste and recycling centres on Bank Holidays.

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 seven years. The original application (7/P04/0124) was granted for the use of the land for the composting of green waste on 11th August 2004. The permission enabled the applicant to produce compost for use as a soil improver to assist the farm to become organic. The compost is produced as a soil improver and for sole use on the applicant's farm and cannot be exported.

Application 7/2006/CCC/11 to vary condition 13 of permission 7/P04/0124 to allow the importation of green waste on Bank Holidays except for Christmas was approved on 6th December 2006. The conditions attached to the initial permission, with the exception of pre-commencement conditions which had been satisfied, were replicated within this consent.

Application 7/2007/CCC/7 to provide an extension to the existing green waste composting facility, doubling the size of the concrete storage pad, was approved on 25th June 2007. Previous conditions were again replicated.

Application 7/2008/CCC/7 to create a new access off Bridgemere Lane and track to join up to existing tracks at Whittaker's Green Farm, and thereby the compost site (and hence avoid the use of Pewits Lane), was approved 30th March 2009, subject to a legal agreement regarding routing.

Application 7/2008/CCC/9 for a variation of Condition 14 of permission 7/P04/0124 to increase the green waste vehicle movements from 10 in-and-out movements, to 40 a day, was refused permission 7th July 2008.

The decision to refuse was appealed (Appeal ref: APP/A0645/A/08/2080691) and the appeal was dismissed on 27th October 2008. The reasons for the appeal dismissal were 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, and 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.

Application 7/2009/CCC/1 was a resubmission to vary Condition 14 of permission 7/P04/0124 to increase the number of vehicle movements, differing from the previously appealed and refused application by including seasonal variations in maximum vehicle movements, but less vehicles than the refused application, and included restricted hours of delivery to avoid school delivery and pick-up times and to encourage an alternative route. The application was approved 11th March 2009. It is the condition attached to this permission that is the subject of the current application.

Application 09/1624W was a retrospective application for the 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 development that took place to extend the track approved by 7/2008/CCC/7 and to join existing tracks. The application was approved on 21st October 2009.

Applications 10/1005N and 10/2251N, for a revision to the definition of waste allowed on the site and allowance for a quantity of contaminated waste to be imported were refused permission on 12th November 2010. Both of these decisions have now been appealed and have reference numbers APP/R/0660/C/09/2140836 and 2141878 respectively. Hearings before an Inspector will take place on 28th and 29th June 2011.

An application (10/2984W) under Section 73 of the Town and Country Planning Act was submitted 4th August 2010 but deemed invalid and the applicant was asked to re-submit under Section 78 of the Act. This application has been appealed against non-determination (APP/R0660/A/10/2138836/NWF) and will be the subject of the hearing indicated above on 28th and 29th June 2011.

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

An enforcement notice was served by Cheshire County Council on 30 January 2009, alleging that without planning permission, an unauthorised change of use had occurred in that an unauthorised Waste Transfer Station was being operated on the land in addition to the permitted green garden waste composting activities. Despite the condition limiting the import of waste to 'green' garden wastes, it was apparent a considerable proportion of mixed waste was being brought onto the site.

The operator appealed against this enforcement notice and following a hearing, the appeal was dismissed but time periods for compliance were extended in a decision letter dated 7th October 2009.

The appellant then appealed against the above appeal decision at the High Court on 2 November 2009. Part of that appeal was allowed, as the High Court Judge considered that the Inspector had failed to give any or any adequate reasons for her conclusion that a material change had occurred.

A re-scheduled Hearing was held on 1st February 2011 and the Planning Inspector by notice dated 16th February 2011 dismissed the appeal.

DETAILS OF PROPOSAL

The applicant has applied to amend condition 9 of permission 7/2009/CCC/1. The current conditions reads:

The importation of green waste to the site and the unloading of green waste vehicles shall only take place within the following periods:

0900 – 1500 Monday to Friday

0900 – 1200 Saturday

No importation of green waste shall take place outside of these times or on Sundays, Bank Holidays or Public Holidays.

