



Appeal Decision

Site visit made on 28 January 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2020

Appeal Ref: APP/M2460/W/19/3239442

Barrow Hill Quarry, Mill Lane, Earl Shilton LE9 7AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Miller, Earl Shilton Recycling Limited against the decision of Leicestershire County Council.
 - The application Ref 2016/CM/0302LCC (2016/1119/04), dated 23 November 2016, was refused by notice dated 18 April 2019.
 - The development proposed is the restoration of the former Barrow Hill Quarry to agricultural use with inert waste and soils, including inert waste recycling and temporary passing bays on Mill Lane.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council determined the application the new Leicestershire Minerals and Waste Local Plan was adopted on 25 September 2019. This has replaced the Leicestershire Minerals Core Strategy and Development Control Policies, the Leicestershire and Leicester Waste Core Strategy and Development Control Policies and the Leicestershire, Leicester and Rutland Waste Local Plan 1995 – 2006 in their entirety. I have therefore considered the appeal proposal against the relevant newly adopted policies.

Main Issues

3. The main issues are the effect of the development on:
 - Highway safety; and
 - The living conditions of nearby occupiers.

Reasons

Highway Safety

4. The appeal site comprises a former quarry. It is located within the countryside and is accessed via Mill Lane. To the south of the site is the M69. The proposal would restore the northern part of the quarry for agricultural use involving the importation of inert waste and soils and inert waste recycling. The importation would be carried out over a temporary period totalling 4 years with the site then being used for agricultural purposes.

5. Access to the appeal site would be taken from Mill Lane only. Mill Lane is in poor condition in a number of places along its length between its junction with the A47 and the appeal site. It has been indicated that the proposed development would result in a maximum of 50 HGV movements per day, Mondays to Fridays, comprising of 25 trips to the site and 25 back out. The Council states that this would equate to approximately one HGV movement every 6.5 minutes during the working hours of the appeal site however the Appellant advises that typically there would be no more than four to five trips per hour.
6. The proposed development would involve the provision of passing bays along Mill Lane and other localised improvements to the surface of the access road. However, Mill Lane ranges in width from 3 to 4 metres which is essentially a single-track road. The provision of the passing bays would still leave stretches of the road with severely limited width. Mill Lane is currently lightly trafficked, and the presence of the nearby public footpaths and the equestrian centre at Mirfield Farm means that it is used by pedestrians, cyclists and horse riders. The limited width of the carriageway, the existing bends which have poor forward visibility and the size and proposed frequency of the vehicles would significantly alter the nature and use of Mill Lane. Based on the information before me relating to these matters I find it reasonable to conclude that there would be a high probability of recreational users meeting HGVs along the road, even with four to five trips per hour which is a significant increase over the existing use, and as a result of the limited width of Mill Lane I find that this could be likely to result in highway safety issues.
7. I have carefully considered the information provided within the Transport Assessment. The information provided in support of the proposed development is somewhat limited in its specific considerations of the potential for conflict between large vehicles and recreational users of the lane. As such, based on the evidence before me, it has not been adequately demonstrated that the use of Mill Lane by HGVs in relation to the development would not give rise to severe harm in terms of the safety for other users of Mill Lane.
8. I have considered the comments from the British Horse Society (BHS) and the accident data provided showing no accidents on Mill Lane. However, this is lightly trafficked at present which would therefore not be likely to give rise to a high number of accidents. The proposed development would fundamentally alter the use of Mill Lane which would give rise to a significant increase in the potential for highway safety issues. Furthermore, the BHS do highlight the behaviours of the breeds of horses stabled at Mirfield Farm raising concern over the potential for injuries to the horses and safety concerns.
9. I acknowledge that the proposal was initially recommended for approval by the Council subject to conditions and I note the consideration of alternative access routes. Nevertheless, for the above reasons I find that it has not been adequately demonstrated that the proposal would not give rise to adverse issues relating to the use of Mill Lane as a result of the potential frequency and size of vehicles and conflict with other users or that the proposed improvements to Mill Lane would overcome these safety concerns.
10. The development would therefore fail to comply with Policy DM9 of the Leicestershire Minerals and Waste Local Plan (2019) (LMWLP) which requires minerals and waste development involving transportation of material by road to

demonstrate that the access arrangements would be safe and appropriate, would have an acceptable impact on the environment of local residents and would not result in unnecessary impacts on minor roads, amongst other things. Whilst paragraphs 204 and 205 of the National Planning Policy Framework (2019) give support to the benefits of mineral extraction and the sustainable use of minerals, it also requires that there are no unacceptable adverse impacts on human health, amongst other things. As such, the proposed development would also conflict with the Framework in this regard.

Living Conditions

11. The nearest properties to the appeal site are Mirfield Farm which is an equestrian centre and the dwelling at Yennards Farm. Both properties are located a reasonable distance from the appeal site itself to have minimal disruption from the on-site works to facilitate the restoration and subsequent agricultural use. However, Mirfield Farm is located directly adjacent to Mill Lane and the proposed access to the appeal site for HGVs. Mirfield Farm also utilises Mill Lane for access. From my site visit it was apparent that some of the paddocks and stabling areas for the horses at this site were located in proximity to Mill Lane.
12. The Appellant has carried out a Noise Impact Assessment. This has assessed the highest noise levels from the restoration activities on the nearest sensitive receptors and has included vehicle movements. It identifies secondary noise sources as being movements of HGVs to and from the site along the access road. The predicted traffic noise increase along the access road has been assessed as being negligible to minor.
13. Whilst I do not dispute that works at the quarry itself would be unlikely to result in harmful noise impacts on the nearby properties, I have had regard to the proximity of Mill Lane to Mirfield Farm and the potential number of HGVs using this as access. At present, Mill Lane is very lightly trafficked, and the main users are pedestrians, horse riders and cyclists wishing to access the nearby public footpaths. The introduction of a number of HGVs travelling along Mill Lane would substantially alter the nature and character of the road and its surroundings.
14. From the information before me it is not wholly clear whether the assessment carried out relates to vehicle noise in terms of engines only or if it has taken into consideration the general noise from HGVs travelling over uneven surfaces. In addition, whilst the assessment concludes that the noise increase of using Mill Lane would be negligible to minor, I have had regard to the duration and frequency of the noise from HGVs running in proximity to Mirfield Farm in particular. Whilst part of Mill Lane from the A47 to Mirfield Farm is tarmac, the quality of the road surface deteriorates beyond this which would still have the potential to cause additional noise and disturbance from heavy lorries. I note the Department of Transport Guidance however in this case given the potential level of intensification of use by large vehicles, I find that the evidence before me does not sufficiently demonstrate that there would not be harm arising from the use of this access in relation to all related HGV noise and frequency throughout the day.
15. I have considered the proposed installation of acoustic fencing along Mill Lane outside of Mirfield Farm which could be secured by condition and a Section 278 Highways Agreement. However, I have limited details to demonstrate that this

would sufficiently mitigate the noise effects on the occupiers and horses located at Mirfield Farm.

16. Consequently, I am unable to conclude that the proposed development would comply with Policy DM2 of the LMWLP, insofar as it relates to the need to demonstrate that minerals and waste development would be acceptable in terms of potential effects from noise to adjoining land uses and users, amongst other things.

Other Matters

17. The Appellant has identified that the principle of the proposed development is supported by national and local waste and minerals planning policy and that there is a need for the proposal. However, the Council have highlighted that following the adoption of the new minerals and waste local plan, another large scale, long term inert waste landfill site has been approved. Furthermore, the Council have identified other available sites and another site which would serve a similar catchment to the proposed development. The Appellant has identified reasons why these would not be wholly comparable to the appeal proposal. Notwithstanding the parties' views on Policy interpretation relating to Policy W8, and policies W4 and W5, had I found there to be a demonstrated need for this development, this would not have been sufficient to outweigh the harm arising in terms of noise and disturbance and highway safety as identified above.
18. The Appellant has identified benefits that would arise from the proposed development which include enhancing the local environment, ensuring that the site would respond visually to the surrounding character and the support it would provide to the local economy. I have considered these points however, taken collectively, I do not find that these benefits would be so great as to outweigh the harms I have identified above.
19. Local objections have been received concerning, in addition to the above matters, issues of the provision of wheel washing facilities, limits to vehicle sizes and other concerns over adverse impacts on Mirfield Farm. However, given my findings above it is not necessary for me to reach a conclusion on these matters as they would not alter the overall outcome of the appeal.

Conclusion

20. For the reasons given above, and having carefully considered all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR