The Planning Inspectorate

Appeal Decision

Site visit made on 6 September 2016

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 October 2016

Appeal Ref: APP/D3450/W/16/3152212
163 Walford Works, Longford Road, Cannock, Staffordshire WS11 0LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr A Davis (The Raw Material Co. Ltd) against the decision of Staffordshire County Council.
- The application Ref CH.15/14/780 W, dated 18 December 2015, was refused by notice dated 23 May 2016.
- The development proposed is described as a "*retrospective planning application for the establishment of a construction/demolition waste recycling centre within an existing builders yard*".

This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 28 September 2016.

Decision

1. The appeal is allowed and planning permission is granted for the establishment of a construction/demolition waste recycling centre within an existing builders yard at 163 Walford Works, Longford Road, Cannock, Staffordshire WS11 0LF, in accordance with the terms of the application Ref CH.15/14/780 W, dated 18 December 2015, subject to the conditions set out in the annex to the decision.

Procedural Matters

2. There is no dispute that waste recycling operations are being carried out on the appeal site. However, whilst the development has been described as 'retrospective', the site layout plans, infrastructure requirements and boundary treatments differ from those I observed on my site visit. Therefore, for clarity I have determined this appeal against the submitted drawings.

Main Issues

3. The main issues in this case are:

   - whether the proposal would have an unacceptable impact on nearby land uses and users in respect of noise, dust, vibration and visual impact; and

   - the effect of the proposed development on the character of the surrounding area.

Reasons

Policy background

4. The National Planning Policy for Waste (October 2014) sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. A key objective of this Policy includes securing the re-use, recovery and disposal of waste without endangering human health and without harming the environment. Furthermore it states that the concerns and interests of communities and business should also be reflected.

5. The Development Plan for the area includes the Staffordshire and Stoke-on-Trent Joint Waste Core Strategy 2010 - 2026 (CS). Whilst it was prepared and adopted before the National Policy for Waste was published, the relevant policies are consistent with that document and I should give them full weight.

6. Among other things, CS Policy 1.1 requires applicants to demonstrate that the waste management proposal accord with the principle of protection of human health. Similarly CS Policy 3.1 sets out the general requirements for new waste facilities, which includes the need for applicants to demonstrate that any environmental impacts can be effectively mitigated and be compatible with nearby uses. CS Policy 3.4 establishes that a temporary permission may be considered if there were any doubts about the effect of a proposed open air waste management facility. In such a case a temporary permission would unable the waste planning authority to monitor the site and assess any effects.

7. CS Policy 1.3 supports the recycling of construction, demolition and excavation waste in order to meet the minimum landfill diversion targets set out in CS Policy 2.1 and the number of new waste management facilities required by CS Policy 2.2. CS Policy 2.3 establishes the broad locations for such facilities, including the large settlement of Cannock.

8. Among other matters, CS Policy 4.1 requires all proposals for waste management facilities to be designed and operated to high environmental standards and positively contribute to the character of the local environment. In particular CS Policy 4.2 states that in determining the impact of the proposed development consideration will be given to the effect on people and local communities.

9. These matters are repeated and augmented within the Cannock Chase Local Plan 2014 (LP) Policies. In particular LP Policies CP3, CP8, CP10, CP13 and CP16 seek to ensure, amongst other matters, that developments complement the character of an area, protect the amenity enjoyed by existing properties, have no adverse impact on the Cannock Chase Special Area of Conservation, support sustainable transport and resource use and create a balanced economy.

10. Whilst LP Policy CP4 has been brought to my attention it relates to neighbourhood planning. No neighbourhood or parish plans have been put before me. Therefore it is not relevant in this case.

Impact on neighbouring land uses and users

11. The site is located on an industrial estate. Surrounding operations include a gym, builder's yard, charity shop, motorcycle repairs/showroom, printers, mobility aids showroom and various other offices, manufacturing and engineering operations. The nearest dwellings are located some 130m from the appeal site along Longford Road.

