



Appeal Decision

Site visit made on 23 March 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal Ref: APP/Z0116/W/21/3282803

Land at Swift House, Albert Crescent, Bristol BS2 0UD

- 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 Grundon Waste Management Limited against the decision of Bristol City Council.
 - The application Ref 20/03286/F, dated 17 July 2020, was refused by notice dated 4 May 2021.
 - The development proposed is erection and operation of a waste transfer station and ancillary structures, including a trailer shelter, a weighbridge and weighbridge office.
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Decision

1. The appeal is allowed and planning permission is granted for erection and operation of a waste transfer station and ancillary structures, including a trailer shelter, a weighbridge and weighbridge office at land at Swift House, Albert Crescent, Bristol, BS2 0UD in accordance with the terms of the application, Ref 20/03286/F, dated 17 July 2020, subject to the conditions in the attached Schedule.

Main Issue

2. From the Council's decision notice, the main issue is the effect of the proposal on the users of nearby sensitive receptors with respect to odour and flies.

Reasons

3. Grundon Waste Management Limited currently operate from a large site on the west side of Albert Crescent. Their land includes some single storey offices, a large vehicle workshop and a large area of hardstanding to the rear. The appeal site primarily comprises this hardstanding area, plus the access to it. The waste transfer station (WTS) would be positioned in the northern part of the appeal site with the weighbridge, weighbridge office and trailer shelter to the south.
4. The proposal is for the WTS to receive up to 50,000 tonnes of mostly industrial and commercial waste per year from the appellant's local customers. The material would be offloaded in the WTS, where it would be bulked up by a loading shovel onto a larger trailer parked in the WTS. Once full, the trailer will be moved into the trailer shelter from where it would be collected by lorries and taken to waste processing, recycling or recovery facilities elsewhere.
5. Directly opposite the site is St. Philips Marsh Nursery. It is understood that there are around 140 children that attend the nursery, plus a number of staff. Adjacent to the nursery is a small building in use by Learn@ Multi Academy

Trust (MAT), which provides training for young people. The nursery and MAT buildings would be approximately 100m from the position of the WTS. At my site visit I noted there were a handful of dwellings on Feeder Road to the north. I also noted, albeit further away, flatted development under construction on Bath Road south of the site.

6. The appellant accepts that, although the waste being brought to site would not be likely to contain large amounts of organic material, there is the potential for it to generate odour. As such, an Air Quality Assessment (AQA) was provided which assessed the likely impact of odour on a number of receptors, and outlined mitigation measures designed to minimise it. These comprise:
 - all the waste will be offloaded within the building;
 - the front of the WTS would face south, not eastwards towards the nursery or MAT;
 - the building would be fitted with a PVC strip curtain from 5m above floor level up to the gable;
 - the building would operate an odour neutralisation spray system which would spray over the waste and across the entry point to the WTS;
 - any particularly odorous material will be rejected;
 - the volume of throughput would be high such that any waste would need to be promptly moved off site to enable the WTS to accommodate incoming waste. The appellant's aim is to ensure all waste is moved off the site within one or two days of arriving and within a maximum of five days;
 - incoming waste would be delivered in covered lorries and the trailers storing the bulked-up waste and transporting it off-site will also be covered; and
 - loading bays will be regularly cleaned and the yard area regularly swept.
7. The nursery was identified in the AQA as being the receptor with the highest sensitivity and, with likely wind direction, has a medium risk of odour reaching it. The likely effect was considered to be moderate without mitigation in place. However, with the mitigation measures identified above, the risk of odour at the nursery is deemed to be not significant. The Council do not dispute this conclusion. The impact on the adjacent MAT would, in my view, be comparable.
8. As the nearest dwellings are considerably further away, and not likely to be downwind, it is reasonable for me to conclude there would be no significant effect on the residents of them either. Similarly, though the concerns of some existing nearby businesses, including a number at Meriton Foundry to the rear of the nursery and MAT sites, are recognised, it is unlikely that the impact on the occupiers of these units would be unacceptable.
9. Notwithstanding the above, the site would be required to have an Environmental Permit (the 'permit') issued by the Environment Agency (EA). This would incorporate an Odour Management Plan (OMP), a draft of which has been provided with the appeal. The permit would require that appropriate measures are used to prevent odour pollution or minimise it when prevention is not practicable. However, even if appropriate measures are used, if residual

odour is at such a level that it is deemed unreasonable by the EA, further measures will be necessary else the development may have to reduce or cease operations¹.

