
Appeal Decision

Site visit made on 4 January 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/Y3940/W/21/3280132

Lime Yard adjacent to Grimstead Road, West Grimstead SP5 3RQ

- 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 Roffey Brothers Limited against the decision of Wiltshire Council.
 - The application Ref 20/11232/FUL, dated 10 December 2020, was refused by notice dated 19 July 2021.
 - The development proposed is described as change of use from storage, processing and distribution of lime, to storage, processing and distribution of horticultural products, with the addition of one building.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from storage, processing and distribution of lime, to storage, processing and distribution of horticultural products, with the addition of one building, at the Lime Yard adjacent to Grimstead Road, West Grimstead SP5 3RQ in accordance with the terms of the application, Ref 20/11232/FUL, dated 10 December 2020, and subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. An application for costs was made by Roffey Brothers Limited against Wiltshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issues are the effects of the development on:
 - the safe and efficient operation of the highway network;
 - the character and appearance of the area;
 - the living conditions of nearby residents in relation to dust and noise and disturbance; and
 - wildlife and ecology.

Reasons

Background

4. The site accommodates an established lime processing facility first approved in 1990, albeit one whose use has declined over time. A significant quantity of lime nonetheless remains on site, and some processing continues. I have been provided with no reason to believe that the use is likely to cease in the near

future, or that there is therefore any prospect that the site will revert to its previous condition.

5. Intensification of the lime processing operation was advanced as a 'fallback' in relation to a 2012 appeal (the previous appeal), which also related to a proposed change of use. Intensification does not however seem to have occurred following dismissal of the previous appeal. Circumstances have since changed insofar as a 2019 permission (the extant permission) has provided scope for the site operator to change, and a 2021 permission has provided the appellant access to a supply of lime at Uplyme Quarry which could be processed on site. The probability of increased intensification of the existing operation thus appears greater now than in 2012. Either way, there is nothing to prevent future intensification of the use given that the extant permission is open ended. It is of further importance to note that in this context the extant permission imposes very few restrictions on the use. In view of the above, and given its relatively recent date, the 2019 permission must be considered to provide a benchmark against which to measure the acceptability of the current appeal proposal.

Highways

6. The extant permission sought to place no restriction on road use by vehicles associated with the approved use of the site, or the number or type of vehicles which may be involved. In this regard the proposed use would utilise the existing access and similarly entail the importation and distribution of excavated materials to and from the site by lorry. In addition to this, a small number of employees would most likely travel to and from the site by car, in the same way as they presumably both do at present, and/or have done in the past. The overall number of vehicle movements generated would be reasonably low, and the types of vehicle involved would be similar if not the same as those associated with the existing use.
7. Relative to the current level of site operation, the proposed use would most likely entail increased levels of vehicle movements. However, this would not involve vehicle movements of a type or number that would be demonstrably exceed, or different be to those which could arise within the scope of the existing use, and the extant permission.
8. The site is located a short distance from the A36, which forms the key route between Salisbury and Southampton. This can be directly accessed towards the west of the site. It is wholly logical to consider that this would form the primary means by which the importation and distribution of products related to the proposed use of the site would occur. More particularly given that the proposed use would cater for a more specialised market than the existing use.
9. Roads towards the east of the site consist of fairly narrow lanes which wind through the agricultural landscape and serve only small and dispersed rural settlements. Though these lanes presumably see some use by agricultural vehicles, they do not provide any direct access to the strategic highway network and would not be suited to regular use by lorries. The existence of height and weight restrictions on certain routes towards the east might otherwise preclude this. It is therefore unlikely that roads towards the east of the site would see regular use by traffic related to the proposed use of the site. Even if they were occasionally used, in view of the above any related impact could not be considered novel.

10. As at present, vehicles leaving the site could carry mud on their wheels during periods of wet weather. This issue can however be simply addressed by use of/bringing back into use the existing wheel wash facility on site.
11. The previous appeal was partly dismissed on grounds of highways safety. However, as noted above, the proposal in that case was for a use of different type and character to that subject of the current appeal. Notwithstanding some uncertainty, this would have given rise to different likely impacts in terms of vehicle movements. The previous appeal does not therefore alter my findings above.
12. I have taken into account paragraph 111 of the National Planning Policy Framework (the Framework) which makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. I am satisfied that no unacceptable impact would arise in this instance.
13. For the reasons outlined above I conclude that the development would not compromise the safe and efficient operation of the highway network. No relevant policy was cited within the decision notice. Nonetheless, the development would comply with Core Policy 60 of the Wiltshire Core Strategy 2015 (the CS) insofar as this seeks to support and encourage safe and efficient movement of people and goods within and through Wiltshire. Though the Council has latterly asserted conflict with Core Policy 61, its particular relevance to the case has not been explained, and nor is it apparent.

