
Appeal Decision

Site visit made on 23 May 2017

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 25 May 2017

Appeal Ref: APP/Z1585/W/16/3157321

Asheldham Quarry, Southminster Road, Asheldham, Essex, CM0 7DZ

- 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 G&B Finch Ltd against the decision of Essex County Council.
 - The application Ref ESS/20/16/MAL, dated 13 April 2016, was refused by notice dated 12 August 2016.
 - The development proposed is a concrete batching plant, to include the relocation of silo, hopper and loading ramp, retrospective application for an area of hardstanding, light column and control room and installation of new silo and new area of hardstanding. The application is for a temporary period of time only until 31 December 2018.
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Decision

1. The appeal is allowed and planning permission is granted for a concrete batching plant, to include the relocation of silo, hopper and loading ramp, an area of hardstanding, light column and control room and installation of new silo and new area of hardstanding at Asheldham Quarry, Southminster Road, Asheldham, Essex, CM0 7DZ in accordance with the terms of the application, Ref ESS/20/16/MAL, dated 13 April 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. All the applied for development has now taken place and the appeal is fully retrospective.
 3. At the time the appeal was made, the development fell within the description at paragraph 5(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations 2011). The Secretary of State therefore screened the development and found that it would not be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location.
 4. On the 16 May 2017 the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations 2017) came into force. Regulation 76 of the EIA Regulations 2017 includes transitional arrangements for qualifying applications and appeals. I have considered the appeal in accordance with these Regulations and I am content that it meets the requirements of the transitional arrangements. Therefore the EIA Regulations 2011 continue to apply to this appeal and the Secretary of State's opinion stands.
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Main Issue

5. The main issue is the impact of the development on amenity and the character and appearance of the area in terms of both the structural plant and the traffic it is likely to generate.

Reasons

6. The appeal site lies within an existing sand and gravel quarry, which was granted permission in 1980. Thereafter it benefited from other consents including an extension of time in December 2014 for an additional 15 years to 2029 and the importation of inert material for restoration. There was previously a concrete batching plant on site, which is no longer in existence, albeit it was of a lesser scale and height than that being applied for.
7. Whilst the appeal site lies in open countryside, there are industrial structures in the surrounding area such as wind farms, a crop plant of substantial bulk and height, and large, utilitarian agricultural sheds. There is some inter-visibility between the development and some of these structures. Furthermore, the appeal site itself contains significant quarry plant and machinery of a greater height than the concrete batching plant applied for, which is suitably positioned adjacent to it.
8. Whilst there are intermittent views of the site from nearby public footpaths and roads, it is generally well screened by bunds, vegetation and the topography of the land. From further afield the development blends into the background of the permitted processing plant. There is no significant visual impact from any residential properties.
9. The Council does not object to the levels of dust or noise emanating from the plant and the Council's noise consultant notes that it is unlikely that the concrete batching plant would result in existing noise limits being exceeded. Submitted environmental reports suggest that dust and noise levels are within appropriate limits and I accept this evidence.
10. Consequently, I find that the structures of the concrete batching plant would not have any significant impact on amenity or the character and appearance of the area either alone or in combination.
11. In terms of traffic movements, the development would generate traffic to and from the site. However, I understand from the Appellant's undisputed evidence that the concrete batching plant is the only one within roughly a 20 mile radius of the site. Therefore it provides a local facility that could reduce the length of some road journeys.
12. Moreover, the Appellant has indicated that the numbers of lorry movements above 3.5t gvw would not exceed that which is currently permitted for the quarry, namely, 96 movements per day Mondays to Saturdays. The submitted Transport Statement shows this number to be within the capacity of the highways network and there are no objections from the Highways Authority.
13. Although there may be an increase in smaller vehicles accessing the site, these would have a lesser impact than HGVs and are unlikely to have a significant effect. As the application is only for a temporary period to December 2018, this would provide the Council with an opportunity to monitor traffic movements during this time period as a trial run for any future applications for

an extension of time. However, the submitted Transport Statement indicates that there are no substantive transport related reasons to withhold permission and I accept this conclusion.

