



Appeal Decision

Hearing Held on 22 June 2021

Site visit made on 23 June 2021

by Helen B Hockenhull BA (Hons) B. PI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th July 2021.

Appeal Ref: APP/U2370/W/20/3265515

AGC Chemicals Europe Ltd, Hillhouse International works, Fleetwood Road North, Thornton Cleveleys FY5 4QD

- 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 AGC Chemicals Europe Ltd against the decision of Wyre Borough Council.
 - The application Ref 19/00875/FULMAJ, dated 21 August 2019, was refused by notice dated 20 August 2020.
 - The development proposed is the erection of two storey lubricants building (B2), new internal roads and areas of hardstanding.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council and the appellant produced a Statement of Common Ground before the hearing. It is agreed that the principle of the development within the Hillhouse Enterprise Zone is acceptable and complies with Policy SA4 of the Wyre Local Plan 2011-2031. The one area of disagreement relates to the impact of operational noise on the living conditions of the occupiers of nearby dwellings. My decision therefore concentrates on this aspect only. It is agreed that construction noise can be managed through the imposition of appropriate conditions should the appeal be allowed.

Main Issue

3. Given the above, the main issue in this case is the effect of the proposal on the living conditions of the occupants of nearby residential properties with particular regard to operational noise.

Reasons

4. The appeal site is located within the Hillhouse International Enterprise Zone and located at the north west corner of the AGC Chemicals site. It is proposed to construct a two storey lubricants building incorporating a drive through loading bay. The proposal is required so that the appellant can meet new EU Regulations which mean that the lubricants product needs to be heat treated, a process which would take place within the proposed new building.

5. The appellant has prepared a noise assessment to predict the likely noise emanating from the proposed development. Both main parties agree that the methodology for the assessment is robust and complies with accepted guidelines. I have no reason to disagree. The appellant advises that the detailed design of the development and the treatment process has yet to be finalised. This means that the noise assessment is based on preliminary design information. In principle this is not an unacceptable approach. The Assessment predicts an increase of 3dB at night-time and 4dB in the daytime at the closest residential receptor on Hatfield Close.
6. The appellant argues that the noise assessment provides a worst-case scenario for a number of reasons. Firstly, that noise levels from existing ovens on the site have been obtained and as these are old ovens, they are likely to be noisier than those which would be installed in the development. Whilst I accept this may well be the case, the appellant has been unable to provide manufacturers power levels for new ovens to confirm this.
7. I understand that the assessment assumes inlet fans would be external when they may in reality be internal, thereby benefiting from noise attenuation. The assessment also assumes the provision of four ovens when only three may be required. Furthermore, two HGV movements have been assumed to occur every hour when this may in practice be one movement per hour. Additionally, the sound power level for the HGV source has been assessed with a vehicle doing a three-point turn, when the design of the proposal facilitates through access without the need for reversing.
8. The noise assessment assumes that the proposed lubricant building would operate 24 hours a day but that mobile plant would operate daytime only. However, at the hearing the appellant indicated that HGV movements may be necessary at night. The likely number of movements is uncertain as it would depend on the ability to stockpile materials during the day. Forklift truck movements would be necessary at night to unload and load vehicles. I accept that forklift trucks would be within the building and the doors of the loading bay would be closed. However, this activity would increase noise levels at night to the level predicted for daytime ie a 4dB increase over background noise rather than 3dB. In light of these differences, I cannot be satisfied that the noise assessment represents the worst-case scenario.
9. Assessment guidelines in BS4142¹ set out at what level a low, adverse or significant adverse noise impact is likely to occur. A rating level not exceeding background level would have a low impact but a rating level of around 5dB above existing background sound level would lead to an adverse impact.
10. The predicted noise level increase in this case, 4 dB, is approaching the 5 dB threshold which the guidance indicates will have an adverse impact. Whilst the noise assessment described the impact as low, at the hearing the appellant gave the view that the proposal could be considered to have a 'low adverse impact'. I consider this more accurately describes the potential noise impact.
11. BS4142 also advises that in assessing the noise impact, it may be appropriate to consider context. In this case, the site is located within an established industrial area where there is continuous existing background noise. Whilst there are clearly other existing noise sources in the area, this should not

¹ BS4142: 2014 Methods for rating and assessing industrial and commercial sound

downplay the predicted impact of the proposal. National Planning Practice Guidance advises that in cases where existing noise sensitive locations already experience high noise levels, such as the Hillhouse International site, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.