Character and appearance

14. The site is located within a locally designated Special Landscape Area (SLA). Insofar as it is relevant to this appeal, the quality of the SLA appears to be derived from the character of the broader rural landscape.
15. Lime processing on site does not make a positive contribution to the quality of the SLA, but it is nonetheless an established feature. The nature of the proposed operations would be broadly similar to those currently undertaken, and existing buildings and infrastructure would be utilised. A large storage building would be added, but this would be barely perceptible from outside the woodland and tree belt surrounding the site. Indeed, though patchy in some places, trees largely limit inward views.
16. Some of these trees lie outside the site boundary within an area of ancient woodland. Most however appear to have been planted within the site for the specific purpose of screening it. Whilst permanent clearance of the ancient woodland appears improbable, other boundary planting could be subject of continued management secured by condition. This would be beneficial given the current absence of such a requirement. Screening of the site by trees could as such continue to be relied upon in limiting the visual effects of the proposed development. Any additional visual effect on the character and appearance of the area resulting from the development would therefore be negligible, and would not have any unacceptable effect on the SLA.
17. External lighting is again not subject of any current control. No external lighting has in any case been shown on the proposed plans, however its installation could be controlled by condition, thus helping to ensure no adverse effect.

18. It is claimed that vehicles serving the site would have an adverse effect on the character and appearance of the area. However, as established above, whether or not vehicle movements would see a relative increase, they would not be demonstrably in excess of or different to those which could arise within the context of the current use and extant permission. Against this background the development would have no more than a neutral effect.
19. For the reasons outlined above I conclude that the effect of the development on the character and appearance of the area would be acceptable. It would therefore comply with Core Policy 57 of the CS, which amongst other things seeks to secure development that relates positively to its landscape setting.

Living conditions

20. Reasonably large gaps separate the site from the nearest residential properties. These consist of scattered dwellings toward the east, north east, and west of the site.
21. Lime processing on site gives rise to fine dust. Once again, the extant permission imposes no requirements in relation to its management. At present therefore lime dust can be freely carried on the wind and deposited outside the site, and ample scope exists for this to increase.
22. The proposed use could also cause the generation of dust, albeit this would be derived from soil rather than lime. With the exception of screening, most activities would however be contained within buildings, subject of a management plan, and mitigation by dust capture equipment. Both the installation of the proposed equipment and adherence to the dust management plan could be secured by condition. As such, and relative to the existing situation, no unacceptable effect on the living conditions of local residents would arise due to dust.
23. The operation of machinery on site can be heard outside its boundaries. There is again no current restriction on the levels of noise such machinery can generate, or the times when this can occur.
24. The proposed use would entail a combination of both the same and different types of machinery. In this regard a noise report has been produced. Taking into account high levels of noise generated by traffic on the A36, this found that noise generated on site would at most exceed background levels by 1dB at one of the two nearest receptors. This is a level at which no observed adverse effect would exist. It is unlikely that machinery on site would be ordinarily audible to residents of dwellings located further away.
25. Insofar as vehicles would generate noise outside the site, the effects would be no more than neutral, reflecting my findings in relation to highways and character and appearance above.
26. Operation of the site at the modelled noise level, and at times upon which this modelling is based could again be secured by condition. As such, and in view of my findings above, no unacceptable effect on the living conditions of local residents would arise due to noise.
27. Interested parties have raised additional concerns in relation to air pollution including odours. To the extent that this matter can be differentiated from that of dust, emissions from vehicles using the site can be considered on the same

basis as the movements generating them. The latter I have already found to be acceptable. It appears unlikely that emissions or odours from any additional machinery on site, or from processing activities would adversely affect local residents given the distance involved, and the nature of the materials involved.

28. For the reasons outlined above I conclude that the development would not have an unacceptable effect on the living conditions of local residents due to dust and noise. It would therefore comply with Core Policy 57 of the CS insofar as this requires regard to be had to impact on the amenities of existing occupants.

Wildlife and ecology

29. As set out within the appellant's Ecological Appraisal, the majority of the site comprises compacted limestone and storage piles that support no vegetation. Where plants have colonised parts of the site, these are common species. The site is largely unsuitable for nesting by birds, or roosting by bats, and insofar as it may have value for foraging, this is mainly expected around the site margins. No protected species have been recorded on site, albeit minor potential exists for use of part of the site by reptiles. The above being so, the site is of negligible to very low ecological value. Subject to a precautionary approach being taken in relation to clearance, construction and the specification of lighting, and enhancement measures being implemented, the development would have a likely net positive effect on the biodiversity value of the site.
30. The site directly abuts Oakridge Copse which is identified as a County Wildlife Site and Ancient Priority Habitat. Much of the adjacent ancient woodland is however made up of dense modern plantation, and a high proportion of the boundary planting within the site appears to consist of *leylandii*. The bagging barn and store would be constructed 10m clear of the nearest tree and 5m clear of the woodland canopy edge. An extended Phase 1 ecology survey has otherwise confirmed no direct or indirect impacts on the ancient woodland or connecting habitats. Subject to the management of dust and lighting in addition to general measures considered above, the development would therefore have a neutral effect on the ecological value of Oakridge Copse.
31. In assessing the application the Council ruled out the potential for likely significant effects on the integrity of the 'River Test Special Area of Conservation'. The Council has however subsequently clarified that the sites of concern are in fact the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar sites, Portsmouth Harbour SPA and Ramsar sites, and the Solent and Southampton Water SPA and Ramsar site, into which the River Test drains, and within the catchment of which the site lies. The condition of these habitats sites has been adversely affected by elevated levels of nutrients, primarily derived from agriculture and housing. In this regard the development would not directly support any increase in local population. The operations undertaken would be broadly similar to the existing, and, aside from screening, processing and most storage activity would be contained under cover. Beyond dampening in dry weather and the operation of an existing wheel wash facility, these would not involve water or its discharge. Site drainage would otherwise remain unchanged. As such, likely significant effects on the integrity of the above sites

can indeed be ruled out. No further consideration of this matter is therefore required.

32. For the reasons outlined above I conclude that the development would not have an unacceptable effect on wildlife and ecology. It would therefore comply with Core Policy 50 of the CS which seeks to safeguard biodiversity.

Other Matters

33. To the extent that the proposed use would take place within the existing boundaries of the site, it would be a form of economic development explicitly supported in the countryside by saved Policy E19 of the Salisbury District Local Plan 2003.
34. Saved Policy E19 also contains separate provisions relating to land outside existing site boundaries, and in this regard, 2 small areas have been included within the boundary. One contains an existing attenuation pond, and the other woodland within which no new activities are proposed. Their inclusion otherwise simply reflects the fact that they form part of the leased area of the site. I note that this was a matter clarified between the parties during determination of the application, and considered uncontentious. As I have been provided with no reason to believe that inclusion of either would give rise to any specific or additional effect in relation to any of the main issues considered above, no conflict with saved Policy E19 would arise.

Conditions

35. Conditions (1) and (2) respectively set out the time period for commencement of development and identify the approved plans for sake of certainty.
36. Condition (3) limits the use of the site to that approved. This is necessary given that I have found the development to be acceptable based upon its specific likely impacts.
37. Condition (4) requires the development to be implemented in accordance with mitigation measures set out in the Ecological Appraisal. It also secures implementation of proposed enhancements. This is in the interests of biodiversity.
38. Condition (5) requires the provision of a management plan for trees on site. This is in the interests of safeguarding adjacent woodland, and maintaining site screening, thus helping to safeguard both the character and appearance of the area, and biodiversity. The condition pulls together and simplifies the content of a number of separate conditions proposed by the Council.
39. Condition (6) requires construction of the sound attenuating bund to an approved design. This is necessary given that the plans show the bund only in footprint, and to help safeguard amenity. A further clause relating to planting and management is again required in the interests of biodiversity.
40. Condition (7) requires the design of the canteen/office to be approved given that the plans show only the footprint. This is necessary in order to ensure a satisfactory appearance. I have not however imposed a suggested condition requiring details of the materials to be used for the bagging barn and store, as it is clear from the plans that this will be constructed from profiled sheet.