The applicant proposes the following replacement text:

The importation of green waste to the site and the unloading of green waste vehicles shall only take place within the following periods:

0800 – 1800 Monday to Friday

0800 – 1200 Saturday

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

The effect of the change would extend the weekday period for importation by 4 hours and 1 hour on Saturdays and also allow the importation of green waste on Bank and Public Holidays between the hours of 0800 and 1800. The existing hours of operation for on-site activity remains unaffected.

POLICIES

The Development Plan comprises of The Cheshire Replacement Waste Local Plan 2007 (CRWLP) and The Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 (CNLP). The Regional Spatial Strategy (RSS) has also been considered as it is despite Government intention to abolish it, still at this time part of the Development Plan.

The relevant Development Plan Policies are:

Cheshire Replacement Waste Local Plan (CRWLP)

- Policy 1: 'Sustainable Waste Management'
- Policy 12: 'Impact of Development Proposals'
- Policy 20: 'Public Rights of Way'
- Policy 23: 'Noise'
- Policy 28: 'Highways'
- Policy 29 'Hours of Operation'

Borough of Crewe and Nantwich Adopted Local Plan 2011

BE.1 Amenity

NE.2 Open Countryside

NE.17: Pollution Control

Regional Spatial Strategy

EM10: A Regional Approach to Waste Management

DP 7 Promote Environmental Quality

Other Material Considerations

Waste Strategy (2007)

National Planning Policy and Guidance

PPS 1: Delivering Sustainable Development

PPS 7: Sustainable Development in Rural Areas

PPS 9: Biodiversity and Geological Conservation

PPS 10: Planning for Sustainable Waste Management

PPS 23: Planning and Pollution Control

CONSULTATIONS (External to Planning)

The Strategic Highways and Transport Manager raises no objection to the proposed change of hours.

The Borough Council's Environmental Health Officer considers that the proposed change to hours of import should not have a significant impact on the amenity of local residents.

VIEWS OF THE PARISH / TOWN COUNCIL

Doddington and District Parish Council objects to the application and urges the Board to reject it. The Parish believes local residents are extremely concerned by the heavy vehicles accessing the site along narrow local lanes. The Parish disagrees with the applicants view that current conditions are not working and consider the movements outside the permitted hours could be reduced if the operator managed the site and contractors visiting it appropriately. It also considers the current conditions limit conflict with school pick up and drop off times, avoid HGV traffic during dark winter months and avoid conflict during the peak commuting period and times walkers and horse riders are more likely to be on local roads.

Hatherton and Walgherton Parish Council objects to the application due to the impact on local roads which are not suitable for the size and quantity of vehicles visiting the site. They consider the local lanes are too narrow and there is a serious risk of collision with other vehicles, horses and pedestrians.

OTHER REPRESENTATIONS

Five individually written letters of objection have been received including letters from the Headteacher of Stapeley Broad Lane Primary School and the Road Action Group for Everyone (RAGE) Stapeley Broad Lane School.

The main issues which are raised include:

- Local country lanes are not capable of supporting the HGV traffic accessing this site.
- Previous objections to an increase of vehicles to the site from 5 to 20 (40 movements), were only mitigated on the basis the conflict with local primary schools would be avoided by limiting travel times to exclude pick up and drop off times.
- Changing the times would introduce conflict with the pick up and drop off times at the two primary schools.
- Lack of school on-site parking brings site vehicles into conflict with parked cars, parents and children.
- Secondary school children walk or are given lifts to bus collection points. There is a lack of pavements and hence danger from HGV's especially during the winter when such lanes are in darkness.
- The scale of the operation does not necessitate long open hours.