Noise and vibration

12. The Appellant has submitted a Noise Impact Assessment Report, dated 14 April 2016. The report assessed the impact of noise emitted from a McCloskey J40 v2 crusher and various on-site activities including material deliveries and material movements. Background noise monitoring was undertaken directly overlooking Longford Road and noise levels of the on-site activities were measured close to the noise source. Noise measurements of on-site activities were also measured at the site boundary with neighbouring offices, residential properties and industrial units.

13. The analysis concludes that the sound rating at the nearest residential properties is below background levels and is thus described as 'low impact'. However this was not the case at the nearby offices, where the noise emissions were calculated as slightly above the assessment criteria. Accordingly, further mitigation was recommended to reduce noise emissions. This included the enclosure of the crusher and an increase in the height of the boundary wall to a minimum of 5m. The report concluded that "*Considering the mitigation scheme outlined in the report, it is predicted that the assessment criteria will be met"*. The Council's Noise Engineer accepted these findings and did not object to the proposal.

14. The Council are nevertheless concerned about specific aspects of noise and vibration. In this respect the appellant has agreed to a temporary planning permission during which period actual noise and vibration levels could be monitored through a condition and appropriate action taken if there are genuine noise and vibration problems. Furthermore, the appellant is willing to restrict the operation of the crusher to Saturdays only, when use of the neighbouring industrial units / The Cedar Business Centre is reduced.

15. The noise and vibration from plant and machinery can be particularly distinctive and annoying. The opportunity of a temporary permission, alongside the acoustic enclosure and boundary walling can be secured through a condition. The effectiveness of which can be assessed through a noise monitoring regime. With this reservation I conclude that the potential for noise and vibration emanating from this proposal could be satisfactorily monitored and managed.

Dust

16. Some dust would be bound to arise from the activities proposed on the site. Nevertheless, having regard to the mitigation measures put forward by the appellant, such as a sprinkler system, the assessment of the District Environmental Health Officer is that this is a matter which could be satisfactorily controlled by conditions. From the evidence before me and from my observations at the site visit I see no reason to disagree.

Visual impact

17. I have had regard to the Council's concerns relating to the visual impact of the development and its effect on the Cedar Business Centre. The main visual impact of the proposal will be the introduction of a 5m high boundary wall, particularly that abutting the boundary with 'Bloxwich Truck and Containers'.

18. However, the side elevation of 'Bloxwich', which neighbours the appeal site, contains no openings. In oblique views towards the appeal site there are already a number of mature trees which screen views from the windows in the front elevation of 'Bloxwich'. I accept that there would be an increased sense of enclosure and that the outlook would change, but I do not consider that the proposed wall would unacceptably harm outlook. Particularly where the office users would continue to enjoy views towards the north and west.

19. In terms of daylight, there is little evidence to demonstrate that the front windows of 'Bloxwich' and the offices affected would not continue to receive adequate light, particular given the existing boundary trees; the proposed wall would not extend sufficiently high above the office windows to block all sky views. Accordingly, there would be no material loss of daylight to the neighbouring business occupiers.

20. Additionally, the concerns expressed by neighbouring occupiers in respect of anti-social behaviour will be addressed by the provision of a Porto-loo as shown on the submitted layout plan and a condition to restrict burning on site.

Conclusion on this main issue

21. There is no substantive evidence to suggest that with effective management, the proposal would generate unacceptable adverse effects from noise, dust, vibration and visual intrusion for adjoining land uses and users. The proposal is therefore in accordance with: the National Planning Policy Framework, which requires amongst other matters that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings; and CS Policies 1.1, 3.1, 3.4, 4.1 and 4.2. I therefore conclude on this main issue that subject to conditions the proposal would not have an unacceptable cumulative impact on nearby land uses and users.

22. In reaching this conclusion I have borne in mind the objectors' fear that once the development has commenced, it will not be possible for the Waste Planning Authority to resist proposals for increased processing activities and that they will not assiduously enforce control of noise and dust. Whilst this is a valid concern the conditions set out in the attached schedule are sufficiently robust, if monitored and enforced by the Waste Planning Authority, to ensure that the objectors' fears are not realised. Moreover, not only could the County Council take legal action if these conditions were not complied with, any statutory nuisance or health risk could be dealt with under other legislation.