10. It is acknowledged that it cannot be guaranteed that no odour will ever be detected at nearby receptors, for example, if odorous waste is brought to the site before being rejected. Also, if there was little confidence that the mitigation measures would be effective, then concerns that the operations could cause some pollution and yet still meet the terms of the permit, may be justified. However, with the identified mitigation measures and controls in place in respect of odour, I conclude that the development would not unacceptably affect the users of nearby receptors.
11. With regard to flies specifically, I agree with the Council that these would most likely result from organic waste that is stored for a length of time such that flies can become established. As it is not the appellant's intention to accept organic waste nor for it to be stored on site for more than a few days, I would consider the opportunity for flies to become established to be low. Reference has been made by some objectors to problems with flies in Avonmouth. However that is some distance away and I have no evidence to suggest the operations at the appeal site would compare in nature and scale to the operations in Avonmouth. Indeed the appellant suggests the source of the problems in Avonmouth is a facility that accepts organic waste.
12. In summary, as the effects of odour and flies from the development would be satisfactorily mitigated such that they would not be likely to unacceptably affect users of nearby receptors, the development would accord with policy BCS23 of the Bristol Core Strategy. This aims to ensure that development is sited and designed so as to not adversely impact upon environmental amenity in terms of, among other things, smell.

Other Matters

13. There has been a significant volume of objections to the development from interested parties. I have carefully considered the numerous matters raised below.

Traffic

14. The site was formally used as a truck hire premises. The appellant's Transport Assessment (TA) estimates that this previous use would have generated a total of 329 vehicle movements (in + out) per day. It states that the proposed operation would generate a total of 116 movements (in + out) per day. Although the Council's Transport team consider the estimate of the previous use may be high, they accept that even discounting all previous movements, the introduction of 116 additional movements per day would represent only a 2% increase in traffic on Albert Crescent. They conclude that the impact on the local highway network would be acceptable.
15. I recognise the concerns expressed relating to the safety impacts of an increase of traffic, particularly HGV traffic, in close proximity to the nursery and MAT. However given the fact that there are already at present a significant number of HGVs that pass the nursery (survey data showed over 450 a day), and the likelihood that the previous use also generated a considerable amount

¹ H4 Odour Management Guidance [EA, March 2011]

of HGV traffic, I do not consider that traffic generated by the development would represent an increased danger to the safety of other road users or pedestrians including children attending the nursery or older, possibly unaccompanied, children at the MAT.

Air Quality

16. The appellant's AQA models annual average background concentrations of NO₂, PM10 and PM2.5 for 2020 and shows that they all are significantly below the Government's relevant objective levels at nearby receptors, including the nursery opposite.
17. I understand that last year monitoring points were set up at the nursery by the Residents Against Dirty Energy group, and that this has shown that the World Health Organisation guidelines of 15µg/m³ of PM2.5 has been exceeded multiple times. I have also been provided with screenshots showing that PM2.5 has exceeded 25µg/m³ and PM10 has exceeded 40µg/m³, which are the Government's objectives. However, whilst a concern, such data is from a very limited period of time and could be subject to short term climatic or highway conditions.
18. Notwithstanding that, the AQA concludes that based on the anticipated traffic movements set out in the TA, which does not account for previous volumes of traffic that may have been generated by the site, the increase in NO₂ and PM10 likely to result from the development is just 0.6µg/m³ combined, with there being no predicted increase in PM2.5 levels. Overall the increases are described as being negligible.
19. The Council consider the assessments to be robust and, despite the recent local data provided, I agree, particularly as it is likely that any increase in traffic would not be as great as that assessed in the TA. Also, although I note the concerns that the implementation of a Clean Air Zone in Bristol may result in more vehicles using Albert Crescent, I have no substantive evidence to suggest Albert Crescent would be a likely diversion route.
20. It should also be recognised that air quality data relates mainly to traffic. I have no evidence to suggest the operation of the WTS would generate pollutants other than odour, which I have already assessed.

Noise

21. The appellant's Noise Assessment Report measured noise levels at nearby receptors including at the nursery opposite. It calculated that noise from the development, which would comprise noise from HGVs arriving and departing from the site as well as from the offloading, loading and bulking-up of waste, would be insignificant in the context of noise from traffic passing the nursery and MAT on Albert Crescent. This is largely because all the waste processing operations on site would be within the WTS which would face south and not towards the nursery and MAT.
22. As the development would operate during the night, albeit on a much reduced intensity, night-time noise was considered at residential properties to the north on Silverthorne Lane and to the south on Bath Road. The appellant's supplementary Technical Note concluded the noise from the WTS at both locations would be below background levels, and so would not be noticeable. I have no reason to doubt this assessment. I would anticipate a similar

conclusion could be drawn in respect of the few properties on Feeder Lane which are not much closer to the site than Silverthorne Lane.