41. Condition (8) requires the wheel wash facility to be made available for use. This is in order to help avoid mud being carried onto the adjacent roads in the interests of highway safety.
42. Condition (9) places limits on the times the use shall operate. These reflect those cited in the Noise Report. I note that the appellant suggests that the limitations should be more specifically targeted at 'soil processing', however this distinction is not clearly made within the Noise Report. The term is otherwise ambiguous. The condition is required in the interests of amenity.
43. Condition (10) limits noise generation within the modelled parameters. This is in order to ensure that no unacceptable effects on living conditions arise in relation to noise. A further condition requiring the roller shutters of the bagging barn and store to remain closed during operations is unnecessary because that was assumed within the modelling and would therefore be a required action.
44. Condition (11) requires the installation of the proposed dust capture equipment, and operation of the site in accordance with the submitted Dust Management Plan. This is in the interests of amenity and biodiversity.
45. Condition (12) requires any external lighting to be approved prior to installation. This is imposed in place of 2 separate conditions suggested by the Council, and in this regard prioritises ecological over more general concerns given the site-specific harm to which inappropriate lighting could give rise. Light spill would otherwise be addressed within this context.
46. Insofar as Conditions 4, 5, 6 and 12 together cover all relevant matters related to biodiversity to a sufficient degree there is no necessity to impose further conditions requiring provision of a Construction Environmental Management Plan or Landscape and Ecology Management Plan.
47. I have not imposed a condition requiring a Construction Management Plan. Aside from some of the proposed clauses being irrelevant, this would be excessive in relation to the context, and the scale and likely duration of the works proposed. Insofar as I have been given no reason to believe that construction would take place on Sundays and Bank Holidays, there is also no necessity to impose a condition restricting this.
48. Finally, I have not imposed a condition relating to foul drainage. This is because whether effluent reached a water treatment works via a sewer or tank the effect would be much the same, and in neither regard would there be an additional discharge of nutrients to habitats sites given my findings above.

Conclusion

49. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WG-SITELAYOUT [Plot date 20/04/21]; Proposed Ground Floor Plan, Elevations and Perspectives [Revised].
- 3) The site shall be used for the storage, processing and distribution of horticultural products only and for no other purpose (including any other purpose in Class B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).
- 4) Implementation of the development hereby permitted shall be carried out in accordance with the mitigation measures outlined within Sections 6.1 – 6.4 of the Ecological Appraisal dated 10 May 2021. All enhancement measures set out within Section 6.7 of that document shall then be completed prior to the first operation of the use hereby permitted.
- 5) Prior to the commencement of construction in relation to the development hereby permitted, a management plan which:
 - (a) identifies trees adjacent to and within the site boundaries;
 - (b) sets out measures for their protection during construction; and
 - (c) sets out a strategy for the long-term maintenance of the site screening function provided by tree planting within the site,shall be submitted to and approved in writing by the Local Planning Authority. Construction shall then be carried out in accordance with the approved management plan, and the site screening function provided by tree planting within the site shall be maintained thereafter in accordance with the approved strategy.
- 6) Prior to the first operation of the use hereby permitted, the sound attenuating bund shown on the approved plan shall be constructed in accordance with details which have first been approved in writing by the Local Planning Authority. The bund shall then be planted and managed in accordance with the specification set out within Section 6.6 of the Ecological Appraisal dated 10 May 2021, and retained thereafter.
- 7) Construction of the canteen and office unit hereby permitted shall be undertaken in accordance with design details which have first been submitted to and approved in writing by the Local Planning Authority.
- 8) Prior to the first operation of the use hereby permitted the wheel wash facility shown on the approved plan shall be made available for use by vehicles leaving the site. It shall thereafter be retained in working order and kept available for purpose of wheel washing.
- 9) The use hereby permitted shall only take place between the hours of 07:00 and 18:00 Monday to Friday and between 07:00 and 13:00 on Saturday, and not at any time on Sundays and Bank or Public Holidays.

- 10) Measured at the boundary of the nearest residential noise-sensitive receptors, the noise emitted by plant, machinery and operations within the site in relation to the use hereby permitted shall not exceed 1dB above the LA90(15min) at any time.
- 11) Operation of the site for the use hereby permitted shall not commence until the proposed dust capture equipment has been installed and made fully functional. The site shall thereafter be managed in accordance with the Dust Management Plan for Manufacturing Horticultural Products v1.0 09/02/2021.
- 12) No external lighting shall be installed on the site in relation to the use hereby permitted unless details of its location and specification have first been approved in writing by the Local Planning Authority. Such details shall be informed by the recommendations set out in Section 6.5 of the Ecological Appraisal dated 10 May 2021.