



Appeal Decision

Site visit made on 7 June 2021

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/V3500/W/20/3252073

Ley Plant Limited, Sandpit Lane, Ellough, Beccles, Suffolk NR34 7TH

- 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 Peter Colby Commercials Limited against the decision of Suffolk County Council.
 - The application Ref SCC/0012/18W, dated 1 February 2018, was refused by notice dated 19 December 2019.
 - The development proposed is recycling of aggregate and storage of waste materials.
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Decision

1. The appeal is allowed and planning permission is granted for recycling of aggregate and storage of waste materials at Ley Plant Limited, Sandpit Lane, Ellough, Beccles, Suffolk NR34 7TH in accordance with the terms of the application, Ref SCC/0012/18W, dated 1 February 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Because the date of the application given on the application form has been redacted, I have used the date given on the appeal form in the header and decision.
3. Since the Council made its decision the Suffolk Minerals and Waste Local Plan (MWLP)¹ was adopted in July 2020. The relevant policies which have been drawn to my attention are Policies GP4, WP3 and WP8. My decision shall be made on the basis of those policies.
4. The Council issued its screening opinion under the Environmental Impact Assessment (EIA) Regulations² on 29 November 2019 to the effect that the development is not EIA development.
5. The use has commenced, and the application is retrospective.

Main Issue

6. The main issue in the appeal is the effect of the development on air quality.

Reasons

7. The appeal site is within an industrial estate to the south of Beccles, at the junction of Benacre Road and Sandpit Lane. To the immediate east of the site

¹ Suffolk Minerals and Waste Local Plan (2020)

² The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

is Broadwater Mouldings Ltd, which manufactures reinforced plastic mouldings which I understand are used in medical equipment and in vehicles. Immediately adjacent to the site entrance is a diner. There are small units on the opposite side of Sandpit Lane and two concrete batching plants to the north of the site. Land to the south of Benacre Road is allocated in the Waveney Local Plan (2019) (LP) for employment development and I noted on my visit that development is underway on that land. There is a dwelling which is about 110m to the west of the site on Benacre Road but other than this the surrounding uses are industrial and commercial.

8. The site was previously used for a coated stone plant, permission having been granted for this use in 2007³. In August 2014 a standard rules environmental permit was issued to Norfolk & Suffolk Construction Limited for treatment of waste to produce soil, soil substitutes and aggregate. This was varied in July 2016 to increase the permitted area and in December 2017 it was transferred to Norfolk and Suffolk Plant Limited. The permit was varied again in October 2018 to a bespoke permit. In October 2019 the permit was transferred to the current operator, Ley Plant Limited. At the time of submission of the planning application in February 2018, the site was operated by Norfolk and Suffolk Plant Ltd. Ley Plant Ltd took occupation in January 2019.
9. Up to 35,000 tonnes of construction and demolition waste are brought to the site annually for processing. In addition, up to 2,500 tonnes of aggregates are brought to the site annually for sale. Three screeners and two crushers are used together with loading shovels and diggers. A roadsweeping machine is used to keep the haul route clear.
10. Access to the site is from Sandpit Lane and follows a one-way route around the site. Construction and demolition waste is currently stored and processed in the southern part of the site, next to Benacre Road, and aggregates are stored in bays in the south-western area of the site, next to the junction with Sandpit Lane. The office building is centrally located and next to this there are protected oak trees and a pond. Along the eastern boundary of the site is a large mound of inert waste material which I saw has vegetation growing on it. I understand that this has been in place for some time and since before Ley Plant Ltd took occupation. This is next to the boundary with Broadwater Mouldings Ltd.
11. An Air Quality Assessment has been undertaken which has been carried out in accordance with professional guidance. This notes that air quality in the area is generally good and that background levels of particulate matter are well within the relevant air quality objective limits.
12. In the Assessment, the adjacent diner, Broadwater Mouldings and the dwelling on Benacre Road are identified as the nearest sensitive receptors. Dust disamenity effects are assessed as 'slight adverse' for Broadwater Mouldings and the diner and 'negligible' for the dwelling. The assessment of PM₁₀ particulates demonstrates that it is unlikely that air quality objectives would be exceeded. Overall, the Assessment demonstrates that the development would not significantly affect air quality. The Assessment concludes that, subject to adherence to the appended Dust Management Plan there would be little risk to air quality.

