

Application No: 13/4685W

Location: White Moss Quarry, Radway Green, Alsager, Crewe, CW1 5UJ

Proposal: Removal of Condition 24 on Approved Application 7/2008/CCC/8 - Aggregate Recycling Operations, to allow flexibility for essential site maintenance of plant. To also allow plant maintenance 07.30 - 18.00 on Sundays.

Applicant: Land Recovery Limited

Expiry Date: 30-Dec-2013

SUMMARY:

The NPPF states that in assessing development proposals, local planning authorities should apply the presumption in favour of sustainable development.

In terms of sustainability, the proposal would satisfy the economic sustainability role by helping to support the operation of the existing quarry business which provides both direct and indirect benefits to the local economy. However these considerations would not outweigh the harm to the local environmental and social sustainability considerations having regard to the impacts on residential amenity.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. The hours proposed do not conform with those stipulated in Policy of CRMLP and no information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours nor any mitigation identified to address any associated impacts as required by this condition. The proposal therefore conflicts with policies 12, 23 and 29 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

RECOMMENDATION: Refuse

PROPOSAL

This is an application for the variation of condition 24 of planning permission 7/2008/CCC/8 which granted approval for aggregate recycling operations at White Moss Quarry. The condition currently stipulates:

'Operations authorised with this consent shall not be carried out other than between the hours of:

0730 – 1800 hours Monday to Fridays

0730 – 1230 hours Saturdays

Plant maintenance shall not be carried out other than between the hours of:

0730 – 1800 hours Monday to Saturday

No working shall take place on Sundays or Public Holidays’.

The application seeks to vary this condition to allow plant maintenance on Sundays from 0730 – 1800 hours, in addition to the hours currently stipulated this condition.

SITE DESCRIPTION

The aggregate recycling operations are undertaken within the boundary of White Moss Quarry which is located on Crewe Road (B5077), between the western extent of Alsager and the M6 motorway. The permitted aggregate recycling area lies on the southern boundary of the quarry adjacent to the processing plant, reception building and quarry entrance.

To the north lies the quarry site beyond which is Nursery Road, a number of residential properties, farms and agricultural land. To the east of the site are a number of properties on Close Lane and further properties forming the western edge of Alsager. To the south of the site is a garden centre, beyond which is the extensive development of Radway Green BAE Plant; whilst the M6 lies to the west beyond open fields.

The closest residential properties lie approximately 136m from the site to the south on Crewe Road. A public footpath runs along the southern boundary of the quarry and cuts across the southern boundary of the aggregate planning permission boundary. The site is within Open Countryside, as defined in the local plan, albeit approximately 260m from Alsager settlement boundary.

RELEVANT HISTORY

Long planning history on the wider quarry site. Most relevant of which are:

7/2008/CCC/8	Aggregate recycling operations granted January 2009
7/2006/CCC/19	Variation of conditions of permission 7/P04/1054 granted February 2007
13/4132N	Outline application for residential development – approved at Strategic Planning Board August 2014

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 47.

National Planning Policy for Waste (NPPW) sets out detailed waste planning policies. Paragraph 7 provides detailed considerations in respect of determining waste planning applications.

Development Plan:

The Development Plan for this area is the Cheshire Replacement Waste Local Plan 2007 and Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are: -

Cheshire Replacement Waste Local Plan

12 – Impact of Development Proposals
23 – Noise
29 – Hours of Operation

Crewe and Nantwich Local Plan

NE.17 – Pollution Control
BE.1 – Amenity

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SE12 – Pollution, Land Contamination and Land Instability
SD 1 Sustainable Development in Cheshire East

Other Considerations:

National Planning Practice Guidance
Noise Policy Statement for England

CONSULTATIONS

Environmental Protection:

The current permission allows for maintenance during normal operating hours and in addition from 1230 to 1800 hours on Saturday. There is little information submitted for the requirement outside of these hours for further allowance for maintenance activities.

Plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The extant permission already allows for additional hours for this activity. This section considers that in order to safeguard residential quality of life, a period of respite for local residents from the potential of adverse noise impacts should remain.

