



Appeal Decisions

Site visit made on 9 December 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal A - Ref: APP/C4235/W/19/3238182

Units 1-3, Station Road, North Reddish, Stockport SK5 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Cynthia Humphreys (ELSA Waste Paper Ltd) against Stockport Metropolitan Borough Council.
- The application Ref DC/0069159, dated 28 March 2018 was refused by notice dated 23 May 2019.
- The application sought planning permission for a change of use to general industrial, including ancillary office, erection of 2.4m high access gate and indoor/outdoor parking without complying with a condition attached to planning permission Ref J74353, dated 7th February 2000.
- The condition in dispute is No 2 which states that: the premises shall not be opened for business and no processing carried out; no vehicles or machinery shall be operated within the site, or any waste material brought into the site; except between the hours of 7:00am until 6:30pm Mondays to Fridays inclusive; and 7:00am until 1:30pm on Saturdays there should be no working on Sundays or Bank Holidays.
- The reason given for the condition is to prevent noise and disturbance within the vicinity of the site during unsociable hours.

Appeal B - Ref: APP/C4235/W/19/3238181

Units 1-3, Station Road, North Reddish, Stockport SK5 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Cynthia Humphreys (ELSA Waste Paper Ltd) against Stockport Metropolitan Borough Council.
 - The application Ref DC/069446, dated 28 March 2019 was refused by notice dated 23 May 2019.
 - The application sought planning permission for a change of use to general industrial, including ancillary office, erection of 2.4m high access gate and indoor/outdoor parking without complying with a condition attached to planning permission Ref J74353, dated 7th February 2000.
 - The condition in dispute is No 2 which states that: the premises shall not be opened for business and no processing carried out; no vehicles or machinery shall be operated within the site, or any waste material brought into the site; except between the hours of 7:00am until 6:30pm Mondays to Fridays inclusive; and 7:00am until 1:30pm on Saturdays there should be no working on Sundays or Bank Holidays.
 - The reason given for the condition is to prevent noise and disturbance within the vicinity of the site during unsociable hours.
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Decision

1. Appeal A is allowed and permission is granted for a change of use to general industrial, including ancillary office, erection of 2.4m high access gate and indoor/outdoor parking at Units 1-3, Station Road, North Reddish, Stockport, SK5 6ND without complying with condition No 2 previously imposed on planning permission J74353, dated 7 February 2000 and in accordance with plans numbered 1088/2A and 1088/3, but subject to the conditions shown in the attached schedule titled 'Schedule of Conditions Appeal A (APP/C4235/W/19/3238182)' which accompanies this decision. Condition No 2 is varied and replaced with an amended version.
2. Appeal B is allowed and permission is granted for a change of use to general industrial, including ancillary office, erection of 2.4m high access gate and indoor/outdoor parking at Units 1-3, Station Road, North Reddish, Stockport, SK5 6ND without complying with condition No 2 previously imposed on planning permission J74353, dated 7 February 2000 and in accordance with plans numbered 1088/2A and 1088/3, but subject to the conditions shown in the attached schedule titled 'Schedule of Conditions Appeal B (APP/C4235/W/19/3238181)' which accompanies this decision. Condition No 2 is varied and replaced with an amended version.

Procedural Matters

3. The Council cites Policies SIE-1 and SIE-3 of the Stockton Core Strategy DPD¹ (Core Strategy) in its reasons for refusal. However, the appellant contends that these policies are not relevant. Policy SEI-1 relates to development ensuring a quality environment which has satisfactory levels of amenity for neighbouring users and residents. I therefore give full weight to this policy. Policy SEI-3 broadly seeks to protect the environment and Part B discusses the effects of noise mentioning both river valleys and 'other areas dependent upon quiet conditions'. Interested parties have raised the issue of noise disturbance within gardens and these also benefit from quiet conditions. I have therefore given full weight to Policy SIE-3 within this decision. Additionally, even if I were to consider the policies not relevant, paragraph 127 of the Framework² seeks well designed places with high standard of amenity for existing users.