³ Ref W7242/3

13. I note that complaints about dust have previously been made to the Environment Agency (EA) and to the Environmental Health Officer of Waveney District Council. The National Planning Policy for Waste states that Waste Planning Authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. EA officers have visited the site unannounced. The visits have resulted in the identification of some issues relating to dust generation, but the EA has confirmed that there has been no breach of permit conditions.
14. In addition, the site has been visited by the Environmental Health Officer and by officers of Suffolk County Council. Similarly, although incidents of dust generation have been identified which point to the need for more effective management, no fundamental issue has been identified in this regard. No objection was raised by either the EA or the Environmental Health Officer to the planning application.
15. Measures in the Dust Management Plan include damping of the haul route and stockpiles of material using bowsers and water sprays. The crushing plant has an inbuilt dust suppression mechanism which sprays water onto the materials being crushed. A 5 mph speed limit applies to vehicle movements within the site. Vehicles are required to be sheeted and wheel washing measures are used to prevent transfer of mud onto the highway. Stockpile heights are to be minimised to prevent windblown dust. I noted on my visit that the damping measures and speed limit signs are in place and being used. The EA has also previously recorded that appropriate measures are in place to minimise dust emissions and that the site is well managed.
16. A list of suitable planning conditions has been devised by the Council in consultation with the site operator and there is full agreement between the parties with regard to those conditions. The suggested conditions would control the matters referred to above and would provide additional control to that provided by the permit.
17. There have been instances of dust nuisance to neighbouring businesses during occupation of the site by both the current operator and the previous operator. This has included dust deposition on products from the plastic moulding factory which are stored outside and on employees' cars. While this may indicate past lapses in adequate dust control, it does not mean that dust cannot be adequately controlled. I see no reason to doubt that, with effective management secured through appropriate planning conditions, the site could operate without causing dust nuisance.
18. There is no evidence before me to demonstrate that site operations, subject to the stated dust control measures, would have any adverse effect on health. Neither the EA nor the Environmental Health Officer has expressed any concern in this respect. The Air Quality Assessment notes that medical studies have consistently failed to find any link between dust arising from mineral working and public health.
19. For these reasons the development accords with Policy GP4 of the MWLP which requires waste development to adequately assess and address potentially significant impacts upon air quality including dust, and on neighbouring land use.

20. Policy WP3 of the MWLP states that general waste management facilities may be acceptable on land in general industrial use or on land allocated for such use in a local plan. Given the previous use of the site and its location within an employment area allocated in the LP, the proposal accords with that policy. Nearby uses include concrete production, skip hire and an anaerobic digester and the proposal would not be incompatible or out of character with those uses.
21. Subject to approval of matters relating to the layout of the site, the facility is purpose-designed and the development accords with Policy WP8 of the MWLP which has this requirement.
22. While the use has commenced without planning permission having been obtained, discussions between the parties have been constructive, resulting in agreement to the list of planning conditions, and formal enforcement action has not been necessary. The operator has taken steps to manage the use of the site to avoid dust nuisance to neighbours.
23. For the reasons given I conclude that, subject to the stated conditions, the development would not unacceptably harm air quality.

Other Matters

24. Broadwater Mouldings Ltd has referred to two lagoons having been constructed close to their boundary with no safety fencing. The company has expressed concern about interrupted water supply during sludge removal from one of the lagoons and from contaminated spray from a failed slurry pipe. These matters do not relate to the main issue that is in dispute and do not affect my conclusion.

