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# Appeal Decision

Site visit made on 25 March 2021

**by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision Date: 10 May 2021**

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## **Appeal Ref: APP/X2600/W/20/3260580**

### **Waste Recycling Centre, Stone Road, Hockering, Dereham, Norfolk NR20 3PZ**

- 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 application is made by Mr Mark Monk (Monk Plant Hire Limited) against the decision by Norfolk County Council.
  - The application, ref. FUL/2020/0016, dated 12 March 2020, was refused by notice dated 11 June 2020.
  - The application sought the installation and erection of recycling plant and storage bays for inert materials; off-site improvements to Stone Road; and variation of conditions 2 and 3 of permission ref. C/3/2013/3005 to accommodate revised site layout and proposed increase throughput of inert material (up to 100,000 tpa) without complying with conditions attached to planning permission C/3/2017/3002, dated 26 September 2017.
  - The conditions in dispute are: No.20 which states that: 'No materials shall be stacked or deposited on the site such that its height exceeds 5 metres above its base level within the wider site or 3 metres where materials are stored in the proposed and existing aggregate storage bays fronting Stone Road;' and Condition No. 21 which states that: 'All plant shall be operated at the ground level of the site.'
  - The reasons given for conditions 20 and 21 are the same and are: 'To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.'
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## **Decision**

1. The appeal is dismissed

## **Preliminary Matters**

2. The County Council's Statement of Case<sup>1</sup> refers to the application as being 'undetermined.' Given that there is a decision notice which has determined the application, I have treated this as an error and will proceed to determine this appeal on this basis.
3. I note that the appeal documents contain two different measurements for assessing the height of stockpiles. The applicant utilises the measurement 'Above Ordnance Datum' (AOD) which is a measure of height above mean sea

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<sup>1</sup> Paragraph 4.1

level and can be undertaken with the use of a GPS device. The County Council seeks to measure stockpile levels using the measurement of 'Above Ground Level' (AGL) where it is agreed by both parties that the existing ground level is 58.18AOD (0 metres AGL). For simplicity I have described both measurements together within this appeal when discussing matters regarding height.

4. It is noted that the height of the material placed in the storage bays along Stone Road were approved to be 3 metres in height (61.18AOD). There is no proposal to increase the height of the material stored in storage bays and as such the only matter in dispute with relation to condition 20 relates to the height of the remaining stockpiles throughout the site.

### **Background and Main issues**

5. The appeal site gained planning consent in 2017 to increase throughput of inert material to 100,000 tonnes per annum (tpa), which included the subject conditions which limit the height of materials stacked or deposited on the site to a maximum of 5 metres AGL (63.18AOD) within the wider site or 3 metres (61.18AOD) in aggregate storage bays; and restrict the operation of plant equipment to the ground level of the site.
6. The appeal proposal seeks to vary the two conditions in dispute. In relation to condition 20 the applicant seeks to allow an increase in the maximum allowable height of the stockpiles to 65.68m AOD (7.5 metres AGL); and where it relates to stockpiling aggregate within the storage bays, the maximum level would be 61.18m AOD (3m AGL). In relation to Condition 21, the applicant seeks to vary the condition to allow mobile plant to operate from the stockpiles at a maximum level of 63.18m AOD (5m AGL), where currently mobile plant is limited to the ground level.
7. The County and Parish Councils comment that the stockpile levels are currently over the permitted levels as well as noting that machinery is operating above ground level; and have been for some time, which is also shown to be the case in the stockpile survey<sup>2</sup> submitted with the application. On my site visit the stockpiles did also appear to be over 5 metres when compared to the two storey dwelling adjacent. I also noticed that machinery was operating from the stockpiles, which illustrates that in both cases the conditions would appear to have been breached.
8. That said, the main issue is whether Conditions No.20 and No.21 are necessary and reasonable; and the effect of the proposed variations to the conditions on the character and appearance of the surrounding landscape.

### **Reasons**

#### *Site Description*

9. The appeal site lies to the east of Stone Road in a location relatively remote from surrounding settlements. There is a residential dwelling which adjoins the southern boundary, and a number of agricultural sheds which adjoin the north-western boundary. Surrounding the site are relatively flat agricultural fields, along with elements of dispersed woodland such as Hocking Wood to the West, which is a designated Site of Special Scientific Interest (SSSI).

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<sup>2</sup> 'Stockpile Levels,' By BB Surveys Ltd, Ref: BBS-BB-EGL-SU-00, Dated 22.02.20

10. The appeal site itself is roughly triangular in shape and contains a plant hire business as well as a recycling centre which currently has planning consent to import up to 100,000tpa of inert material. Vehicular parking is located to the southern boundary closest to the adjacent residential dwelling, storage of plant and materials is located towards the Stone Road boundary and stockpiles are located from the east corner through the centre of the site. According to the stockpile survey and comments submitted with the appeal, the original ground level was 58.18 AOD and stockpiles from the survey range in height from 62.41 AOD to 67.5 AOD, (4.2m AGL to 8.7m AGL). Accordingly, the stockpiles are in places currently above the maximum height indicated in condition 20.
11. Notwithstanding that the appeal site benefits from a permitted use as a waste recycling facility, it appears at odds with the character of its rural surroundings. There is limited natural screening of the stockpiles, with engineering solutions implemented such as high boundary fences which seek to restrict views.
12. The Council indicates that the Breckland Landscape Character Assessment 2007 defines the area as 'Intermediate, Clay Land, Wooded (estate land),' which is seen as a gently undulating arable farmland landscape. This would comply with my observations on site. The landscape consists predominantly of open agricultural fields which present an agrarian landscape setting along with vegetated boundaries interspersed with areas of woodland. Some vegetated screening was also present to the boundaries of the neighbouring agricultural site to the appeal site.
13. I appreciate that the conditions I experienced on my site visit was only a snapshot of the site at this particular time as stockpile levels can change from day to day as well as seasonal changes to vegetation and the landscape. However, I have also considered the evidence submitted by main parties and a submission from the Parish Council and, in light of this, I am satisfied that what I saw represents typical conditions.

*Condition 20: Proposal to increase Stockpile levels from 63.18 AOD to 65.88 AOD (5m AGL to 7.5m AGL)*

14. A Landscape Visual Assessment<sup>3</sup> (LVA) accompanies the appeal which assesses the impact of heights of the stockpiles from various example viewpoints from public roads surrounding the site. Within the various example viewpoints, as well as from what I observed on my site visit; the size and massing of the stockpiles is very evident. The LVA appears to place a large emphasis on buildings which gained planning consent to illustrate that they would shield some of the views from the stockpiles. However, these buildings have not been constructed and there is no compelling evidence to indicate that they would be constructed in the near future.
15. I acknowledge that the operation of the pre-existing waste recycling facility on the site and the adjoining plant hire operation will have some impact on the landscape and that the heights of the stockpiles currently are similar to what is sought to be consented. However, as I saw from my site visit the stockpiles are currently above the level of surrounding trees and given their contrast in colour and massing; they present as an anomaly and discordant experience within this landscape. The variation to condition 20 as proposed would result in the

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<sup>3</sup> Completed by the Landscape Partnership, Dated 12<sup>th</sup> March 2020

continuation of this impact whereas if the materials stacked or deposited on the site were to be restricted to the levels indicated in condition 20, whilst still noticable; they would appear much less prominent within the landscape.

16. Whilst characteristics of the landscape such as the arable landscape and tranquillity were important characteristics of the locality as mentioned in both the applicant's and the Council's Statement; the opinions of the LVA are predominantly focussed towards the erection of buildings that are not extant. Given the current situation, the increased level of stockpiles, together with the addition of mobile plant and machinery causes a disruption to the character and appearance of the landscape. The increased height of the stockpiles continues to present a discordant element that detrimentally impacts upon the experience of the landscape and continues to disrupt the level of tranquillity currently experienced from surrounding view points. I therefore disagree with the findings of the LVA of the impact of the increase in height of the stockpiles. The increasing of the approved height of stockpiles to 7.5 metres causes unacceptable adverse impacts towards the landscape.
17. The applicant contends that the Council has been inconsistent in its consideration of the impact of various development proposals on the site on the landscape and residential amenity. An application made in 2013<sup>4</sup> which allowed the importation of 25,000tpa of inert waste had no condition relating to the height of stockpiles. However, the permission subject to the disputed condition (condition 20) relates to the importation of 100,000tpa of inert material. Therefore, it seems to me that the difference in the amount of inert material that could be imported would be likely to merit different considerations in terms of the conditions necessary to make the development acceptable.
18. Two further planning permissions, one granted in 2011<sup>5</sup> and another granted in 2017<sup>6</sup> both relate to the development of buildings. Neither of the consented buildings have been erected on site. However, whilst the permitted buildings would have been taller than the height of the stockpiles, the considerations regarding their appropriateness, such as size, overall massing, bulk and visual appearance are materially different and warrant different planning considerations to the development which was granted permission subject to the condition in dispute here. As such, I am not convinced that the granting of consents for buildings have any bearing on the considerations with regards to the development permitted subject to the disputed conditions.
19. Further comments from both parties relate to the blanket application of a height of 5 metres (63.18 AOD) to stockpiles which the County Council states is a standard limit which is applied across the County. However, the applicant, whilst not giving any examples, mentions that the County has also approved taller heights of stockpiles or no limits at all in the past. There is nothing in the evidence before me to indicate that there is an adopted policy in this respect. Accordingly, it would seem that each case should be assessed on its merits.
20. I acknowledge the need of the applicant in the operation of the site and that the variation of Condition 20 would provide economic benefits to the business with the increased height limit of stockpiles meaning that the applicant is able to