12. There was discussion at the hearing about whether the appropriate character corrections had been assumed to take account of impulsivity. Forklift truck movements generate intermittent impulsive sounds for which the guidance in BS4142 suggests a penalty of up to 9dB could be applied. The noise assessment makes no penalty, as it is assumed that the continuous noise of the plant would mean that impulsive sounds would not be audible. However, the noise from the shutting and opening of the loading bay doors has not been assessed. This activity could add to the intermittent impulsive noise impacts. Assuming a worst-case scenario, it would have been reasonable to expect some level of correction. This would have led to a higher predicted noise level and reinforces concerns that the assessment does not adequately assume a worst-case scenario and that the likely impact of the proposal would be adverse.
13. Given the predicted noise levels, it is important to consider potential mitigation measures to reduce the likely noise impact. The submitted assessment assumes that operational noise would not result in significant adverse effects. It therefore provides little detail on possible mitigation measures, though accepts that silencers could be installed to the ventilation system.
14. There are several measures that could be taken, and these were discussed at the hearing. For example, the fans could be sited on the furthest elevation from the residential properties and be placed inside the building. Screening around the yard and operational mitigation measures for HGV movements and forklift truck activity could be employed. The appellant has confirmed that Best Available Techniques would be applied. Whilst I do not doubt this intention, as the detailed design has not been finalised, it is not possible to indicate exactly what measures would be employed and assess how effective they would be.
15. One approach to resolve this uncertainty would be to set an operating limit. The Council are keen to achieve an operating level no higher than existing background noise level. However, the appellant is unable to agree to this, as it is not certain that it could be achieved without compromising the functionality of the building or the financial viability of the project. An operating limit set at 4 dB above background noise, which would reflect the predicted levels in the noise assessment, would be an acceptance that an adverse noise impact would occur.
16. I am advised by the Council that in general terms, background noise levels from the Hillhouse site, appear to be increasing. The noise assessment submitted by the appellant to accompany a planning application for a thermal plant in 2015 indicated background noise levels lower than currently experienced. The Council also advised that they receive complaints from nearby residents about noise from the Hillhouse site. Whilst these are not attributable to the appellant's operations, it is an indicator that noise is an issue which needs thorough assessment when new proposals come forward on this site.

17. The National Planning Policy Framework in paragraph 180 seeks to ensure that new development mitigates and reduces to a minimum, potential adverse impacts resulting from noise. Based on the evidence before me, I am not persuaded that the appeal proposal achieves this objective.
18. In summary, I have found that the likely noise generated from the proposal would have an adverse impact. In the absence of detailed mitigation measures and an assessment of their effectiveness, combined with the appellant's inability to agree an acceptable operating noise limit, I conclude that it has not been satisfactorily demonstrated that the proposal would not cause harm to the living conditions of the occupiers of nearby dwellings.
19. The appeal scheme would therefore be contrary to Policies SP2, SP8 CDMP1 and CDMP3 of the Wyre Local Plan which seeks to ensure that development is well designed and does not lead to significant adverse effects on health and amenity.

Conclusion

20. For the reasons given above and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Claire Brown	Wood Group Uk Ltd
Mark Evans	Wood Group Uk Ltd
Andrew Williamson	Wood Group Uk Ltd
Andrew Scully	AGC Chemicals Europe
Stuart Ede	AGC Chemicals Europe

FOR THE LOCAL PLANNING AUTHORITY:

Lucy Lowcock	Planning Officer, Wyre Borough Council
Corinne Mason	Environmental Health Officer, Wyre Borough Council
Nick Clayton	Environmental Health Officer, Wyre Borough Council
Jonathan Fail	Environmental Health Officer, Wyre Borough Council

INTERESTED PARTIES:

None in attendance

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Email from the Council dated 29 June 2021 providing revised wording for conditions 17 and 18.