14. In terms of air quality from generated traffic, there are no objections from the Environment Agency or *Place Services* team, the latter of which predicts no implication on the volume of traffic flow and HGV movements and considers any impact on air quality to be unlikely. The submitted Air Quality Assessment demonstrates that emissions from generated traffic would not significantly impact on air quality and I accept this evidence.
15. Consequently, I find that the traffic generated by the concrete batching plant would not have any significant impact on amenity or the character and appearance of the area either alone or in combination.
16. Therefore, the development accords with Policies S1 and DM4 of the Essex Minerals Local Plan, adopted in July 2014, which reflect the presumption in favour of sustainable development and support secondary processing and treatment of minerals at permitted minerals sites where it has been demonstrated that there would be no unacceptable impact on amenity, the environment, or the safety, efficiency and capacity of the road network.
17. Nor is it in conflict with saved policy BE1 of the Maldon District Replacement Local Plan, adopted in November 2005, which promotes good design. Whilst the site is not listed under Policy E1 of the District Replacement Local Plan as a designated site to which employment uses would generally be directed, this Plan is not dealing with minerals sites, which are more specifically covered by the Minerals Local Plan. In any event, Policy E1 does not prevent employment uses outside the sites listed and, therefore, the development is not contrary to its provisions.

Other Matters

18. Whilst historic heritage was not a reason for refusal, the Council's statement refers to the cumulative negative effect of the concrete batching plant and associated traffic on the environment including the historic landscape, citing the presence of heritage assets in Asheldham including the Grade II Listed Asheldham Youth Church of St Lawrence. The site cannot be seen from the church and there is no suggestion that lorry traffic from the development would pass the church. Consequently, there would be no impact on this heritage asset.
19. It was unclear from the submitted evidence where the other named heritage assets are situated and at the accompanied site visit the Council's representative stated that there was no need for me to visit them. On this basis, there is no evidence to suggest that the development would negatively impact on the significance of any heritage assets.
20. Although the Council contends that there is no need for the development, it is unlikely that the Appellant would be applying for permission if there was no market for its products. In any event, there is nothing in the cited development plan policies that requires need to be demonstrated.

Conclusion

21. The development does not significantly impact on amenity or the character and appearance of the area in terms of both the structural plant and the traffic it is likely to generate. Therefore, taking account of all matters raised, I find that it accords with the development plan taken as a whole and I allow the appeal subject to conditions.
22. I have imposed conditions in compliance with the Planning Practice Guidance and as requested by the Council. The reason for each condition is set out in the schedule of conditions attached. In some cases I have amended the detailed wording of the conditions for clarity.

Elizabeth C Ord

Inspector

Schedule of conditions

1. The development hereby permitted shall be carried out in accordance with

- the details of the Appeal Ref APP/Z1585/W/16/3157321 dated 25/08/16 and Appeal Statement Ref ESS/20/16/MAL by Strutt&Parker LLP dated August 2016;
- the details of the Planning Application Ref ESS/20/16/MAL and planning application form dated 13 April 2016;
- Planning Statement by Strutt&Parker LLP dated April 2016;
- Noise Assessment for Retrospective Planning for Concrete Batching Plant by Grant Acoustics dated 5th May 2015,

together with drawing references:

- 'Promap Location Plan;
- ASH-03-15-F Readymix Concrete Plant and Proposed Modified Access Road Application Area dated 31/03/15;
- ASH-04-16-C Proposed Plant Elevation (Looking South East) dated 04/04/16;
- ASH-04-16-G Proposed Location of New Batching Plant dated 04/04/16, and;
- ASH-04-16-E Proposed Plant Elevation (Looking South West) dated 04/04/16

and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the Minerals Planning Authority, except as varied by the following conditions: -

Reason: In the interests of certainty as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment.

2. The use hereby permitted shall be for a limited period from the date of this decision until 31 December 2018 by which time all operations associated with the development shall have ceased and all buildings/structures/roads/plant and machinery used in connection with the development shall have been removed from the site and the site shall have been restored in accordance with the details shown on drawing ref WMM/AQ/TP/01B dated June 2014 attached to planning permission ref ESS/16/14/MAL, or as subsequently amended and agreed in writing by the Minerals Planning Authority.

Reason: To ensure development is carried out in accordance with the submitted application and approved details, to minimise the duration of disturbance from the development hereby permitted and to provide for the completion and progressive

restoration of the wider quarry site within the approved timescale in the interests of local amenity and biodiversity.