Character

23. I have had regard to the Council's concerns regarding the impact of the development on the character and appearance of the Cedar Business Centre and surrounding area, but the site is located in an industrial area surrounded by large buildings and other manufacturing operations.

24. The proposed boundary walls would be largely screened by existing industrial units and landscaping, which are of a similar scale. The site is therefore visually well contained and any impact on the character of the area would not be significant. Accordingly, the development would not materially detract from the character of the surrounding area.

25. To conclude on this main issue the proposal would accord with CS Policies 3.1 and 4.1and LP Policy CP3 which seek to ensure that developments complement the character of an area.

Conditions

26. The Planning Practice Guidance (PPG) states that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. I shall impose the conditions suggested by the Council, modified to remove duplication and increase precision where appropriate. In my view the conditions are necessary and reasonable, and meet the tests set by the PPG.

27. To this end, conditions are required to control various aspects of the development and its operation to safeguard the character and appearance of the area and the living conditions of nearby residents and business users. These are: to control the use and hours and days of operation; waste type and quantity to be imported; storage of non-conforming wastes; no burning of waste materials; light pollution; water protection; traffic; highway access and safety; site layout; stockpile height; location and operation of loading shovel; crusher enclosure; maintenance of boundary walls, fencing and gates; no storage of redundant vehicles, skips or equipment; knowledge of the planning permission and record keeping; and tree protection.

28. Conditions are required to limit, manage and monitor noise and dust emanating from the site. In particular a Noise Management Plan is to be submitted and agreed, and subsequently worked to, as well as best practicable means to control dust and windblown litter.

29. A condition is required naming the drawings, for the avoidance of doubt and in the interests of proper planning. Due to the retrospective nature of the waste operations on the site a condition shall specify that the permission will have been deemed to be commenced from the date of this decision.

30. The PPG says that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Nevertheless, given the location of the site and neighbouring uses exceptional circumstances exist here to restrict permitted development rights in terms of buildings, plant, structures or erections without the prior written approval of the waste planning authority.

31. Conditions limiting the permission to a period of 12 months from the date of this decision and requiring the removal of the waste materials should the use cease to function are necessary in the interest of the amenity of neighbouring occupiers and the monitoring of site operations.

32. For the reasons set out above I have not found any harm to neighbouring amenity or the character and appearance of the area resulting from the

construction of the boundary walls. Therefore the Council's condition restricting the height of boundary treatments is not necessary.

Conclusion

33. I conclude that subject to the imposition of conditions that include a temporary period, during which the operations could be monitored, the proposed development would not have an unacceptable impact.

34. I therefore find for the reasons given above and having taken account of all matters raised that the appeal should be allowed subject to conditions.

Joanne Burston

INSPECTOR

Annex - Conditions attached to appeal reference APP/D3450/W/16/3152212

1. This planning permission shall only relate to the site edged red on the 'Existing Site Plan and Location Plan' (dwg no 15/05/288/02) hereafter referred to as 'the Site' and the development hereby permitted shall only be carried out within the Site in accordance with the approved documents and plans listed below:
   - Application Form dated 18 December 2015
   - Planning Statement (Rev A)
   - Existing Site Plan and Location Plan (dwg no 15/05/288/02)
   - Proposed Site Layout Plan (dwg no 15/05/288/03 Rev F)
   - Noise Assessment (Rev A) - Commercial Sound Assessment by Peak acoustics (14 April 2016)

   except in so far as the approved documents and plans listed above are amended by the conditions specified below.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no buildings, plant, structures or erections other than those hereby permitted shall be brought on to the Site without the prior written approval of the Waste Planning Authority.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or succeeding Orders, the Site shall not be used for any purposes other than that which is the subject of this permission.

4. The development hereby permitted shall be deemed to have commenced on the date of this Decision Notice.

5. The operations hereby permitted shall cease no later than 12 months from the date of this Decision Notice and the Site shall thereafter be cleared of all waste, recyclable materials, recycled materials and primary aggregates, buildings, structures, plant, vehicles and equipment associated with the operations hereby permitted no later than 15 months from the date of this Decision Notice. This permission shall thereafter cease.