Conditions

25. I have imposed the conditions as suggested with some minor alterations to ensure that they meet the tests set out in the National Planning Policy Framework (the Framework), with one exception as set out below. It is necessary to specify the approved plans and documents in order to provide certainty as to how the site will be operated. It is also necessary to keep these documents on site so that they can easily be referred to by the operator to ensure effective management of the site.
26. A number of conditions are imposed which are necessary to minimise potential for dust pollution. These include a reduction in height of the stockpiles, adherence to the Dust Management Plan, covering of vehicle loads and removal of waste material that is within 2 metres of the site boundaries.
27. Other conditions are necessary to control environmental effects more generally. These include a limit on the amount of waste processed and specification of the type of waste, a limitation on the hours of operation, a requirement for submission and approval of details of the waste processing area and submission and approval of vehicle parking, loading and unloading areas. Use of effective silencers on plant, broadband reversing alarms and a restriction on use of sound reproduction or amplification equipment are necessary to avoid unacceptable noise impact.
28. A floodlighting scheme is necessary to ensure that this is designed to avoid light spillage and distraction to highway users. Measures to avoid mud on the

highway are necessary for highway safety. It is necessary to ensure any storage of oil, fuel or other substances is undertaken to prevent contamination of groundwater or any watercourse.

29. There is hedging along the Benacre Road boundary, but further planting should be undertaken to ensure operations are visually screened such that they do not detract from the character and appearance of the area. A scheme for the protection of the oak trees within the site is necessary to ensure that the trees and their roots are not damaged.
30. There is some duplication between the suggested conditions 9 and 17, both of which require removal of waste from within 2 metres of site boundaries. The former would apply to the north-eastern corner of the site, but this is an imprecise definition and does not meet the test of precision in the Framework. Neither has the necessity for prioritisation of waste removal from this part of the site been explained. The latter condition imposes a general requirement including submission of a scheme for approval, which could prioritise waste removal from the north-eastern part of the site. For these reasons, I have not imposed the suggested condition 9.
31. In the event that operations cease it is necessary to ensure the site is restored to avoid harmful environmental effects and to avoid any prejudice to the re-use of the site. Finally, it is necessary to restrict permitted development rights as the installation of additional plant or machinery without control could potentially adversely affect the environment.

Conclusion

32. I have had regard to the requirements of the Waste Regulations⁴ and Article 13 of the Waste Framework Directive⁵ in reaching my conclusion. For the reasons given, I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

⁴ The Waste (England and Wales) Regulations 2011

⁵ Directive 2008/98/EC

Schedule of Conditions

- 1 The development hereby approved shall only be carried out in accordance with the application form and accompanying planning application supporting statements including:
 - i) Noise Impact Assessment by Independent Environmental Consultancy dated 2 September 2019;
 - ii) Air Quality Assessment by Independent Environmental Consultancy dated 2 September 2019;
 - iii) Preliminary Ecological Appraisal Report for Norfolk and Suffolk Plant Ltd by Riverdale Ecology;
 - iv) Tree Assessment for Norfolk and Suffolk Plant Ltd by Oakfield Arboricultural Services dated 7 July 2017;
 - v) Transport Statement by Cannon Consulting Engineers dated January 2018;
 - vi) Document entitled 'W301 – Proposed use of existing site for recycling of aggregate and storage of waste materials Surface water management note (v 04) by Cannon Consulting Engineers dated 19 July 2019;
 - vii) Drawing number PCC/NSP/1 entitled Site Plan Norfolk and Suffolk Plant Ltd dated February 2018;
 - viii) Drawing number OAS/ - TS01 – NSP01 entitled Tree Location Plan dated October 2017; and
 - ix) Location Plan.
- 2 A copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with any condition of this permission, shall be kept available for inspection on the site for the life of the development.
- 3 Within 12 months of the date of this permission, all stockpiles on site shall be a maximum height of 3 metres.
- 4 Within one month of the date of this permission, a scheme for the relocation of the waste processing area shall be submitted to the Waste Planning Authority for its approval in writing. The approved scheme shall be implemented fully within 12 months of the date of this permission and retained thereafter.
- 5 Within any 12-month period no more than 35,000 tonnes of inert waste and 2,500 tonnes of aggregate shall be imported into the site. The operator shall keep a record of all imported material by type, which shall be made available to the Waste Planning Authority upon request.
- 6 Nothing other than inert waste or dry non-hazardous waste and aggregates shall be deposited within the site.
- 7 Any oil, fuel, lubricant, paint or solvent shall be stored so as to prevent such materials contaminating groundwater or reaching any watercourse.