- The main current contract is with Cheshire East Council, the delivery of green waste to the site should be achievable within the existing delivery times.
- This site is not comparable to the examples identified, each of which, unlike this site, has good highway access.
- Existing conflict caused by vehicles accessing the site out of permitted hours should be resolved by the operator managing his contractors more effectively.

APPLICANT'S SUPPORTING INFORMATION

A Supporting Planning Statement dated November 2010 and a Highways Report dated June 2010 accompanies the application.

OFFICER APPRAISAL

As noted in the section on site history there are several applications, a lengthy enforcement and previous and outstanding appeals on this site.

The original 2004 permission was subject to access along Pewit Lane which was restricted to a daily limit of 5 vehicles (10 movements of 5 in and 5 out).

In April 2008 two applications were submitted:

- one to construct an alternative access to replace Pewit Lane (this was approved in March 2009, Ref: 7/2008/CCC/7),
- one to increase the limit of 5 vehicles a day to 20 (which was refused in July 2008, Ref: 7/2008/CCC/9).

The refusal of the second application was appealed and considered by an Inspector who dismissed the appeal on 27th October 2008.

As noted above, the reasons for the appeal dismissal were 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.

The impact of 20 vehicles visiting the site has therefore already been considered by the Planning Inspectorate and found to be unacceptable.

A further application 7/2009/CCC/1 to increase the number of vehicle movements was submitted in January 2009. This application sought to reduce the impact of vehicle movements and differed from the previously appealed and refused application (7/2008/CCC/9) by including seasonal variations in maximum vehicle movements, maintaining a daily figure of 20 (40 movements) during the summer, reducing to 16 during the winter when less green waste is produced. The proposed hours of delivery were reduced to 0900 to 1500 Monday to Friday to ensure there was no conflict between vehicles delivering to

the site and the pick up and drop off times at local schools, and a routing agreement to ensure vehicles exiting the site turned left to avoid Bridgemere Primary School was proposed.

The County Highway Engineer raised no highway objection to the proposal, subject to the above being incorporated into conditions, together with additional conditions to ensure:

- no compost was exported from the site;
- that the new access road was used only
- Pewit Lane was no longer used.

The application was approved by the County Council Development Regulatory Committee on 11th March 2009.

The current application therefore seeks to return to the timings of the refused application and dismissed appeal of 7/2008/CCC/9.

THE APPLICANTS CASE

The applicant considers that the condition is having an adverse impact on his business and stops him operating to allowable capacity. He considers the conditions are not having the desired effect and they have created, not avoided, conflict with school and commuter traffic.

He states that vehicles still pass the school in peak times and park up on the haul road waiting for the site to open at 0900 hrs, and those leaving at 1500, as the site closes to traffic, will be in conflict with the school peak.

He points out similar facilities such as Maw Green (landfill and compost site) and Pym's Lane (household waste and recycling centre) operate on standard opening hours like those now proposed.

He considers a 0800 start time would enable vehicles to arrive before that time, park on the haul road, off-load, and be back out of the site by 0830 and hence not conflict with school traffic.

COMMENT

Restricting the hours vehicles are allowed to access the site, but not internal working within the site, could restrict business particularly from those wishing to deliver green waste near the end of the standard working day. It is feasible that local landscaping contractors would find early closure of the site inconvenient and hence seek other sites. Longer working hours would also aid to spread the impact of traffic over a longer period.

Policy 29 of the Cheshire Replacement Waste Local Plan deals with hours of operation for waste management facilities (except Household Waste and Recycling Centres, covered by policy 30). Normal permitted hours of operation for such sites are between 0730 to 1800 Mondays to Fridays and 0730 to 1300 on Saturdays with no working on Sundays and Bank Holidays. Sites may be permitted further opening hours on Saturdays, Sundays and Bank Holidays solely for the receipt of waste from household waste and recycling centres. The policy also states:

Where it is considered that normally permitted hours of operations would have an unacceptable impact on neighbouring land uses, revisions to the normal working hours to give a later start time, earlier finish or different hours for Saturdays will be necessary.

