



Appeal Decision

Site visit made on 5 February 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Appeal Ref: APP/Q4625/W/19/3236046

A & A Recycling Services, Meriden Landfill Site, Cornets End Lane, Meriden, Solihull CV7 7LG

- 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 Mr Malcolm Green - A & A Recycling Services Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/01286/VAR, dated 8 May 2019, was refused by notice dated 26 June 2019.
 - The application sought planning permission for change of use from minerals extraction land to waste management, to allow for expanded waste wood treatment operation and associated operational development at Meriden Quarry Recycling Facility without complying with condition 6 attached to planning permission Ref PL/2014/00490/FULM, dated 27 March 2015.
 - The condition in dispute is No 6 which states that: The use hereby permitted shall not be carried out, unless otherwise agreed in writing by the local planning authority, except between the following times : 0700-1800 hours Monday to Friday, 0700-1300 hours Saturdays, and not at all on Sundays or Bank Holidays.
 - The reason given for the condition is: To protect the amenities of the occupiers of nearby dwellings in accordance with Policy P14 of the Solihull Local Plan 2013.
-

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The Council previously granted planning permission, ref PL/2014/00490/FULM, for a waste wood treatment operation on the site. The planning permission included Condition 6, the terms of which are set out in the above heading. The planning application subject to this appeal sought to vary Condition 6 to allow for the following:
 - Production of recycled waste wood products: 0700-1800 hours Monday to Friday, 0700-1300 Saturdays;
 - Inward and outward deliveries and loading operations only, for a temporary (trial) period of 18 months: 0600-2200 hours Monday to Friday, 0600-1400 Saturdays, 0800-1400 hours Sundays.
 - No operations to take place on Bank Holidays.

3. The main issue is whether Condition 6 is reasonable and necessary having regard to the living conditions of nearby residential occupiers with particular regard to noise and disturbance, dust and levels of illumination.

Reasons

4. The waste wood treatment operation is located in the Green Belt. The prevailing character of the area is rural. Neighbouring land uses include other waste management facilities, agricultural fields and a golf course. The closest residential properties are on Cornets End Lane and Hampton Lane and the nearest settlement is Meriden.
5. The appellant has provided 2 Environmental Noise Assessments (dated 6 November 2018¹ and 20 December 2018²). The Noise Assessments confirm that distinct features of noise on the site when it is fully operational include metal to metal impact, offloading of bulk materials, vehicle movements and signalling noises, engine operations and continuous noise from the processing machinery. This is consistent with my own observations when I visited the site. In making my assessment I am mindful that processing machinery would not be in use during the proposed extension to times of operation beyond the existing hours of operation.
6. The specific noise level measured as representative of typical site operations in Noise Assessment 2 was conducted over a relatively short period of time, 9:28 – 10:28 on Thursday 2 December 2018. The description of uses that occurred on site during that period does not confirm whether there were any deliveries. I also note that the noise measurements taken on Saturday 8 December 2018 indicate that background noise levels recorded early in the morning were higher than those recorded early in the afternoon. This seems unusual as early morning would generally be expected to be a quieter time in terms of the general noise environment. Doubt has also been raised by the Council in respect of the long-term noise measurements noting that the site was affected by precipitation on several days and nights during the period of measurement. Noise Assessment 1 is the more limited in its scope and the background noise level was measured in Meriden and not at the nearest residential receptor. Overall, I have concerns as to whether the data within the Noise Assessments can be fully relied upon in assessing the potential effects on neighbouring living conditions.
7. Even if I were to accept that complaints would be unlikely based on the results of the Noise Assessments; the Noise Assessments primarily focus on activity within the site and the potential effects of this on the nearest residential receptors. The premise behind the extended hours would be to allow for deliveries to and from the site to take place outside the currently permitted time periods. The National Planning Policy for Waste 2014 (NPPW) states amongst other things that when determining waste planning applications consideration should be given to the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. Criteria (j) under Appendix B relating to 'noise, light and vibration' includes that the operation of large waste management facilities can produce noise affecting both the inside and outside of buildings, including noise from goods vehicle traffic movements to and from the site.

¹ Noise Assessment 1

² Noise Assessment 2

8. Noise from Heavy Goods Vehicles (HGV) movements during evenings and weekends is a concern raised in third-party comments. Noise Assessment 2 confirms that primary noise perceived from Cornets End Lane was deemed to be a mixture of aerodynamic and road/tyre noise from passing traffic. The proposal would be likely to lead to an increase in HGVs and other operational traffic travelling to and from the site during the proposed extended hours of operation. I have not been provided with any substantive evidence on the likely levels of traffic during the proposed extended hours, nor the routes likely to be taken on local roads which may pass close to other residential properties beyond the nearest sensitive receptor considered within the Noise Assessments. Therefore, the full extent of any potential impact in in this regard cannot be fully understood.
9. The intention of the appellant is to utilise the roads when they are less busy. However, these are also times where local roads are likely to be quieter in terms of traffic noise. Nearby residents are entitled to expect a greater degree of tranquillity outside hours that are generally accepted as constituting the working week. Consequently, receptors are likely to be more sensitive to changes to the noise environment at these times.
10. Overall, I am not persuaded by the evidence before me that the impact in terms of noise and disturbance from road traffic would not be markedly different to the existing situation during the proposed extended periods for deliveries. Such noise and disturbance has the potential to be harmful to the living conditions of occupants of nearby dwellings. Even though the proposal is to extend the hours for a temporary 18-month period, without the evidence to convince me otherwise, any period of increased noise and disturbance on hours and days where this is not currently experienced has the potential to be harmful to living conditions.
11. With regards to levels of dust, the Control of Substances Hazardous to Health Report provided by the appellant indicates that the levels of dust recorded to the perimeter of the site did not exceed the legislative requirement. In terms of mitigation measures, the Council's statement confirms that a sprinkler system is in place. I also note the air quality information provided with the appellant's final comments. I have no counter evidence to suggest that levels of dust emanating from the site would be likely to harm nearby living conditions as a direct result of the specific operations that would take place taking place during the proposed extended hours, nor that the existing mitigation in place would not be effective. I am therefore not persuaded that this particular matter would warrant dismissal of the appeal.
12. A lighting assessment has been submitted by the appellant. However, the appeal specifically seeks to vary Condition 6 relating to operating hours. Whilst lighting may facilitate on site operations related to the proposed extended hours, any such lighting would require planning permission in its own right. Other matters such as the effect on the character and appearance of the area in this Green Belt location would need to be taken into consideration with detailed plans showing the specific height or position of lighting columns. In any case, whether or not an appropriate lighting scheme could be provided does not overcome the potential harm identified in relation to noise and disturbance.

13. To conclude, it has not been demonstrated that there would not be unacceptable harm to the living conditions of nearby residential occupiers as a result of an increase in noise and disturbance in the area associated with vehicle movements on local roads during the proposed extended periods for inward and outward deliveries. The existing time restrictions imposed by Condition 6 are therefore reasonable and necessary to ensure operations on the site comply with Policy P14 (Amenity) of the Solihull Local Plan (2013) which amongst other things requires that development respects the amenity of existing occupiers, seeks to minimise the adverse impact of noise and protect the tranquillity of areas from development that creates noise either directly or through associated transport. Condition 6 should therefore be retained.
14. Condition 6 in its current form is also compliant with Paragraph 127 of the National Planning Policy Framework which requires amongst other things that developments create places with a high standard of amenity for existing and future users.

Other Matter

15. My attention has been drawn to planning permissions on neighbouring sites relating to different hour restrictions. However, HGV movements on these neighbouring sites remain restricted to similar days and times as the appeal site. These examples do not therefore persuade me that further vehicle movements associated with the appeal site over and above existing conditions would not have a harmful effect on the living conditions of nearby residents.
16. Paragraph 80 of the Framework states amongst other things that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. I acknowledge that the extended hours may result in some operational and commercial benefits. However, I am not persuaded by the evidence before me that any such benefits should come at the expense of the living conditions of nearby residential occupiers.

Conclusions

17. For the reasons set out, the appeal is dismissed.

M Russell

INSPECTOR