- 8 The Dust Management Plan at Appendix B of the approved Air Quality Assessment by Independent Environmental Consultancy dated 2 September 2019, shall be implemented and shall be adhered to at all times during the carrying out of operations authorised or required under this permission.
- 9 Within three months of the date of this permission, details of areas to be provided for the loading, unloading, manoeuvring and parking of vehicles, including HGVs and secure cycle storage, shall be submitted to the Waste Planning Authority for its approval in writing. The approved scheme shall be carried out in its entirety within an agreed timescale and shall be retained thereafter and used for no other purpose.
- 10 All vehicles entering and leaving the site laden with loose materials shall be effectively covered to prevent the spillage of any materials.
- 11 Measures shall be taken to prevent mud or dirt being carried onto the public highway by vehicles using the site access in accordance with details which shall be submitted to the Waste Planning Authority for its approval in writing within one month of the date of this permission.
- 12 Silencers shall be fitted to and used and maintained in accordance with manufacturer's instructions on all vehicles, plant and machinery used on the site. No machinery shall be operated with the covers open or removed.
- 13 Only broadband sound reversing alarms shall be employed on plant, including dump trucks, on the site.
- 14 No sound reproduction or amplification equipment (including public address systems and loudspeakers) which is audible at the nearest noise sensitive location shall be installed or operated on the site.
- 15 Within six months of the date of this permission, a scheme of hedge planting along all site boundaries, excluding the boundary with the diner, and an aftercare scheme which provides for the management of the hedgerow planting, shall be submitted to the Waste Planning Authority for its approval in writing. The approved scheme shall be carried out in full.

The submitted scheme shall specify the steps to be taken in the first five-year period in respect of the following:

- i) hedge protection measures, including guards, rabbit/deer fencing etc and their maintenance;
- ii) weed control;
- iii) replacement of failed planting;
- iv) routine management such as re-staking, checking ties, etc.

The hedgerow planting shall be retained and maintained throughout the lifetime of the site.

- 16 Within one month of the date of this permission a scheme for the removal of materials within 2 metres of the site boundary (not including materials which are stored in existing aggregate bays at the date of this permission as detailed on drawing number PCC/NSP/1 entitled Site Plan) shall be submitted to the Waste Planning Authority for its approval in writing. The

approved scheme shall be implemented fully within 12 months of the date of this permission and shall thereafter be retained in its entirety for the life of the site.

- 17 Within three months of the date of this permission, a scheme of protection for the oak trees shall be submitted to the Waste Planning Authority for its approval in writing. The scheme shall provide for:
- i) an effective barrier to prevent vehicles parking or manoeuvring within 5 metres of the trees; and
 - ii) an effective barrier to prevent material from being deposited or stored within 5 metres of the trees.

The approved scheme shall be implemented in its entirety within one month of written approval of the scheme and thereafter retained throughout the life of the site.

- 18 Within three months of the date of this permission, a scheme of floodlighting shall be submitted to and approved in writing by the Waste Planning Authority. The submitted details shall include measures to minimise sky glow and light spillage to neighbouring properties and the highway. The approved scheme shall be implemented in full and retained thereafter.

- 19 Operations authorised or required by this permission shall only be carried out between the following times:

07:30 – 18:00 hours Mondays to Fridays; and

08:30 – 12:30 hours Saturdays.

Servicing, maintenance and testing of plant shall only be carried out between the following times:

07:00 – 19:00 hours Mondays to Saturdays.

The above time restrictions shall not apply to environmental monitoring. There shall be no working on Sundays or on bank/public holidays.

This condition shall not apply in cases of emergency when life, limb or property are in danger. The Waste Planning Authority shall be notified in writing as soon as possible after the occurrence of any such emergency.

- 20 In the event that the importation of inert materials and/or their crushing, screening or chipping are discontinued for any continuous 12-month period the land shall be restored to its original condition and all temporary structures, stockpiles, plant and machinery associated with this use shall be removed from the site.
- 21 Notwithstanding the provisions of Part 7 Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order (with or without modification), no replacement plant, machinery or buildings shall be erected on the site.