

Appeal Decision

Site visit carried out on 21 September 2016

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 27 October 2016

Appeal Ref: APP/Y3940/W/16/3147707
Leigh Delamere, Nr Chippenham, Wiltshire

- 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 Mrs H Tupper against the decision of Wiltshire Council.
 - The application, No 13/04647/WCM, dated 26 September 2013, was refused by a notice dated 9 December 2015.
 - The development proposed comprises the construction of a new landscaped noise attenuation bund.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Preliminary and Background Matters

2. There have been three previous planning applications for the construction of a bund in this location, each of differing design. The first was refused, whilst the later two were withdrawn once the recommendation for refusal was known.
3. The Environment Agency was consulted on the planning application. Its response advises, among other things, that the proposed activity will require a separate environmental permit. I am not aware that such a permit has been applied for or granted in connection with the development proposed.

The Proposal

4. It is proposed to construct an L-shaped bund (covering approximately 3.5 hectares) within a larger field of some 5.7 hectares that is currently laid to pasture. The field lies on the southern side of the narrow country lane (C178) that runs roughly east-west through Leigh Delamere, linking the small rural settlement to the nearby village of Sevington (to the west). The bund, to be constructed using inert soils together with a top soil capping, would run alongside the eastbound carriageway of the M4 motorway, between the motorway and Leigh Delamere and is intended to provide an acoustic and visual screen for local residents from the M4.
5. The main part of the bund, behind former farm buildings (now converted to residential) on the southern side of the lane, would be roughly parallel to the motorway. It would be approximately 400 metres in length, with a width of some 70 metres, returning for a length of some 180 metres at the western end, extending northwards towards the lane. The sides of the bund facing the village (north and east facing slopes) would have a shallow gradient, the 'outside' slopes would be steeper and planted with shrubs and trees.¹

¹ Plan No LDM-D1 Rev F

6. However, there is a lack of consistency in the evidence before me as to the height of the proposed bund: section 5 of the officer's report refers to an average height of 4-5 metres, but then in the section dealing with landscape/visual impact, it refers to a height of 5-6 metres; the appellant's LVIA is based on a bund height of approximately 3 metres above the average ground level alongside the motorway and up to 4 metres in height for a short section of the western spur;² the EIA Screening Opinion refers to a maximum height of 5 metres; the 'typical cross section plan' which accompanied the planning application³ appears to show a height of some 5.7 metres above the natural ground level;⁴ and the letter that accompanied the planning application refers to a height of approximately 5 metres above normal ground levels,⁵ whilst the appeal statement suggests an average height of 4-5 metres.⁶
7. Access to the site would be via an existing field gate off the lane. The field entrance would be hard surfaced and a temporary haul road installed to the bund site. Proposed hours of operation for construction are indicated as being 07.30 – 18.00 hours Monday to Friday, with no deliveries within an agreed time period either side of the respective start and finish times of nearby schools, and 07.30-13.00 hours on Saturdays, with no Sunday or Bank Holiday working.

Main Issues

8. These relate to:

- the effect of the movement of construction traffic highway safety;
- the effect of construction traffic and the construction process on the local environment generally and on the living conditions of local residents, having particular regard to noise, vibration and dust;
- the effect of the proposed bund on the setting of heritage assets, including listed buildings and Leigh Delamere Conservation Area; and,
- whether, having regard to the intended material for construction, the development comprises a waste recovery, as opposed to a waste disposal operation and thus whether it would accord with national and local planning policies and guidance which seek to drive waste management up the waste hierarchy.

Reasons for the Decision

Highway Safety

9. As indicated above, it is intended that the existing field access would be used to facilitate access to the proposed bund both during the construction process and then afterwards for ongoing maintenance. The access is located on a straight length of highway with good visibility in both directions. There would be no harm in this particular regard.
10. The Transport Statements⁷ indicate that some 70,000 cubic metres of material

² Paragraph 4.4.3

³ Plan No LDM-TS1 Rev F

⁴ The natural ground level beneath the highest part of the bund is annotated as being between 106.375 and 106.496 metres, with the design level being between 112.107 and 112.207 metres

⁵ Page 2 of letter dated 25 September 2013

⁶ Paragraph 2.4

⁷ The application was accompanied by a Transport Statement prepared by Michael Schneider (2011). A more detailed supplementary Transport Statement, dated December 2013, prepared by Nichols Consulting, was

would be required to form the proposed bund, equating to an average of around 12 lorry loads per day (24 movements) over a two year build period⁸. It goes on to suggest that some 75% of the required material would originate from the east, south and west of the site (18 truck movements a day on average), the remainder being sourced from the north (an average of six movements a day). However, whilst the land owner's preferred contractor is identified, there is no information as to the source of the inert waste material that would be used to construct the bund. Absent that information, I have no way of knowing whether the traffic movement 'split' referred to is realistic. Indeed, whilst the transport evidence is based on a 25/75% split, the 2016 Transport Statement confirms that the split is arbitrary.

