

Application No: 14/1064C

Location: Land South of, Middlewich Road & West of Broad Lane, Holmes Chapel

Proposal: Variation to Condition 2 on Approved application 11/3065C relating to moving the approved access point.

Applicant: Mr R Lea

Expiry Date: 24-Jun-2014

SUMMARY RECOMMENDATION: Refuse

MAIN ISSUES:

- Principle of the Development
- Landscape and Trees
- Ecology
- Residential Amenity
- Visual Amenity
- Highway Safety

REASON FOR REFERRAL

This application has been referred to the Strategic Planning Board (SPB), as the application is for an amendment to a major waste application that was previously determined by the SPB.

DESCRIPTION AND SITE CONTEXT

The application site comprises an area of land 10,000sqm in size, within an agricultural field. The southwestern corner of the site slopes away and presents difficulties for cultivation. There is a pond in close proximity to the site and others within 250m. A shallow stream runs along the southern boundary of the field. The site is designated as being within the open countryside in the adopted local plan.

DETAILS OF PROPOSAL

The application seeks full planning permission for the variation of condition 2 of planning permission 11/3065C, which was for the importation of 18,000 cubic metres of inert waste consisting of material from construction and demolition sites. Condition 2 relates to development being carried out in accordance with the approved plans and in the case of this application the element that the applicant seeks to amend is the access point to the site.

The access as approved was through an existing field access a short distance from Broad Lane. The proposed access would be through another existing field access gate immediately

adjacent to the residential dwelling known as Cotton View and would utilise land within the curtilage of this property to provide visibility splays.

RELEVANT HISTORY

13/0477C 2013 Non-material amendment to access road relating to width
11/3065C 2012 Approval for importation of waste to fill a hollow in the land
10/1549C 2010 Refusal of prior approval for reinstatement of the land

POLICIES

National Guidance

National Planning Policy Framework

Local Policy

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

SD 1 Sustainable Development in Cheshire East
SD 2 Sustainable Development Principles
SE 1 Design
SE 2 Efficient Use of Land
SE 3 Biodiversity and Geodiversity

SE 4 The Landscape
SE 5 Trees, Hedgerows and Woodland
SE 12 Pollution, Land Contamination and Land Instability
PG 1 Overall Development Strategy

The relevant policies saved in the **Cheshire Replacement Waste Local Plan and the Congleton Borough Local Plan First Review** are:

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 19: Agricultural Land Quality
Policy 29: Hours of Operation
Policy 32: Reclamation

Adopted Congleton Borough Local Plan First Review 2005 (CBCLP)

PS8: Open Countryside
GR1: General Requirements for New Development
GR4: Landscaping
GR6: Amenity and Health
GR7: Pollution
GR9: Accessibility, Servicing and Parking Provision
NR1: Trees and Woodlands
NR2: Wildlife and Nature Conservation
NR3: Habitats
NR6: Reclamation of Land

OBSERVATIONS OF CONSULTEES

Environmental Protection:

Having reviewed the planning application this Division wishes to raise an objection to the relocation of the site entrance for the importation of inert material. There is proposed to be 50 deliveries a day which is a 100 vehicle movements to enter and exit the site. The proposed relocation is immediately next to residential properties and such movement of vehicles will potentially have a detrimental impact on the health and wellbeing of the occupants as a result of noise and vibration.

This Division has experience of complaints arising from similar operations immediately close to residential and which have been deemed a nuisance.

Environment Agency:

Have no objection in principle to the proposed Variation of Condition 2 but would like to make the following comment.

“Alum Brook is designated "main river". We have discretionary powers, within the Water Resources Act 1991, to carry out works to Alum Brook for which access is required to and along the banks of the brook. The Land Drainage Byelaws require our prior written consent for any proposed works or structures within a distance of 8 metres of the top of the bank of the brook. Consent under the Byelaws is unlikely to be granted for any proposals within the 8 metres wide strip that would affect access”

Strategic Highways Manager:

Recommends refusal of this development proposal on: access strategy, access geometry, lack of information and potential detriment to public highway safety.

University of Manchester (Jodrell Bank):

No objection.

Natural England:

No objection.

VIEWS OF TOWN/PARISH COUNCIL

None received at the time of report writing.

OTHER REPRESENTATIONS

Seven representations have been received relating to this application, six expressing concerns and one expressing support for the proposal. The concerns are outlined below:

- Highway safety, the approved access is in the 40mph zone and the proposed access is in the 60mph zone
- Increased HGV traffic on Middlewich Road
- Vehicles should not access the site via Holmes Chapel
- Inadequate visibility splays
- Health and safety risks to local residents
- Noise and vibration disturbing the residential properties adjacent to the proposed access
- Horrendous smells emanating from the site
- Environmental and airborne waste and detritus on roads in the area
- Impact on property values
- The land is not entirely in the ownership of the applicant and is subject to a land ownership dispute

The representation of support states that there is a shortage of sites for the tipping of soil materials and it would improve the field for agricultural uses.

OFFICER APPRAISAL

Principle of the Development

The principle of using the site for the importation of inert construction and demolition waste has already been established on this site when planning permission was granted in March 2012 and this permission (11/3065C), remains extant and could be implemented subject to compliance with the conditions that were imposed.

The application should therefore be determined in accordance with the issues set out below.

Highway Safety

The Strategic Highways Manager is aware that all other conditions applied to the extant permission (11/3065C) would still be applicable if a permission were granted for this current proposal, however the application detail does not demonstrate that the required junction geometry can be achieved and it seems clear from the site visit that the geometry could not be achieved due at least to utility service installations.

In addition the new point of access would sit within the de-restricted (60m.p.h.) speed limit and no attempt has been made to prove the related visibility splays for this point of access.

Therefore insufficient information has been provided to demonstrate that a safe access could be achieved and a refusal on highway safety grounds is recommended.

Landscape and Trees

The site of the proposed development is located on agricultural land designated as open countryside in the relevant local plan. It has no national or local protected landscape status. The main area of the field in which the site lies is relatively level although the levels fall to the south where a watercourse runs along the field boundary.

The proposed access would have a less visually intrusive impact than that as approved; however that impact would be for a limited amount of time and the land would be restored to its agricultural use.

Ecology

The Council's Ecologist has assessed the application and has no objection. However a section of hedgerow has been removed, and should the application be permitted, a condition should be imposed requiring the reinstatement of the hedgerow when the development is complete.

Residential Amenity

The previously approved scheme proposed an access which was not in close proximity to residential properties and was considered to be acceptable. This application seeks to access the site using a different field access and the access to the dwelling house known as Cotton View. This property is in the ownership and control of the applicant who has undertaken not to use it as a residential dwelling during the course of the activities on the site.

However this is not the only residential property in close proximity to the proposed new access. There is a row of eight dwellings that would be affected by the proposed new access

and it is considered that the noise and vibration caused by 50 HGV movements per day would have an unacceptable impact on the residential amenity of these properties. Of particular concern would be the impact on the property adjacent to Cotton View because of the relationship of the proposed access with that property.

Environmental Protection have raised this issue as a serious concern and consider that the development would have a detrimental impact on the health and wellbeing of the occupants of the adjacent residential dwellings, as a result of noise and vibration.

The proposal is therefore contrary to Policies GR6 and GR7 (Amenity) of the adopted local plan.

Visual Amenity

Having regard to the visual amenity of the area, the proposed access would have a lesser impact on the visual amenity of the area; however this issue is outweighed by the unacceptable impact that the development would have on residential amenity. In addition, it is considered that any adverse impact on the visual amenity of the area from the approved access track will be temporary and will not have a long term detrimental effect.

Other Matters

Some of the objectors have raised the issue of the principle of depositing waste and the type of waste to be deposited. However; the principle of using the site for this purpose has already been established and the waste to be deposited is inert construction and demolition material.

There is also a dispute over land ownership which is not something that the Local Planning Authority would be involved with.

CONCLUSIONS

In conclusion, the development would have an unacceptable adverse impact on the residential amenity of the neighbouring dwelling houses on Middlewich Road and the applicant has failed to demonstrate that the revised access point would not have an adverse impact on highway safety.

RECOMMENDATION:

Refuse for the following reasons:

- 1. The proposed development would, by allowing 50 heavy goods vehicle movements per day to pass in close proximity to residential properties, cause unacceptable noise, vibration and disturbance to those residential properties. The proposal is therefore contrary to Policies GR6 and GR7 of the adopted Congleton Borough Local Plan First Review 2005 and Policy SE 12 of the Cheshire East Local Plan Strategy – Submission Version.**
- 2. Insufficient information has been submitted with the application relating to junction geometry and visibility splays, in order to assess the impact of the proposed development having regard to highway safety. The applicant has**

therefore failed to demonstrate that the proposal would comply with Development Plan policies and other material considerations.

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

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