Land Use

23. The site is currently within an allocated Principal Industrial and Warehousing Area. The Council consider such areas are acceptable, in principle, for uses such as that proposed. I agree, and there is therefore no requirement for the appellant to demonstrate a need for the development.
24. The Council state that in the emerging Local Plan, the St. Phillips Marsh area is allocated as a regeneration area which would include a mix of uses including residential as well as employment. There are also concerns that the proposal would be incompatible with a new secondary school and university buildings which are part of the regeneration proposals. However the Council confirm the Local Plan is at an early stage and carries limited weight. Moreover, due to the size of the St. Phillips Marsh area, any planned sensitive uses could be located a significant distance from the appeal site. As such the development would not necessarily prevent the implementation of the regeneration area should it be realised in the Local Plan when adopted.

Flooding

25. The part of the site on which the WTS would be positioned is largely in flood zone 1, with the Council's Strategic Flood Risk Assessment showing that in a 1 in 1000-year flood event, taking account of climate change, only the northeast corner of the WTS building would be below flood level. When taking account of climate change to 2080, i.e. in 60 years time, a slightly greater part of the building would be below flood level. However, the WTS would be built with its floor being level with the existing ground level at its western end which in all predicted flood events would be above the flood level. The risk of flood water entering the building at its front would therefore be limited. Even if flood water threatened the building, the appellant's mitigation would be to erect barriers to prevent flood water entering or waste leaving. In addition the appellant suggests the lifetime of the development would be 20 – 50 years, albeit this could not be enforced, so would be unaffected by the predicted flood levels in 2080, plus climate change.
26. The access route to the WTS from Albert Crescent goes through flood zones 2 and 3a with Albert Crescent itself being in flood zone 3a. These are areas with a higher risk of flooding. To facilitate safe egress for staff, the appellant proposes to sign up to receive EA flood warnings which typically provide two to three hours notice. This would be part of a Flood Evacuation Management Plan.

Pests

27. In addition to flies, the development would have the potential to attract other pests such as rodents or gulls. However the measures set out to minimise flies, mainly the unloading and loading of waste within the building, would minimise the opportunity for other pests to become a greater nuisance here or in the wider area. The fact that the waste would not be likely to be organic also reduces the likelihood of pests being attracted to the site.

Lighting

28. The development would operate through the night. As such floodlights would be necessary. The positions of these are shown on the plans, which also indicates that they would be at a height of 9 metres. Despite their elevated level, they would necessarily be directed down so would minimise glare beyond the site. Notwithstanding this, many of the surrounding land uses also use high level lighting, as does the road outside the site. Also the elevated railway line to the south would act as a barrier to glare in this direction. There would, therefore, be no unacceptable impact from lighting on nearby occupiers.

Consultation

Many concerns have been raised regarding insufficient public consultation by the appellant. That is not a matter that has any bearing on my assessment of the planning merits of the proposal.

Equality & Human Rights

29. A number of comments from objectors state that Lawrence Hill ward, in which the nursery and the MAT are in, is the most deprived ward in Bristol. Consequently, they consider the proposal would harmfully affect the health of children who are already disadvantaged. It is also stated that a number of the pupils of the nursery have special educational needs and are medically vulnerable, such as by suffering from asthma. I understand that the ward is the most ethnically diverse ward in Bristol.
30. With regard to this I have had due regard to the Human Rights Act (1998), in particular Article 14 which enshrines the right to be free from discrimination. I have also taken into account the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic, such as age or race, and persons who do not.
31. I have regarded no other consideration as more important than the best interests of the children attending the educational facilities opposite the site. Although, these best interests will not always outweigh other considerations in the final planning balance, I have nonetheless kept them at the forefront of my mind in reaching my decision. However, as set out above, with appropriate mitigation and avenues for enforcement in place, I do not consider the development would harm the health, education or welfare generally of the children at the nursery or MAT. Moreover, as I have found no harm arising from the proposal, the level of deprivation in the ward is not a basis to resist the scheme.

Conditions

32. I have considered the Council's suggested conditions. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance.
33. I have attached the standard condition relating to the commencement of the development and conditions specifying the approved plans in the interests of certainty. For the same reason I have attached the condition specifying the

limit of waste that can be brought to the site. I have also attached a condition requiring full details of the weighbridge office to be provided in order to ensure the character and appearance of the area is protected.