12. The Transport Statements identified a total of eight 'plausible' construction traffic routes between the principal route network and the appeal site, all of which converge on the C178 from which delivery vehicles would access the site. Three of the 'plausible' routes were rejected on grounds of road safety,⁹ leaving five preferred routes. I am advised that all the preferred routes, other than one short stretch between the C33/C72 and the C154, are on class C roads or above. With the exception of a 500 metre stretch of the C178 to the west of the appeal site (to the west of Sevington) the preferred routes are also wide enough for two vehicles to pass. In response to concerns raised by the highway authority in relation to the 500 metre stretch, the 2016 Transport Statement confirms that the two existing informal passing opportunities on that section of highway could be improved and two additional passing spaces created, all of which works could be accommodated on highway land. The passing spaces would be inter-visible and would allow for lorries to pass safely.
13. The highway authority suggests that the work to the passing places should be secured by means of a planning obligation.¹⁰ Whilst the report to planning committee suggests that the appellant has indicated a willingness to enter into a legal agreement in this regard, no such agreement is before me. That said, there is nothing to indicate why a Grampian type condition could not be used to prevent commencement of development until the passing places have been provided/improved.
14. With regard to the volume of traffic, no survey data is before me to demonstrate existing traffic movements on the 'preferred' routes. However, it is anticipated, based on the amount of material required and a two year construction period, that the appeal scheme would give rise to between one and three truck movements per hour over an arbitrary eight hour working day (an average of one movement every 20 minutes). It is acknowledged however, that frequency may fluctuate: given the distance material will have to travel and the need to avoid related traffic movements during the varied start and finish of a number of nearby schools,¹¹ the anticipated rate of fill may have the effect of increasing the number of vehicles movements per hour during term times which will, in turn, increase the chance of conflict between opposing lorries on the narrow roads. The restriction on delivery times as a consequence of school start and finish times, and the anticipated construction period, could

submitted to the Council prior to determination of the application. In addition, the appeal is accompanied by a further statement from Nichols Consulting (April 2016).

⁸ Based on 12 cubic metres truck capacity (approximately 18 tonnes)

⁹ Route 1 (Hullavington North); Route 4 (Kington St Michael); Route 7 (Castle Coombe).

¹⁰ Email dated 5 September 2014

¹¹ Hullavington CE Primary School, Stanton St Quintin Primary School, By Brook Valley CE Primary School, Sevington Victorian School, Grittleton House School

also mean that average hourly traffic movements might increase outside term times. On the other hand, the number of movements could decrease slightly outside term times and/or during British Summer Time, when construction activity could extend over a longer working day. Frequency might also change were the length of time over which construction takes place to reduce or increase. Nonetheless, I note that the highway authority raises no objection in terms of the volume of traffic likely to be generated, or to the effect of that traffic on the highway network, subject to a construction management plan.¹² Such a plan could be secured by condition were the appeal to succeed.

15. However, in seeking to mitigate the effect of delivery traffic on the local highway network, the appellant relies on control over lorry routing to avoid the village of Kington St Michael and the two other inappropriate routes.¹³ Constraints that make the route through Kington St Michael unsuitable for development related construction traffic include narrowing of the road through the village, steep gradients, a partially sighted west bend, on-street parking in the heart of the village, a kerb build out and give way line which dictate that opposing traffic can only use that section alternately, and significant sections of residential frontage at the back of the footway. The Hullavington North route involves a single track unclassified road with significant bends and few passing places, whilst the Castle Coombe route is overly circuitous and would significantly lengthen the distance that construction traffic would be on the rural road network, making it unattractive to operators from a cost perspective and resulting in unnecessary exposure of receivers to vehicles.
16. Despite numerous requests from the Council, there is no detailed information before me as to the likely source of the construction material. Without that information, there remains uncertainty as to whether the predicted split of the anticipated lorry movements, on which the appellant's transport evidence is based, is realistic. If it were not, that could have implications in terms of highway safety. I am mindful, in this regard, that route 3 through Stanton St Quintin (estimated as taking up to 6 truck movements per day) presents notable hazards that dictate cautious driving through the village, and that there is occasional on-street parking on the routes through Hullavington South (route 2)(up to 6 truck movements per day) and Grittleton (route 6)(up to 18 truck movements a day) which would give rise, on occasion to the need for vehicles to give way. The latter route, onto which the route from Burton feeds (route 8) also narrows slightly just before it joins two other routes, requiring that vehicles pass with caution. Indeed, the Transport Statements confirm that there are narrower sections on all the preferred routes along which drivers of construction vehicles will need to pass with caution.
17. It is suggested that lorry routing could be secured via a condition, as part of the construction traffic management plan. However, contrary to the views of the parties, planning conditions are not an appropriate means of controlling the right of passage over the public highway. Although a condition such as that suggested might be capable of being validly imposed, such conditions are likely to be very difficult to enforce effectively. Whilst it may be possible to encourage drivers to follow preferred routes by, for example, instructing drivers and posting site notices to that effect, where it is essential to prevent traffic from using particular routes, as is the case here, the correct mechanism

¹² Email dated 9 December 2013

¹³ via Hullavington from the north and via Castle Coombe

would be by means of, for example, an Order under the Road Traffic Regulation Act 1984. No mechanism is before me to secure such an arrangement, a matter I consider to be essential in this instance given the nature of the surrounding highway network.

18. To conclude on this issue, I am of the view that the significant implications for highway safety as a consequence of the absence of a mechanism to control the routing of construction traffic during the construction period, means that there would be conflict with the National Planning Policy Framework (the Framework) which, among other things requires that safe and suitable access to the site can be achieved. There would also be conflict with policies WDC2 and WDC11 of the Wiltshire and Swindon Waste Development Control Policies DPD 2009 (the Waste DPD) which, together and among other things seek to avoid, adequately mitigate against, or compensate for adverse impacts on the safety, capacity and use of the highway network. I appreciate that the application is for a noise attenuation bund. However, its construction relies on the transportation of waste material to the site and the above policies relate to waste management development. I am satisfied, therefore, that they are relevant policies.

Noise /vibration/dust

19. As set out above, it is estimated that construction of the bund over a two year period would result in an average of some 24 truck movements per day. Based on an arbitrary eight hour working day, this equates to an average of some three truck movements per hour, although that could fluctuate slightly. That level of activity implies a potential incidence of noise and vibration every 20 minutes (on average). I agree with the appellant that in practice, on the basis of the information as submitted, this is likely to be a maximum occurrence at most points on the transport network since there are, in theory, five different preferred sections of route to the construction site, across which traffic would be distributed, depending on the origin of construction material. The actual incidence at any point on the *wider* transport network may, therefore, be lower.
20. However, four of the five preferred routes merge at the intersection of the C72 and C33, a short distance to the north of the village, and would approach the appeal site through Leigh Delamere from the east. It is also possible that all of the construction lorry traffic could arrive via that route. As it passes through Leigh Delamere, the C178 has a relatively narrow carriageway, with the appellant's 2013 Transport Statement noting that vehicles can pass with caution. I share the concerns raised in this regard, that one lorry passing through the village every 20 minutes or so throughout the working day, even assuming that the traffic movements were evenly spread, would be likely to have an adverse impact not only on the general amenity of this small rural settlement, but also on the living conditions of local residents in terms of noise and, potentially, vibration. If lorry movements were clustered, which might be the case in seeking to avoid school start and finish times, that impact would be exacerbated.
21. The appellant suggests that 12 cubic metre tipper trucks, measuring some 8 metres in length, 2.5 metres in width and 3 metres in height, would be used to deliver the construction material (assuming that the preferred contractor has such vehicles in his fleet). However, whilst a typical farm tractor may well be

of similar height and width and, when pulling a trailer, would be considerably longer, there is no evidence before me that they would be the same weight as a loaded construction lorry, or that they pass through the village with the regularity that is envisaged in relation to the construction lorries. Indeed, there is no traffic survey evidence before me. I am not persuaded therefore, on the basis of the information that is before me, that the comparison is useful or that it somehow serves to reduce the likely impact of the anticipated construction traffic on the living conditions of local residents, even taking account of the intended 'temporary' duration of the proposed works.