6. Should for any reason the import of waste or recyclable materials cease for a period of 3 months during the 12 month period from the date of this Decision Notice, the operations hereby permitted shall be deemed to have ceased ('the deemed cessation date') and no further waste or recyclable materials shall be imported on to the Site. In such circumstances the Waste Planning Authority shall be notified in writing within 7 days of the deemed cessation date and no later than 3 months after that date the Site shall be cleared of all waste, recyclable materials, recycled materials and primary aggregates, buildings, structures, plant, vehicles and equipment associated with the operations hereby permitted. This permission shall thereafter cease.

7. No waste or recyclable materials other than inert construction and demolition waste shall be imported on to the Site.

8. The total quantity of waste or recyclable materials imported on to the Site shall not exceed 75,000 tonnes per year.

9. Non-conforming wastes shall be stored in a sealed container or skip and removed from the Site within 7 days.

10. Vehicular access to the Site from the public highway and egress from the Site to the public highway shall only be obtained via the private access road leading from the entrance to the Site to Longford Road shown on the 'Proposed Site Layout Plan' (dwg no 15/05/288/03 Rev F).

11. The private access road shall be kept free from potholes and kept free from mud and debris for the duration of this permission.

12. The total number of Heavy Commercial Vehicle movements (HCV movements) associated with the delivery or removal of waste, recyclable materials, recycled materials and primary aggregate to/from the Site shall not exceed an average of 6 HCV movements per full working day (3 in and 3 out) calculated over a full working week (Monday to Saturday).

13. All waste, recyclable materials, recycled materials and primary aggregate in HCVs entering or leaving the Site shall be netted, sheeted, or placed within containerised vehicles.

14. No vehicles associated with the development hereby permitted shall leave the Site in a condition whereby mud, dirt or other deleterious materials may be deposited on the private access road or public highway.

15. No later than 3 months after the date of this Decision Notice, the layout of the Site, including the aggregate bays, stock pile area, crusher enclosure, offices, trade counter, car parking bays, internal fencing and gates, water sprinklers, boundary treatments and access gates shall be constructed, erected, positioned or marked out as shown on the 'Proposed Site Layout Plan' (dwg no 15/05/288/03 Rev F) and shall thereafter be maintained in good condition and fit for purpose in accordance with the approved plan, subject to the limitation referred to in condition 24 below.

16. The stockpiles of waste, recyclable materials and primary aggregate shall not exceed 3 metres in height (measured form the finished level of the yard area).

17. For the avoidance of doubt all waste shall be stored in the 'stock pile area' and all recycled materials and primary aggregates shall be stored in the aggregate bays, shown on the 'Proposed Site Layout Plan' (dwg no 15/05/288/03 Rev F).

18. No loading shovel shall be used on the top of a stockpile in a position whereby the bucket or any suspended load shall swing beyond the storage area and in any event shall not swing within 1 metre of the boundary of the Site.

19. The crusher enclosure shall be constructed and maintained in accordance with the details shown on the Proposed Site Layout Plan (dwg no 15/05/288/03 Rev F).

20. The Site shall be secured to discourage unauthorised access. Boundary walls and fencing shall be maintained in good condition and fit for purpose, and the entrance gates shall be locked outside the permitted operating hours.

21. All external flood lighting within the Site shall be positioned so as not to cause nuisance to the occupiers of nearby properties and land and to minimise general light pollution.

22. Impermeable hard surfaced areas at the entrance to the Site where there is public access, leading to the wheel wash and where the aggregate bays are constructed shall be constructed and maintained in good condition and fit for purpose, with soakaways via oil interceptors.

23. No redundant vehicles, plant and machinery shall be stored on the Site.

24. For the avoidance of doubt no skips shall be stored on the Site except for 2 skips for the temporary storage of non-conforming waste (Condition 9).

25. With the exception of necessary works arising from emergency situations, no operations (including movement of: waste, recyclable materials or primary aggregate to or from the Site; and vehicles, delivery and removal of materials and equipment) shall take place other than between the following hours:

    (i) subject to the provisions of (ii) below 07:00-17:00 hours Mondays-Fridays and 07:00-12:30 hours on Saturdays and not at any time on Sundays and Bank / public Holidays.