3. Operations shall be carried out and vehicles greater than 3.5t gvw shall enter or exit the site only between 07:00 and 18:00 hours Monday to Friday and 07:00 and 12:30 hours on Saturdays and not at any time on Sundays or on Bank or Public Holidays.

Reason: *In the interests of limiting the effects on local amenity and to control the impacts of the development.*

4. From the date of this permission the operators shall maintain records of their monthly output production and shall make them available to the Mineral Planning Authority at any time upon request.

Reason: *To allow the Minerals Planning Authority to adequately monitor activity at the site and to minimise the harm to amenity.*

5. A written record shall be maintained at the site office of all movements out of the site of vehicles above 3.5t gvw. Such records shall contain each vehicle's weight, registration number and the time and date of the movement and shall be made available for inspection by the Mineral Planning Authority on demand at any time.

Reason: *To allow the Minerals Planning Authority to adequately monitor activity at the site and to minimise the harm to amenity.*

6. All vehicular access and egress to and from the site shall be from the B1021 Tillingham Road, as indicated on drawing ref. ASH—1-13-A dated 17/10/13 (Permission Ref ESS/16/14/MAL). No other access shall be used by vehicles entering or exiting the site.

Reason: *In the interests of highway safety and safeguarding local amenity.*

7. The total number of vehicle movements above 3.5t gvw associated with the development hereby permitted and combined with the development permitted under permission ref ESS/16/14/MAL shall not exceed the following limits:

96 movements (48 in and 48 out) per day (Monday to Friday)

96 movements (48 in and 48 out) per day (Saturdays)

No vehicle movements above 3.5t gw shall take place outside the hours of operation authorised in Condition 3 of this permission.

Reason: *In the interests of highway safety and safeguarding local amenity.*

8. The free field Equivalent Continuous Noise Level (LAeq, 1 hr) at noise sensitive properties, the locations of which have been agreed in writing by the Mineral Planning Authority under condition 18 attached to permission ref ESS/16/14/MAL, shall not exceed the background noise level by more than 10dB as a result of activities associated with the development hereby permitted and that associated with permission ref ESS/16/14/MAL combined. Measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

Reason: *In the interests of local amenity.*

9. No vehicles and/or mobile plant used exclusively on site shall be operated unless they have been fitted with white noise alarms to ensure that, when reversing, they do not emit a warning noise that would have an adverse impact on residential or rural amenity.

Reason: *In the interests of local amenity.*

10. No fixed lighting shall be erected or installed on-site until details of the location, height, design, luminance and operation have been submitted to and approved in writing by the Mineral Planning Authority. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details to be submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed. Furthermore a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: *To minimise the nuisance and disturbances to neighbours and the surrounding area.*

11. No commercial vehicle shall leave the site unless the wheels and the underside chassis are clean to prevent materials, including mud and debris, being deposited on the public highway.

Reason: *In the interests of highway safety and safeguarding local amenity.*

12. Within 3 months of the date of this permission, a scheme to minimise dust emissions shall have been submitted to the Mineral Planning Authority for its approval in writing. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The development shall be implemented in accordance with the approved scheme with the approved dust suppression measures being retained and maintained in a fully functional condition for the duration of the development hereby permitted.

Reason: *To reduce the impacts of dust disturbance from the site on the local environment.*

13. Within 3 months of the date of this permission a Lorry Routeing Plan, detailing the routeing of HGVs to and from the site, as set out in Schedule 1 and Schedule 5 of the S106 Agreement dated 19th December 2014, shall have been submitted to the Mineral Planning Authority for its approval in writing.

The plan shall identify the arrangements for:

- i) Monitoring of the approved arrangements;
- ii) Ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements, and;
- iii) The disciplinary steps that will be exercised in the event of default.

The approved plan shall be implemented for the duration of the development hereby permitted.

Reason: *In the interests of local amenity and highway safety.*

14. The development hereby permitted shall only use mineral and aggregates arising from the wider Asheldham Pit, as defined on Promap drawing 'Location Plan' attached to permission ref ESS/16/14/MAL.

Reason: *To ensure that the traffic associated with the development is constrained to acceptable levels in the interests of highway safety and local amenity.*