Given the above reasons the section recommends that this planning application is refused.

Alsager Town Council: strongly object as it would cause serious harm to the well being of the residents within that area. The quarry already has extensive operating hours from Monday through to Saturday, residents within the vicinity of the Quarry should be allowed one day a week free from the very noisy and dusty operations of the Quarry.

Haslington Parish Council: are concerned at the requirement for plant maintenance covering 7 days a week, needing to balance the requirements of neighbours with one of the few remaining employment sites within Haslington. If absolutely essential then a compromise of restricted hours between 09:00 and 12:00 on Sundays would provide some quiet time for neighbours on Sunday afternoons.

REPRESENTATIONS:

Neighbour notification letters were sent to adjoining occupants, a press notice and site notice were posted.

At the time of report writing approximately 44 representations have been received which can be viewed on the Council website. They express a number of concerns which include:

- Impact on residential amenity arising from noise and disruption
- Increased dust
- Need for respite
- Sunday is a religious day
- Potential for vibration
- Impact on quiet rural area
- Need for proposal not demonstrated and activities can be scheduled into normal operating hours
- Existing provisions in the conditions are adequate
- Non compliance with existing conditions and ability to effectively monitor any amended conditions
- Health and safety issues particularity for footpath users
- Other quarries/businesses are not permitted such allowances
- Disturbance to wildlife
- Potential for additional traffic and impacts on highway network and highway safety.
- Impacts on condition of roads
- Impact on health and wellbeing of residents and local people
- Impact on users of the footpaths
- Reduction in quality of lives of local residents
- Does not conform with planning policy
- Adequacy of monitoring and enforcement on the site

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of development

The principle of the aggregate recycling operations has already been accepted following the approval of the permission 7/2008/CCC/8. This application is to consider the variation of planning condition 24 attached to that consent.

It is necessary that planning conditions satisfy six tests as identified at paragraph 206 of the NPPF which states that conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;
6. Reasonable in all other respects.

The Planning Practice Guidance also states that in determining this application the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.

Sustainability.

The proposed development should be considered against the NPPF and National planning policy on waste. The NPPF identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The NPPF defines sustainable development and states that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

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

These roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Social sustainability

Impact on amenity

The applicant wishes to increase the hours permitted for plant maintenance to allow activity on Sundays from 0730 to 1800 hours. The application form states that this is required 'to allow flexibility for essential site maintenance of plant'. No other supporting justification has been provided.

The Cheshire Replacement Waste Local Plan (CRWLP) policy 12 requires there to be an evaluation of all direct, indirect and cumulative impacts of the development. Policy 23 states that proposals will not be permitted where it would give rise to unacceptable levels of noise pollution, and suggests controlling the hours of operation as a means of controlling noise emissions from the site.

The National Planning Policy for Waste (NPPW) requires consideration of the likely impact of proposals on the local environment and on amenity of new development. Equally one of the core planning principles in the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings. New and existing development should not contribute to unacceptable levels of noise pollution, nor give rise to '*significant adverse impacts on health and quality of life*' (paragraph 123). It should also be appropriate for its location, and the potential sensitivity of the area to adverse effects from pollution should be taken into account.

The Environmental Health Officer notes that plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The effect of this proposal would result in additional noise generating activities on Sundays which is one of the few days that local residents are not exposed to noise and disruption associated with the quarry and aggregate business. During weekend hours the background noise levels are lower and residents are more sensitive to adverse noise impacts. It is considered that a period of respite from any potential adverse noise impacts should remain in place in order to safeguard the quality of life for local residents.

There is a history of noise complaints associated with operations at White Moss Quarry, including noise complaints related to weekend working; although it is not clear if this is related specifically to the aggregate operations. It would be remiss of the Council not to consider the background of complaints received from local residents in relation to noise from current operations at the site; which provides an indication that further prolonged activities could lead to increased noise disturbance at the properties and increased loss of amenity.