This policy, and policy 30 which relates just to Household waste and recycling centres, indicates why operating times are different between the site and the two cited examples of Maw Green and Pym's Lane. Both of these cited examples have good road access and were considered not to have, as Whittakers Green Farm, an unacceptable impact on neighbouring land uses, namely conflict with school traffic.

The applicant's assertion that the current time limited condition is causing rather than curing conflict with school traffic is not accepted.

Clearly school traffic is at its peak between 0800 and 0900 in the morning when children walk, cycle or are driven to Broad Lane and Bridgemere Primary Schools. Secondary school children are likely to walk to or be dropped off at bus collection points on country lanes during this period. The afternoon peak will be between 1500 and 1600, although some bussed children may be dropped off later.

The current condition seeks to stop traffic flow to the site during these peak periods and hence avoid conflict and its consequent dangers. An 0800 entry to the site and 0830 exit for empty HGV's will bring these vehicles into direct conflict with school traffic. The applicant indicates that vehicles do travel past the schools before 0900 and park up on his haul road awaiting the site to open. The Council cannot restrict such movement on the public highway. However, the operator could take action against such movements by discouraging drivers and ultimately banning them from the site for persistent offences. Such management works well on other mineral and waste sites.

It is notable that the Highway Engineer does not object to the proposed change of hours for green waste deliveries to the site. He does not consider the current condition enforceable in terms of vehicles passing the schools. However, as indicated above, the current condition is in the main working and could with the operator's cooperation successfully remove conflict with school traffic.

The other element of the application would be to allow delivery of green waste on public and bank holidays. This would not affect working on the site and if allowed would only enable the waste to be deposited.

The site has been permitted to accept green waste on bank holidays except Christmas before (7/2006/CCC/11). It is usual for household waste and recycling centres (HWRC's) to be open on bank holidays as people often find such holidays are useful periods to clear waste from house and garden. Such centres can rapidly fill and need the opportunity to move waste on to create space within the day. Green waste from such a centre would seek to deliver to compost facilities such as Whittakers Green Farm. It is therefore considered appropriate that the site is capable of receiving green waste from and only from HWRC's when they are open on Bank Holidays. As the site would service on such days only HWRC's, it is considered appropriate to restrict hours of delivery to 1200 to 1700 in order that the impact on residential amenity is minimised.

CONCLUSIONS

Previous planning permission to increase the number of vehicles delivering green waste to Whittakers Green Farm from 5 a day to 20 a day was approved (7/2009/CCC/1) in March 2009 subject to the hours of delivery being restricted in order to avoid conflict with school pick up and drop off times. The operator now wishes to amend the relevant condition (9) on this permission to increase the hours of operation and allow green waste to be delivered to the site on public and bank holidays.

It is considered that the extension of delivery hours would bring HGV's visiting this site into conflict with school traffic. Such circumstances have previously been considered both by the Planning Authority and the Planning Inspectorate on appeal and found to be unacceptable. Whilst limiting the opening hours of the site cannot ensure site traffic does not pass the schools at peak times, as some drivers do arrive earlier than the opening time and park up, it should greatly reduce such incidents. It should be noted that the Highway Engineer is not in favour of such conditions and considers them unenforceable.

As HWRC's are often under greatest pressure from residents over bank holiday periods, it is considered appropriate to allow the site to receive deliveries from such sources. Delivered green waste would only be further handled once the site re-opened for normal business after the bank holiday.

RECOMMENDATION

That the Board agrees to the partial change of the wording of condition 9 of permission 7/2009/CCC/1 to read:

The importation of green waste to the site and the unloading of green waste vehicles shall only take place within the following periods:

0900 – 1500 Monday to Friday

0900 – 1200 Saturday

1200 – 1700 Bank and Public Holidays (except Christmas Day), from Household waste recycling centres only.

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

Location Plan