22. In terms of the construction of the bund, planning conditions could ensure that work was carried out only between stated times, which would avoid associated noise at unsociable times. Measures to mitigate dirt and dust emissions from the site could also be controlled by condition. I find no harm in this particular regard.
23. To conclude on this issue, I have no reason to suppose that noise and vibration as a consequence of construction traffic on the wider road network would cause material harm in terms of amenity generally, and I am satisfied that noise and dust etc arising from the construction process itself could be adequately controlled by conditions. I do have concerns however, in relation to noise, and potentially vibration, in terms of the size, number and frequency of construction lorries that would pass through the village itself which I consider would result in material harm to the living conditions of local residents. There would be conflict, in this regard, with policy WDC2 of the Waste DPD which, among other things, seeks to avoid, adequately mitigate against, or compensate for adverse impacts of waste management development on amenity, noise and vibration.

Heritage Assets

24. There is no suggestion that there would be a direct impact on any heritage asset. There is concern however, that there would be harm to the setting of listed buildings and the village Conservation Area. The Framework defines the setting of heritage assets as the surroundings in which they are experienced. In essence, if the development proposed could be seen from, or in conjunction with the listed buildings or the Conservation Area, then there would be an effect on their setting. An assessment is then required as to whether that would result in harm the special architectural or historic interest of the listed buildings, or the heritage significance of the Conservation Area.
25. This is a small but well preserved estate village, which is primarily a unified Victorian settlement that was developed by Joseph Neeld in the mid-C19 on the site of a medieval settlement. With the exception of some former farm buildings (now converted to residential) I understand that all the historic buildings within the settlement are statutorily listed. All the listed buildings are located towards the eastern half of the settlement and all but one are on the northern side of the road. They comprise the grade II* Church of St Margaret of Antioch, together with two listed monuments within the church yard and the lych gate (all grade II listed), the Almshouses (grade II), Leigh Delamere House (grade II), and Manor Farmhouse (grade II). Their special interest, it seems to me, derives from their history, form and appearance, and from the relationship with their immediate plots and the street. Intervening buildings significantly restrict intervisibility with the appeal site and there is no

suggestion that the appeal site makes any contribution to the special interest of those buildings. I am satisfied, therefore, that the development proposed would not result in any harm to the special architectural or historic interest of those heritage assets.

26. The one listed building to the south of the road is a rubble stone barn with a stone slate half-hipped roof (grade II, listed for its group value) of C18 or early C19 origin now converted to residential. The building lies gable end on to the road, opposite the church, with a single storey range extending south, away from the road. The Barn and the single storey range are separated from the appeal site by what appeared to be a grassed paddock area. As with the listed buildings above, the special interest of the Barn derives from its history, form and appearance, and from the relationship with its immediate plot and the street, the conversion to residential use having eroded the original functional association of the building with the surrounding farmland. Whilst the eastern end of the village-facing grassed slope of the proposed bund may well be seen from the converted barn and its grounds, and thus would lie within its setting, I am not persuaded that there would be any harm in terms of the special architectural or historic interest of this listed building.
27. The field within which the appeal site lies adjoins a large part of the southern boundary of the village Conservation Area, which is aligned with historic field and pasture boundaries. The buildings within the Conservation Area are constructed of limestone with a mix of stone tiles, profiled clay tiles and slate roof coverings in a distinctive picturesque style which characterises the Neeld estate's buildings. All the buildings in the village lie within the Conservation Area, the boundaries to which also include some of the pasture to the north of the village, and the fields immediately to the west and south of the former farmyard.
28. The heritage significance of the Conservation Area derives from the unity of its buildings, which follow the local vernacular in their detailing and materials. The association with Joseph Neeld and the Neeld estate, as demonstrated by the overall high quality of the historic buildings and by the provision of the Almshouses for retired employees, adds to its significance. Significance also derives from the wider rural context for the estate village.
29. The Conservation Area can be seen from the appeal site, which thus lies within its setting, although there is no public access across the field within which the appeal site is located. Inasmuch as the appeal site is a part of the rural context for this estate village, I consider that it does make a positive contribution to its heritage significance. That said, once completed, whilst the ground levels and landform within the appeal site would change materially as a consequence of the development proposed I am not persuaded that, in principle, the change from a flat grassed field to a grassed field with a large engineered grassed/treed bund within it would, necessarily, result in any harm to the heritage significance of the Conservation Area (a quite separate consideration to the effect in terms of the character and appearance of the area generally, a matter I return to later).
30. I do, however, share the concerns raised about the appearance of the bund during the construction process. As noted by the Council's landscape architect, the site would, during the period of construction, have the appearance of a landfill site - in addition to the waste being tipped for the bund, there would