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<sup>4</sup> Norfolk County Council Planning Ref: C/3/2013/3005

<sup>5</sup> Breckland Council Planning Ref: 3PL/2011/0575/F

<sup>6</sup> Norfolk County Council Planning Ref: C/3/2017/3002

store a larger quantity of processed and unprocessed materials which will provide flexibility such as when sales are reduced or a large importation contract is awarded. However in this case, the changes caused by increasing the height of stockpiles from 63.18 AOD to 65.88 AOD (5m AGL to 7.5m AGL) is significant and has caused adverse detriment to the character and appearance of the locality and the surrounding landscape. In this particular instance and in conclusion on this matter, Condition 20 which limits the subject stockpiles to 5m AGL (63.18 AOD) is necessary and reasonable in order to avoid unacceptable adverse impacts to the surrounding landscape.

21. Consequently the proposal to vary condition 20 to allow increase stockpile heights would be in conflict with Norfolk Minerals and Waste Development Framework Core Strategy 2011 (NMWDF) Policy CS14 (which seeks that there are no unacceptable adverse impacts towards the character and quality of the landscape); Policy DM8 (which seeks that development would not harm the conservation of, or prevent the enhancement of key characteristics of its surroundings in terms of character and landscape). The proposal would also be in conflict with Breckland Local Plan 2019 (BLP) Policy ENV05 (which seeks that development have regard to the aesthetic and biodiversity qualities of the natural and man made features within the landscape).

*Condition 21: Proposal to allow mobile plant and machinery to operate above original ground level to a maximum height of 63.18 AOD (5m AGL)*

22. The height of 63.18 AOD (5m AGL) would be the height of the base of the mobile plant or machinery. The applicant has not provided details of the machinery or their heights which operate on the site, however on my site visit I noted mobile machinery which appeared to be 2-3 metres tall. The County Council states that mobile plant and machinery could be anywhere between 2-4 metres tall which I accept as reasonable to take into consideration, meaning that actual heights of machinery, even if they were to operate towards the centre of the site, would be visible above the level of the stockpiles.
23. Given the impact caused to the landscape by the stockpiles as previously described, the appearance of mobile plant and equipment on the stockpiles would exacerbate the harm and visual intrusion to the surrounding landscape. The stockpiles are already experienced as an anomaly within this rural landscape in this particular location; therefore a proposal to allow plant and machinery to be experienced in an elevated position, where at times these would be to the centre, edges and also to the top of stockpiles would further the distraction and harm towards the current landscape. I note comments that the plant and machinery could be conditioned and would be operated from the centre of the stockpiles and avoid operating at site boundaries where possible; which would lessen their visual impact, however this would be difficult, if not impracticable to monitor or enforce. Such a condition therefore would not be compliant with paragraph 55 of the National Planning Policy Framework (the Framework).
24. 'The intrusion into the landscape caused by moving machinery and plant, together with their height (which could be up to 4 metres) would provide further clutter and distraction within the surrounding locality and accentuate the harm caused to the surrounding landscape.
25. Taking the above into account, in conclusion of this matter, I find that Condition 21 is reasonable and necessary in order to avoid adverse impacts to the

surrounding landscape. Consequently, the proposed variation of the condition to allow mobile plant and machinery to operate on the stockpiles would cause unacceptable adverse impacts towards the surrounding landscape and be contrary to NMWDF Policies CS14 and DM8; and also BLP Policy ENV05, of which were described previously.

### **Other Matters**

26. Concerns have been raised regarding the generation of dust from the stockpiles, particularly in summer months; and noise from machinery operating from the stockpiles. Whilst the applicant has sought to address these issues in their statement, I am mindful that the application was not refused on the basis of harm caused by noise or dust. Given that the appeal has failed in relation to the main issue, I have not felt the need to further assess the issue of dust and noise from the site.
27. There is disagreement between both parties as to the methodology in surveying and calculating the height of stockpile levels. The applicant seeks to utilise the AOD measurement, whereas the County Council seeks to utilise the AGL measurement. I acknowledge each party's reasoning for using their preferred method and note that there is no specific guidance that has been presented with the appeal as to which method has any type of official accreditation or use. Given my findings regarding an increase in the maximum height of the stockpiles and the operation of machinery from the stockpiles on the character and appearance of the surrounding landscape it is not necessary to consider this matter further.

### **Conclusion**

28. For the reasons given above, the appeal is dismissed.

*J Somers*

INSPECTOR