    (ii) all operations associated with the movement and operation of the crusher shall be restricted to between 07:00-12:30 hours on Saturdays;

26. In accordance with the guidance and procedures set out in BS4142:2014, the rating level from the operations hereby permitted shall not exceed the levels at the locations detailed below as referred to in the Noise Assessment (Rev A) - Commercial Sound Assessment by Peak acoustics (14 April 2016).

Location	NSR1	NSR2	NSR3
Type	Residential	Offices	Offices
BS4142:2014 Sound rating level	57 dB	50 dB	50 dB

27. Best practicable means shall be used to minimise the noise generated by the operations hereby permitted. In particular, all vehicles, plant and machinery operated within the Site shall be fitted with and operated with closed engine covers, use effective silencers and where appropriate white noise reversing

alarms. All vehicles, plant and machinery shall be effectively maintained for the duration of this permission.

28. No later than 6 weeks from the date of this Decision Notice, a Noise Management and Monitoring Scheme ('the Scheme') shall be submitted for the written approval of the Waste Planning Authority. The Scheme shall include but not be limited to the following details:

    a) the noise management measures to minimise the noise generated by the operations and to ensure that the permitted noise limits in Condition 26 are not exceeded;

    b) the noise monitoring of the operations to be carried out on the Site 3 months, 6 months and 9 months after the date of the Decision Notice. The noise monitoring results shall be submitted to the Waste Planning Authority within 10 working days of noise monitoring taking place; and,

    c) details on action to be taken should the noise monitoring show that the operations are exceeding the noise limits in Condition K.

    Noise management and monitoring shall be carried out in accordance with the approved Scheme.

29. Best practicable means shall be used to minimise dust generated by the operations hereby permitted. The means shall include the provision of a mains water supply on the Site to ensure that the measures to control dust, including the wheel wash and the water sprinklers shown on the 'Proposed Site Layout Plan' (dwg no 15/05/288/03 Rev F) are available for use at all times and are used as necessary to clean vehicles before leaving the Site and to dampen down potential sources of dust.

30. The water sprinklers shall be monitored when in use to ensure that windblown water does not leave the Site. In such circumstances the water sprinklers shall be adjusted to prevent windblown water leaving the Site.

31. In the event that dust is seen leaving the Site then the dust generating operations shall cease until such time as the weather conditions improve to allow the operations to continue without dust leaving the Site.

32. The Site shall be laid out and drained to prevent surface water discharging from the Site and collecting on neighbouring properties.

33. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank or vessel of the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipe work, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and

tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

34. No potentially polluting activities associated with the development hereby permitted shall be carried out on the Site other than on an impermeable base.

35. No materials shall be burned on the Site at any time.

36. An inspection of the Site shall take place as frequently as necessary and in particular during windy conditions to check for wind-blown waste (hereinafter referred as 'litter') and should litter be found then the litter shall be collected and stored in the 'Waste and recycling bins' shown on the 'Proposed Site Layout Plan' (dwg no 15/05/288/03 Rev F) and later removed for recycling or disposal at an authorised waste management facility.

37. No existing trees, shrubs or hedgerows on the periphery of the Site or forming part of the boundary to the Site shall be lopped, topped or felled, pruned, sustain severance of roots or have their roots over tipped without the prior written approval of the Waste Planning Authority.

38. The terms of this planning permission, including all documents hereby permitted and any documents subsequently approved, shall be made known to any person(s) given responsibility for the management or control of the waste activities/operations on the Site.

39. The following records shall be kept at the Site and shall be provided to the Waste Planning Authority within 7 days of a request being made. In making a request, the Waste Planning Authority shall specify the dates between which the records shall be provided.

    a) Records of the dates and times when waste, recyclable materials or primary aggregate is delivered to the Site.

    b) Records of the dates and times when waste, recyclable materials or primary aggregate is removed from the Site.

    c) Records of the quantity and type of the waste, recyclable materials or primary aggregate delivered to the Site per day.

    d) Records of the dates and times when the mechanical crusher was in use.

    e) The results of noise monitoring carried out in accordance with the approved Noise Management and Monitoring Scheme (Condition 28);

    f) Records of any complaints and any remedial action taken

End