also be storage compounds, welfare facilities, storage of stripped soils, earth moving plant, security fencing etc. Given the contribution of the site to the heritage significance of the Conservation Area, I am in no doubt that its appearance during the building period would result in some harm in this regard. Whilst, in the parlance of the Framework, that harm would be less than substantial, there would still be real and serious harm, albeit for a temporary period. There would be conflict, therefore, with policy WDC9 of the Waste DPD which requires, among other things, that waste management proposals should protect, enhance and/or preserve the settings of listed buildings and conservation areas.

Waste disposal or recovery?

31. As noted at the outset, the main material for construction of the bund is intended to be inert soils. The Council is of the view that this would comprise 'discarded' material from unspecified residential and other development sites. That assumption is not contested by the appellant. Such material is considered to be waste for planning purposes.
32. The National Planning Policy for Waste, together with policies WCS3 and WCS5 of the Wiltshire and Swindon Waste Core Strategy Development Plan Document 2009 and with policy WDC13 of the Waste DPD, seek to deliver sustainable development by, among other things, driving waste management up the waste hierarchy. The disposal of waste is at the very bottom of that hierarchy, the next stage up being recovery. Whether an activity constitutes disposal or recovery depends on a legal test derived from the Waste Framework Directive and European case law. The Environment Agency's Regulatory Guidance Series, No EPR 13 Defining Waste Recovery: Permanent Deposit of Waste on Land (EPR13) explains the test in more detail. EPR13 indicates that, in deciding whether the use of waste in a bund is a recovery activity, the first step is to demonstrate that there is a need for, and a real benefit derived from its creation.
33. The nearby section of the M4 motorway was opened in around 1971, at a time when traffic volumes were considerably less than they are now and average speeds were lower. There was no policy at that time to reduce noise from roads and I am in no doubt that the volume and speed of traffic along the M4 here will have increased over the ensuing years.
34. The appellant draws attention to the World Health Organisation's *Guidelines for Community Noise* (1999) which give guidance on suitable internal and external noise levels for steady sound in and around residential properties. Among other things, they refer to a maximum level of 55dB LAeq in gardens/outdoor living areas over 16 hours in the day, above which noise might be considered as a serious annoyance. My attention is also drawn to BS8233:2014 *Guidance on sound insulation and noise reduction for buildings*, which provides guidance for the control of noise in and around buildings based on the WHO guidelines. However, I have doubts as to whether the WHO guidance on serious annoyance should be regarded as decisive in this instance, as the application relates to an existing road and existing houses. I am mindful, in this regard, that the Noise Insulation Regulations would only be engaged at levels of 68dBL_{A10, 18hr} and above.
35. I am advised that a 2007 acoustic survey revealed noise in the village to be 68dBL_{A10, 18hr}. However, there is nothing to demonstrate where that survey was

carried out, or that it was undertaken in accordance with appropriate guidance/standards. It is simply adopted in the report without any explanation as to how it was derived. Moreover, the subsequent noise analysis carried out for the appellant demonstrates that the bund would achieve, at best, what I consider to be a relatively modest reduction of some 6.8dB¹⁴ for the house at the western end of the settlement (a reduction in 3dB being just perceptible), and only a marginal reduction¹⁵ at the eastern end.

36. I recognise that local residents may well be exposed to noise levels materially higher than those referred to in the WHO Guidelines and that many of the properties in the village are listed buildings, which limits the noise attenuation measures that can be utilised by occupiers. I also appreciate that the scheme proposed has considerable support from many (but not all) local residents. However, there is no requirement to install a noise attenuation bund as part, for example, of any previous planning permission. It is simply a desire of some local residents to improve their living conditions. I recognise that there would be a benefit of the scheme in this regard although, in light of the foregoing and having regard to the advice in EPR13, I am not persuaded that the benefits of the scheme proposed, in terms of noise attenuation, would be anything other than marginal when considered in the round. Given the intended construction material, that would point more towards the scheme comprising a waste disposal, as opposed to a waste recovery, operation. The consequence of that, is that there would be conflict with the relevant policies and guidance which seek to drive waste management up the waste hierarchy. I am mindful, in this regard, that the erection of acoustic fencing could provide the same noise attenuation, but without comprising a waste disposal operation, although I recognise that there may be other implications in terms of appearance.