Background and Main Issue

4. Elsa Waste Paper Ltd operates a recycling facility at the appeal site and wishes to extend the operating hours from those detailed in condition 2 of the original consent. For Appeal A this would change the operational hours on Monday to Friday from 07.00-18.30 hours to 07:00-20:00 hours. Appeal B seeks the same increase in the week day operational hours plus altered Saturday hours of 07.00-13.30 extended to 07.00-16.00 hours.
5. The main issue is the effect of varying the condition on the living conditions of neighbouring occupiers with respect to noise and disturbance.

Reasons

6. The business at Elsa Waste Paper comprises several buildings and associated yard areas. The appellant makes the case that since the original consent was

¹ Stockport Metropolitan Borough Council Local Development Framework. Core Strategy DPD. March 2011.

² National Planning Policy Framework. February 2019.

given, the business has expanded and now requires increased operational hours. The machinery is housed internally. Deliveries are made via Station Road and during my site visit, although this is only a snapshot in time, there were several vehicles entering and exiting the facility. The appeal site is flanked by other industrial units which also appeared to have associated vehicle movements at the time of my visit.

7. Although the site is within an industrial area, it is close to residential properties, particularly 77 Station Road which is directly opposite. The distance of this closest residential receptor from the noise source has been estimated within the submitted noise survey³ as 15 metres and there are other properties in the vicinity also affected. Currently, and as observed during my site visit, there is noise generated by loading and unloading of vehicles and their associated movements, and from the processing machines within the building which can be heard through the open building doors.
8. The Council considers that the proposed opening hours would give rise to unreasonable noise and disturbance to local residents. The noise survey has assessed the specific noise levels generated by the facility at LA_{eq}(1min) at 54dB at the nearest residence against a background level of LA₉₀(3 hours) at 38dB. This figure includes the noise generated by machines running, forklift truck movements and use of the roller shutter doors and specific noise was measured as being associated with this operational activity. As it involved both machines working, it represents a maximum level.
9. The background noise figure was measured at a time when there was no traffic noise. Excluding noise associated with traffic, the noise report concludes that both irregular and impulsive noise is not currently significant at the closest receptor and it is the tonal noise in the form of a consistent hum which is evident. I have no reason to disagree with this finding. The extended hours would be for operation of the processing machinery only and would not include external use of forklift trucks or any delivery vehicles.
10. Representations have been received from local residents regarding noise nuisance from within the buildings even with closed shutters. As part of the proposal before me, noise mitigation measures have been proposed which would install sound insulation to the walls, ceiling and doors. The noise survey indicates that these measures would decrease the combined front and side specific noise at the nearest residence to approximately LA_{eq}(60min) 39dB, assuming doors are closed and no forklift or other vehicles operate externally. This would result in an improved situation over and above the current noise levels during all operational hours.
11. Interested parties have expressed concern relating to noise and disturbance generated by vehicles associated with the industrial estate. There are reports of congestion, obstruction of the highway, speeding vehicles, blocking of drives, the presence of vehicles outwith authorised operating hours and damage to the highway. However, as other businesses operate in the vicinity it is not clear how many of the vehicles using the road are associated specifically with the appeal site. In any case, the appellant is not seeking to extend the hours within which vehicles access the site.

³ BS4142:2014 Noise Assessment Report for Elsa Recycling. Noise Survey Limited. 14 June 2018.

12. The Council considers that there is conflict between the industrial use of the area and adjacent residential properties however, the position of this industrial estate is historical. The current opening hours for the appeal business were set out within the original planning permission and the Council would have had full regard to the needs of both local residents and the business when this was granted.
13. The proposal seeks altered operational hours which, should the proposed noise mitigation measures be implemented, would result in reduced noise levels at all times. This would benefit the living conditions of neighbouring occupiers. As no increase in vehicular movements are proposed, the increase in operating hours on both week days and at the weekend would therefore be acceptable.
14. My conclusions on this matter are supported by the technical assessment by the Council's Environmental Health Officers of the noise survey and proposed mitigation. They have not opposed the increase in operational hours and consider that the mitigation would be effective. Consequently, the proposed extension of working hours would not have a detrimental effect upon the living conditions of neighbouring occupiers. The proposal would therefore not conflict with Policies SIE-1 or SIE-3 of the Core Strategy.