The potential impacts of any noise and disruption on neighbour properties has not been quantified or assessed through an appropriate noise survey and as such there is insufficient information to determine whether there would be significant adverse impacts and whether these could be sufficiently mitigated. This does not accord with the approach of policies 12 and 23 of CRWLP, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan. As stated in paragraph 8 of NPPF, the three dimensions to sustainable development should not be undertaken in isolation and the impact of additional, potentially unacceptable levels of noise would not satisfy either the environmental or social roles of sustainable development.

Compliance with policy 29

Policy 29 of the Cheshire Replacement Waste Local Plan stipulates the 'normally permitted hours of operation' for waste management facilities, with no working permitted at any time on Sundays. The existing condition already makes additional provision for plant maintenance in excess of the hours normally permitted under this policy. Whilst longer working may in some cases be permitted, this is on the proviso that there are no consequent unacceptable impacts. The supporting text explains that in such cases, the applicant would need to demonstrate the exceptional circumstances pertaining to their application and the mitigation methods to be used to minimise any impacts arising from longer working hours. The application does not

detail any information to demonstrate such exceptional circumstances nor identify suitable mitigation. It is considered that the proposal does not accord with this policy and has not been sufficiently justified given that additional flexibility has already been provided for within the existing wording of the condition.

Environmental Sustainability

The proposal has the potential to pose determinant impacts on the environment by means of increasing noise pollution in the local area. Such impacts have been considered in the above section.

Economic sustainability

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that: *'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'*. The NPPW also states that 'positive planning plays a pivotal role in delivering this country's waste ambitions through seeking to ensure that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities'.

Any economic benefits of the development need to be balanced against the impact on residential amenity arising from this scheme. With regard to the economic role of sustainable development, the proposed development will enable the applicant to carry out maintenance of essential plant and machinery on Sundays, which in turn would help support an existing business which provides an outlet for inert wastes from construction projects and allows them to maintain a supply of secondary aggregates for the construction industry. This provides both direct and indirect economic benefits to the local economy and in particular to the construction industry supply chain.

Response to Objections

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

Conclusion – The Planning Balance

Taking account of Paragraph 14 of the NPPF and paragraph 1 of the NPPW there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policies 23 and 29 of the Cheshire Replacement Waste Local Plan, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The development would provide additional provision for plant maintenance, thereby supporting an existing business which provides both direct and indirect benefits to the local economy and in particular to the construction industry supply chain. However this should be balanced against the conflict with policy 29 of the Cheshire Replacement Waste Local Plan and potential harm to the amenity of nearby residential properties arising from noise and disruption caused. These impacts are considered sufficient to outweigh the benefits derived from this proposal.

The restrictions imposed by the condition as currently worded are considered to satisfy the six tests as identified at paragraph 206 of the NPPF in that they are relevant, necessary, precise and reasonable as they enable the impacts on amenity from noise and disruption associated with this activity to be controlled. In particular the existing condition is both 'reasonable' and 'necessary' as it would not present unjustifiable or disproportionate burden on the applicant (NPPG paragraph 004) given that there are already additional provisions for plant maintenance permitted under the current wording of the condition which goes beyond the 'normally permitted' hours stipulated in the policy, and no evidence has been provided by the applicant to demonstrate why existing permitted hours are not adequate. Equally its retention is necessary to ensure the amenity of local residents is protected.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. No information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours as required by Policy 23, nor any mitigation identified to address any associated impacts. The proposal therefore conflicts with policies 12, 23 and 29 of the Waste Local Plan, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 123 of the NPPF.

RECOMMENDATION

Refuse for the following reasons:

- 1. The proposed hours of plant maintenance do not conform with those stipulated in the development plan and no exceptional circumstances have been demonstrated to justify any deviation from the policy. As such the proposal conflicts with the provisions of policy 29 of the Cheshire Replacement Waste Local Plan;**
- 2. Insufficient information has been provided to demonstrate that the proposed variation would not have an adverse impact upon the amenity of nearby residential properties which is contrary to policies 12 and 23 of Cheshire Replacement Waste Local Plan, and policies and NE. 17 and BE.1 of Crewe and Nantwich Local Plan and guidance within the NPPF and NPPW.**

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

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

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