Other Matters

37. The effect on the character and appearance of the area generally was not part of the stated reasons for refusal. However, the officer's report, which informed the reasons for refusal, draws on the conclusions of the appellant's LVIA. The LVIA is based, it would appear, on a 3 metre high bund with planting on all sides and on top, as opposed to the almost 6 metre high bund with planting only on the 'outward' facing slopes, as shown on the submitted plans. To my mind, the bund, as shown on the submitted plans, would be seen as a substantial and incongruous engineered feature within what is, in the main, a gently modulated, more open landscape. I recognise that the boundary of the field with the motorway is engineered, but that is not readily apparent in views from the village or from the properties that back onto the site. I also recognise that the embankment over which the adjacent bridleway passes in order to cross the motorway is an engineered slope, as is the banking that supports a road bridge further to the west. However, their presence relates to the construction of the motorway and they are not characteristic features of the area. In any event, they are of a quite different form from the structure proposed, which would be a substantial freestanding feature within a field.

¹⁴ The appeal statement (paragraph 4.2.5) uses this figure. So far as I can ascertain, this relates to a bund in the location proposed, with a height of 4 metres (based on Table 5 of the Report on Assessment of Screening Options No 01570\R01.5).

¹⁵ The predicted 1.5dB reduction for a 4 metre bund could well be within the +/- uncertainty inherent in the calculations

38. The appeal scheme would create a highly modelled landscape in place of the existing, very slightly downward sloping site of this area of pasture. I have significant concerns, in this regard, as to the impact of the bund in terms of the character and appearance of the area generally. Had the proposal been acceptable in all other regards, I would have required further information on this.

Overall Planning Balance and Conclusion

39. I have found that the highway safety implications of the development proposed would only be acceptable subject, among other things, to compliance with a lorry routing strategy. In the absence of any mechanism to secure that, there would be significant implications for highway safety.
40. Whilst I have found that there would be no harm to the special interest of nearby listed buildings, or to the heritage significance of the Conservation Area once the bund was complete there would, given the contribution of the site to the heritage significance of the Conservation Area, be harm to that heritage asset during the construction period. Whilst that harm would be less than substantial, it is a consideration of significant weight and, under the terms of the Framework, requires justification by way of public benefits.
41. I recognise that many building and engineering works result in disruption during the construction phase. However, the appeal site would have the appearance of a landfill site for at least two years. During the processing of the planning application, the Council received two applications for extensions of time for schemes requiring inert waste for land restoration, on the basis of a lack of adequate and appropriate materials. Given that existing demand, and with no indication as to the likely source of the 70,000 cubic metres of inert waste required for the appeal scheme, it seems to me that the estimated two year construction period could be optimistic.
42. With no mechanism before me to ensure completion within the indicated timeframe, there is the potential for construction to extend beyond the anticipated build period (this is not something that could be dealt with by condition). Whatever its finished height, all the assessments before me in relation to the impact of the development are based on it being completed within two years. Whilst completion over a longer time may reduce the regularity of lorry movements through the village, it would also extend the period over which those movements would occur. More importantly however, the area would be faced with an unsightly landfill site over that time. Were that to happen, I am in no doubt that there would be a significant adverse impact on the Conservation Area which would exacerbate the harm that would arise in any event, even with a two year construction period.
43. As to the public benefit to be weighed in the balance, the scheme is intended to provide noise attenuation in relation to the adjacent motorway (and to some extent a visual screen although I am not persuaded that the motorway, which is at a slightly lower level than the adjacent land, is necessarily something that of itself requires visual screening) for local residents. However, I have found that the benefits in this regard are relatively modest. On that basis, and having regard to the scale of the development proposed, together with the absence of a means of securing completion, I am not persuaded that the benefits in this case outweigh the harm that I have identified.

44. The appellant suggests that the bund could be constructed in sections which, when complete, would be planted within the next available planting season. Phasing is something that, in principle, could be secured by condition. However, it still would not provide any security in terms of completion of any phase. It would also undermine the justification for the works, given that the scheme is being promoted as a noise attenuation measure - an incomplete bund would not fulfil the intended purpose.
45. I have also found that the scheme would equate to a waste disposal operation and thus would not help drive waste management up the waste hierarchy.
46. There would be conflict with the relevant policies of the development plan and with the Framework. I find no material considerations that suggest a decision other than in accordance with those policies and guidance. In essence, the scheme does not comprise sustainable development. Therefore, for the reasons set out above, I conclude that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR