



Appeal Decision

Site visit made on 15 October 2020

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021

Appeal Ref: APP/U3100/W/20/3250471

Land at Faringdon Quarry, Fernham Road, Faringdon, Oxfordshire SN7 7LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a grant, subject to conditions, of approval required under a development order.
 - The appeal is made by Grundon Sand and Gravel Limited against the decision of Oxfordshire County Council (OCC).
 - The application Ref:MW0068/19, dated 9 July 2019, was granted approval by notice dated 8 October 2019 subject to five conditions.
 - The development granted approval is the "Installation and Use of a Concrete Batching Plant to produce Ready-mixed Concrete for Sale".
 - The condition in dispute is No.2 which states that: "The number of HGVs entering and leaving the site, in connection with the mobile batching plant, shall be limited to 22 per day (11 movements in/ 11 movements out)."
 - The reason given for the condition is: "To protect the amenities of local residents of Little Coxwell and Faringdon (OMWCS C5, VLP2 DP23)."
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Decision

1. The appeal is allowed and the approval Ref:MW0068/19, for the siting, design and external appearance of the installation and use of a concrete batching plant to produce ready-mixed concrete for sale at land at Faringdon Quarry, Fernham Road, Faringdon, Oxfordshire SN7 7LG granted under the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2 Part 17 Class B on 8 October 2019 by Oxfordshire County Council is varied by deleting condition No.2 and substituting the following condition:

Condition 2. The number of HCVs entering and leaving the site in connection with the concrete batching plant shall be limited to 44 HCV movements per day comprising no more than 22 HCV movements in and 22 HCV movements out per day. The operator of the concrete batching plant shall record all HCVs entering and leaving the site each day in connection with the concrete batching plant and shall supply this information to Oxford County Council in writing if requested to do so. HCV means a Heavy Commercial Vehicle having a maximum laden weight exceeding 7.5 tonnes inclusive of any trailer drawn by the vehicle.

Condition Nos.1, 3, 4 and 5 of approval Ref:MW0068/19 are retained.

Preliminary matters

2. Following approval on 8 October 2019 of MW0068/19, the appellant submitted an application pursuant to section 73 of the 1990 Act (MW0107/19) requesting that the wording of Condition 2 be amended to: "The number of HGVs entering and leaving the site, in connection with the mobile batching plant, shall be limited to 22 deliveries per day equalling to 44 HGV movements (22 HGV movements in/ 22 movements out)." OCC resolved to approve this application subject to a section 106 agreement. However, no agreement was reached, and the appellant submitted the current appeal on 7 April 2020.
3. The appellant considers that Condition 2 is unnecessary and should be deleted altogether. However, the appellant indicated that it would be satisfied with the amendment of the condition to require the provisions sought in application MW0107/19, as set out above.

Main issue

4. Whether it would be expedient to grant prior approval of details for siting, design and external appearance subject to conditions reasonably imposed in order to avoid or reduce injury to the amenity of the neighbourhood.

Reasons

5. There is local concern about the likely effects of Heavy Commercial Vehicles (HCV) travelling to and from the concrete batching plant via local roads in and around the villages of Little Coxwell and Fernham. There is currently no limit imposed by the planning system on the number of HCVs serving the quarry. OCC seeks to limit the number of HCVs entering and leaving the site in connection with both the concrete batching plant and all other operations at the quarry to 44 per day (22 movements in/22 movements out). In addition, OCC considers that it would be necessary to require that no HCV under the control of the operator should turn right onto the A420 from Fernham Road. This priority junction, with a right turn lane for entry to Fernham Road from the west, is about 100 m to the north of the quarry site access onto Fernham Road.
6. The concrete batching plant would be located within a site that is the subject of a Routeing Agreement dated 11 June 2013. The owners and developers of this site covenant with OCC not at any time to cause or permit HCVs operated by them on a journey in connection with the operation of the "Development" to pass along a prohibited road. However, I do not consider that the 2013 Routeing Agreement would apply to HCVs serving the concrete batching plant. The restriction applies to relevant journeys undertaken in connection with the operation of the "Development", which is defined in permission MW0126/10 as an extension to quarry workings. The permission granted for the concrete batching plant by Article 3(1) of the General Permitted Development Order is for a new development.
7. The appellant subsequently submitted a routeing agreement signed by Grundon Sand & Gravel Limited, The Executors of the late Peter John Eyre Brook, 37 MKM Ltd and OCC, which is dated 1 March 2021. This would apply restrictions to HCVs serving the concrete batching plant. In summary, the agreement provides that any HCV operated by the owner, developer and underlessee of the concrete batching plant would be precluded from using prohibited roads, from turning left out of the site onto Fernham Road and from

turning right out of Fernham Road on to the A420. The agreement provides for an exception to enable any vehicle to deliver or collect goods relating to the concrete batching plant to or from addresses on a prohibited road, or to the extent necessary to enable the driver of any vehicle to comply with any direction given by a police officer or traffic warden or with any traffic sign for the time being in place prescribing the route to be taken by vehicles. For HCVs serving the concrete batching plant, but operated by others, the agreement requires the owner, developer and underlessee of the concrete batching plant to use best endeavours to ensure that these HCVs follow the same restrictions.

8. Little Coxwell Parish Council (LCPC) expressed doubts about the effectiveness of such an agreement and has reservations about signage, monitoring and enforcement. LCPC also has concerns about concrete batching HCVs arriving from the Swindon direction and turning right into Fernham Road. However, the existing right turn lane adequately provides for this movement. Notwithstanding LCPC's reservations, I am satisfied that the 2021 agreement would be an effective constraint on HCVs associated with the concrete batching plant travelling through Little Coxwell and Fernham. OCC would be able to monitor its effectiveness and take any necessary remedial action.
9. Given the restrictions imposed by the 2021 routeing agreement, the main issue in this appeal primarily concerns the likely effects, on the amenity of the neighbourhood, of HCVs serving the concrete batching plant travelling to and from the site along about 100 m of Fernham Road. This is a matter of judgement that does not lend itself to any technical or objective assessment. However, I walked this stretch of road on my site visit and consider that it would be necessary to restrict the number of HCVs visiting the concrete batching plant to avoid or reduce injury to the amenity of the neighbourhood. It seems to me that this could reasonably be achieved by restricting the number of HCVs entering and leaving the site in connection with the concrete batching plant to 44 HCV movements per day, as suggested by the appellant in the MW0107/19 application.
10. I concur with OCC that the concrete batching plant could not reasonably be sited elsewhere. Furthermore, in addition to amending Condition 2, I am satisfied that it would be expedient to grant approval subject to Conditions 1, 3, 4 and 5 of Ref:MW0068/19 in order to reduce the injury to the amenity of the neighbourhood that would be likely to result from the concrete batching plant.

Conclusions

11. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed and approval Ref:MW0068/19 be varied by deleting condition No.2 and substituting a condition specifying that the number of HCVs entering and leaving the site in connection with the concrete batching plant shall be limited to 44 HCV movements per day comprising no more than 22 HCV movements in and 22 HCV movements out per day. For the avoidance of doubt Condition Nos.1, 3, 4 and 5 of approval Ref:MW0068/19 are retained.

John Woolcock
Inspector