Other Matters

15. There have been issues raised regarding litter generated by the business, health and safety issues including fire risk, irresponsible disposal of industrial run-off and the potential environmental impact of the business. Whilst I have sympathy with these views, the Council has not raised these concerns or provided any substantive evidence to support them. Within the context of the appeal before me I can give these concerns little weight.
16. The Council raise concern regarding the issue of the width of the access road which serves both the residential properties and the appeal site. This concern is not reflected in their reasons for refusal and has not been raised by the Council's Highway Officer. Additionally, no increase in vehicles would be associated with this proposal and consequently I give this issue little weight.
17. The Council and interested parties raise alleged breaches of the existing planning consent for the business. However, these matters are not before me. I have no reason to believe that the business would be operated in any manner other than in accordance with the terms of the planning permission.
18. The appellant has made allegations concerning the conduct of the elected Council Members. This is not a matter for me to consider and I have had no regard to such allegations within this appeal.

Conclusion

19. The appeal site sits within an industrial area which is adjacent to residential properties. The proposal seeks to extend the operational hours of the site with no proposed extension of external vehicular movements. Additionally, the proposal includes installation of noise mitigation measures which would have a benefit during all working hours.
20. For the reasons stated above Appeal A is allowed.
21. For the reasons stated above Appeal B is allowed.

Conditions

22. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. This is because the appeal, if allowed, constitutes a new planning permission. Appeal reference APP/C4235/A/00/1046623 varied conditions 3, 4, 5, 8, 12, 16 and 17 of the original consent. Subsequently, conditions relating to site access from Station Road were also varied within Decision Notice DC013079 on 1 December 2003. The views of the main parties have been sought regarding the following conditions and, where relevant, their suggested amendments have been included.
23. There is no substantive evidence that the pre-commencement conditions within the original consent have been discharged. The appellant contends that these conditions should not be reapplied as the development has been operating for some years and in many cases the business could not have operated had they not been implemented correctly. Having considered this view the pre-commencement condition relating to the colour of the front roller shutters has been removed. During my site visit I noted that the grey colour matched that seen on shutters of similar nearby buildings and did not appear incongruous. Additionally, for the front access gates, it was evident from my site visit that they had been installed as inward opening and the clause referring to this has also been omitted.
24. The other pre-commencement conditions are however, still required as there is no substantive evidence before me that the development has been implemented in accordance with the original consent. The Council has suggested submission and approval of details within these conditions within two months. However, I consider that four months would be a more reasonable time period.
25. In the interests of protecting the living conditions of neighbouring occupiers the Council has suggested three new conditions. The first and second refer to details, implementation, retention and maintenance of noise attenuation and mitigation measures and these have been included in conditions 1 and 5. Condition 5 has been reworded and due to the time required to source, commission and install the required noise mitigation which has been brought to my attention by the appellant, the timescale for this condition has been removed and the condition worded accordingly. The third condition relates to vehicle movements during the extended operational hours. I have included this within condition 3 and amended its wording to include a restriction on the use of fork lift trucks within the external areas of the site.
26. With respect to the remaining conditions, I have imposed all those I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
27. To protect the living conditions of neighbouring occupiers, condition 2 limits operational hours; condition 4 requires external doors to remain closed; conditions 6 and 7 impose loading and vehicle restrictions; condition 12 prevents amplified music/tannoy use externally and condition 17 controls external lighting and illumination.

28. Conditions 10 and 13 relate to the parameters within which the business operates and also ensure they do not lead to toxic emissions
29. To ensure the business does not harm the character and appearance of the area condition 14 requires waste delivery vehicles to be covered and condition 15 requires the entrance gates to be painted.
30. To protect highway safety and the living conditions of neighbouring occupiers, condition 8 limits storage within the outside areas to retain the area clear for turning vehicles; conditions 9 and 16 ensure and implement car and cycle parking arrangements; condition 11 relates to the provision of a turning space; condition 15 requires placement of the access gates in the specified position and condition 18 ensures that footway crossings are kerbed and reinstated.

E Symmons

INSPECTOR

SCHEDULE OF CONDITIONS
Appeal A (APP/C4235/W/19/3238182)

- 1) The development hereby permitted shall be carried out in accordance with:
 - Supporting statement dated March 2018, and
 - Updated Noise Assessment Report Ref. 226STOCKPORT.
- 2) The premises shall not open for business and no processing be carried out; or machinery operated within the site; except between the hours of 0700 hours until 2000 hours Mondays to Fridays inclusive; and 0700 hours until 1330 hours on Saturdays. There shall be no working on Sundays, Bank or Public Holidays.
- 3) No vehicles shall be operated within the site except between the hours of 0700 hours until 1830 hours Mondays to Fridays inclusive; and 0700 hours until 1330 hours on Saturdays. During operational hours 1830 until 2000 hours Monday to Friday no forklift trucks shall be used externally.
- 4) During operational hours 1830 to 2000 hours Monday to Friday all doors and openings including the conveyor opening at the side elevation, will remain closed except for access and egress.
- 5) Until the approved noise mitigation scheme as set out in the Noise Assessment Report Ref. 226STOCKPORT has been fully implemented, there shall be no working outside 0700 until 1830 hours Monday to Friday. Upon implementation of the approved noise mitigation scheme specified in this condition, that scheme shall thereafter be retained.
- 6) There shall be no unloading or loading of materials through the eastern loading door fronting Station Road. The door shall not be used other than as access for the parking of private vehicles and as access for up to 7 HGV's (including articulated HGV vehicles) per day. The total number

of movements shall not exceed 14 per day. The door shall not be used by HGV's unless an accurate written log of the HGV movements through the door, detailing times of entry and exit and registration numbers, is kept and is available for inspection by the Council at all times during operating hours. The door shall remain closed at all times except to allow for the ingress and egress of vehicles.

- 7) There shall be no unloading or loading of materials through the western loading door fronting Station Road. The door shall not be used other than as access for up to 2 HGV or light goods vehicles per day. The total number of light goods vehicles or HGV movements through the door shall not exceed 4 per day. The door shall not be used unless an accurate written log of the HGV and light vehicle movements through the door, detailing times of entry and exit and registration numbers, is kept and is available for inspection by the Council at all times during operating hours. The door shall remain closed at all times except to allow for the ingress and egress of vehicles.
- 8) No goods, packaging, materials, refuse, plant or equipment shall be stored or deposited within any outside area. All bailed waste paper and cardboard must be stored within the area designated "storage area" on the approved plan.
- 9) The car parking/loading/servicing areas shall be retained for use solely for this purpose and no goods, materials, or refuse, etc. shall be stored within these areas.
- 10) Within 4 months of the date of this decision details showing that the weighbridge indicated on the approved plan has been installed and been made available for use, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the weighbridge shall be maintained and continue to be available for its approved use.
- 11) Within 4 months of the date of this decision details showing that the turning space identified on the approved plan has been laid out, surfaced, drained and made available for use in accordance with the details shown on the approved plans, shall be submitted to and approved in writing by the Local Planning Authority. The turning areas shall remain free of obstruction at all times.
- 12) There shall be no tannoy system in operation and no amplified music played in any outside area within the site.
- 13) The materials brought into, processed, stored and exported from the premises shall be restricted to waste paper, cardboard and plastics/polycarbonates (excluding pvc) only.
- 14) All heavy goods vehicles carrying waste materials into and out of the site shall be covered/sheeted and securely fastened at the point of entry to the site, when manoeuvring within the site, and upon exiting the site.
- 15) Within 4 months of the date of this decision details showing that the access gates to the outside yard have been erected in the location shown on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. The gates shall be painted black.
- 16) Within 4 months of the date of this decision details showing the provision of a cycle storage area, internally housed, shall be submitted to and

approved in writing by the local planning authority. Thereafter the use hereby approved shall only operate whilst this storage area is installed and available for use.

- 17) Within 4 months of the date of this decision details of lighting and illumination of the site shall be submitted to and approved in writing by the Local Planning Authority. Other than security lighting activated by P.I.R. systems, the site lighting shall be switched off 30 minutes after the site has ceased operating for the day.
- 18) Within 4 months of the date of this decision details showing that the footway crossings directly in front of the site along the site frontage with Station Road are kerbed through and reinstated shall be submitted to and approved in writing by the Local Planning Authority.

SCHEDULE OF CONDITIONS

Appeal B (APP/C4235/W/19/3238181)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable.
 - Supporting statement dated March 2018, and
 - Updated Noise Assessment Report Ref. 226STOCKPORT.
- 2) The premises shall not open for business and no processing carried out; or machinery operated within the site; except between the hours of 0700 hours until 2000 hours Mondays to Fridays inclusive; and 0700 hours until 1600 hours on Saturdays. There shall be no working on Sundays, Bank or Public Holidays.
- 3) No vehicles shall be operated within the site except between the hours of 0700 hours until 1830 hours Mondays to Fridays inclusive; and 0700 hours until 1330 hours on Saturdays. During operational hours 1830 until 2000 hours Monday to Friday and 0700 hours until 1600 hours on Saturdays no forklift trucks shall be used externally.
- 4) During operational hours 1830 to 2000 hours Monday to Friday and 0700 hours until 1600 hours on Saturdays all doors and openings including the conveyor opening at the side elevation, will remain closed except for access and egress.
- 5) Until the approved noise mitigation scheme as set out in the Noise Assessment Report Ref. 226STOCKPORT has been fully implemented, there shall be no working outside 0700 until 1830 hours Monday to Friday. Upon implementation of the approved noise mitigation scheme specified in this condition, that scheme shall thereafter be retained.
- 6) There shall be no unloading or loading of materials through the eastern loading door fronting Station Road. The door shall not be used other than as access for the parking of private vehicles and as access for up to 7 HGV's (including articulated HGV vehicles) per day. The total number of movements shall not exceed 14 per day. The door shall not be used by HGV's unless an accurate written log of the HGV movements through the

- door, detailing times of entry and exit and registration numbers, is kept and is available for inspection by the Council at all times during operating hours. The door shall remain closed at all times except to allow for the ingress and egress of vehicles.
- 7) There shall be no unloading or loading of materials through the western loading door fronting Station Road. The door shall not be used other than as access for up to 2 HGV or light goods vehicles per day. The total number of light goods vehicles or HGV movements through the door shall not exceed 4 per day. The door shall not be used unless an accurate written log of the HGV and light vehicle movements through the door, detailing times of entry and exit and registration numbers, is kept and is available for inspection by the Council at all times during operating hours. The door shall remain closed at all times except to allow for the ingress and egress of vehicles.
 - 8) No goods, packaging, materials, refuse, plant or equipment shall be stored or deposited within any outside area. All bailed waste paper and cardboard must be stored within the area designated "storage area" on the approved plan.
 - 9) The car parking/loading/servicing areas shall be retained for use solely for this purpose and no goods, materials, or refuse, etc. shall be stored within these areas.
 - 10) Within 4 months of the date of this decision details showing that the weighbridge indicated on the approved plan has been installed and been made available for use, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the weighbridge shall be maintained and continue to be available for its approved use.
 - 11) Within 4 months of the date of this decision details showing that the turning space identified on the approved plan has been laid out, surfaced, drained and made available for use in accordance with the details shown on the approved plans, shall be submitted to and approved in writing by the Local Planning Authority. The turning areas shall remain free of obstruction at all times.
 - 12) There shall be no tannoy system in operation and no amplified music played in any outside area within the site.
 - 13) The materials brought into, processed, stored and exported from the premises shall be restricted to waste paper, cardboard and plastics/polycarbonates (excluding pvc) only.
 - 14) All heavy goods vehicles carrying waste materials into and out of the site shall be covered/sheeted and securely fastened at the point of entry to the site, when manoeuvring within the site, and upon exiting the site.
 - 15) Within 4 months of the date of this decision details showing that the access gates to the outside yard have been erected in the location shown on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. The gates shall be painted black.
 - 16) Within 4 months of the date of this decision details showing the provision of a cycle storage area, internally housed, shall be submitted to and approved in writing by the local planning authority. Thereafter the use

hereby approved shall only operate whilst this storage area is installed and available for use.

- 17) Within 4 months of the date of this decision details of lighting and illumination of the site shall be submitted to and approved in writing by the Local Planning Authority. Other than security lighting activated by P.I.R. systems, the site lighting shall be switched off 30 minutes after the site has ceased operating for the day.
- 18) Within 4 months of the date of this decision details showing that the footway crossings directly in front of the site along the site frontage with Station Road are kerbed through and reinstated shall be submitted to and approved in writing by the Local Planning Authority.