34. Conditions requiring the development is carried out in accordance with the recommendations set out in the air quality assessment, preventing the storage or processing of waste outside the buildings on site, and relating to unexpected contamination, are all necessary to ensure the development does not unacceptably impact upon the users of nearby sites.
35. The conditions relating to the flood risk assessment, and drainage strategy are necessary in order to minimise the risk of flooding, whilst the condition relating to the provision of a flood warning and evacuation plan is required to ensure the safety of employees of the development during flood events.
36. The condition referring to cycle parking is necessary to promote sustainable modes of transport, whilst that relating to the submission of an energy statement is required in order to minimise energy use.
37. From the suggested condition relating to the AQA, I have deleted the requirement for the development to be operated in accordance with the recommendations of the noise report or its technical update. This is because no recommendations were suggested in those documents, other than waste tipping being limited to being within the building and a wall being provided alongside the bulker pit, both of which are already secured by other conditions.
38. I have not attached the suggested condition relating to the provision of bird nesting opportunities. Whilst I recognise this was offered by the appellant as an alternative to a green roof on the weighbridge office, the prevalence of the trees along the south boundary would make additional nesting opportunities unnecessary.
39. The suggested condition requiring an operational management plan is not imposed. The Council's justification for this seems to be so that measures to limit noise in the evenings and at night can be assessed. However, as the supplemental noise Technical Note states that there is no need for controls or a management plan for night-time activity, and the Council do not dispute that in their committee report, the condition would be unnecessary.

Conclusion

40. The proposal accords with the development plan taken as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DG/EST/BRI/WTS/01, DG/EST/BRI/WTS/02, DG/EST/BRI/WTS/03, 012819-4, A089/01/015 Issue A, DG/EN/BRI/WDL/1157 Issue 2, DG/EN/BRI/WDL/1158 Issue 1, DG/EN/BRI/WDL/1159 Issue 1 and DG/EN/BRI/WDL/1161 Issue 1.
- 3) Detailed drawings or specific illustrative material of the proposed weighbridge office building shall be submitted to and approved in writing by the local planning authority before its construction is commenced. The development shall be carried out as approved.
- 4) The development shall be operated in accordance with the recommended mitigation set out in the Air Quality Assessment by Air Quality Consultants (dated 21 September 2020). The mitigation measures shall be maintained throughout the lifetime of the development.
- 5) The development shall be constructed and operated in accordance with the mitigation measures set out in the submitted flood risk assessment note by Enzygo dated 24 November 2020 (ref CRM.049.020.HY.L.001). The mitigation measures shall be maintained throughout the lifetime of the development.
- 6) The development shall not be brought into use until a Flood Warning and Evacuation Plan (FEP) has been submitted to and approved in writing by the local planning authority. This Plan shall include the following information:
 - i) command & control (decision making process and communications to ensure activation of FEP);
 - ii) training and exercising of personnel on site (H&S records of to whom and when);
 - iii) flood warning procedures (in terms of receipt and transmission of information and to whom);
 - iv) site evacuation procedures and routes; and
 - v) provision for identified safe refuges (who goes there and resources to sustain them).

The FEP shall be reviewed at intervals not exceeding three years, and will form part of the Health & Safety at Work Register maintained by the applicant.
- 7) No development shall take place until an Energy Statement has been submitted to and approved in writing by the local planning authority demonstrating how energy demand for heating and power will be minimised through fabric efficiency, air permeability and controlled ventilation, the selection of energy efficient lighting and appliances, and heating and lighting controls. The development shall be constructed and operated in accordance with the approved Statement.

- 8) No development shall take place until a Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the local planning authority. The approved Strategy shall be implemented in full prior to the development being brought into operation, and shall be maintained thereafter, in accordance with the approved details.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out, submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, a remediation scheme shall be submitted to and approved in writing by the local planning authority. Following completion of the measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the local planning authority before the construction of the development, or relevant phase of development, is resumed.
- 10) The development shall not be brought into use until provision for two cycle parking spaces, in accordance with details submitted to and approved in writing by the local planning authority, have been installed. Thereafter, the cycle parking spaces shall be kept free of obstruction and available for the parking of cycles only.
- 11) The development hereby approved shall process no more than 50,000 tonnes of waste in any single calendar year.
- 12) No waste shall be loaded, offloaded or stored on any open area of the site.