



Appeal Decision

Site visit made on 2 August 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2022

Appeal Ref: APP/Z0116/W/22/3296944

Veolia Resource Recovery Facility, Chittening Road, Avonmouth BS11 0YB

- 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 appeal is made by Veolia ES (UK) Ltd against the decision of Bristol City Council.
 - The application Ref 21/02909/X, dated 28 April 2021, was refused by notice dated 18 October 2021.
 - The application sought planning permission for part retrospective installation of a depot building, weighbridge office, weighbridge, fire suppression system (comprising a pump house and water tank) and vehicle maintenance workshop without complying with condition 10 attached to planning permission Ref 19/04171/F, dated 30/07/2019.
 - The condition in dispute is No 10 which states that: *The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision- VES_ES_AVM_109_006 New office building indicative foundation detail, received 13 January 2020, VES_ES_AVM_109_007 A Weighbridge office indicative foundation detail, received 13 January 2020, VES_TD_AVON_100_001 Site location, received 3 September 2019, VES_TD_AVON_100_002 Existing site layout, received 3 September 2019, VES_TD_AVON_100_003 A Proposed site layout, received 28 November 2019, VES_TD_AVON_100_004 Workshop and tank layout, received 3 September 2019, VES_TD_AVON_100_006 Office and car park layout, received 3 September 2019, VES_TD_AVON_100_005 Pump and tank elevations, received 3 September 2019, VES_TD_AVON_100_007 Proposed office elevations, received 3 September 2019, VES_TD_AVON_100_008 Proposed workshop elevations, received 3 September 2019, VES_TD_AVON_100_009 Proposed weighbridge office elevations, received 3 September 2019, Sustainability statement, received 16 January 2020.*
 - The reason given for the condition are: *For the avoidance of doubt.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Permission was granted in 2019 for works to construct a depot, office buildings, a weighbridge, a fire suppression system and workshop to an existing industrial premises. The approved layout consisted of a vehicle access (enter and exit) to the north of the site, and an emergency access point to the south.
3. The appellant applied to vary the 2019 permission to alter the approved layout plan. This change would permit the permanent use of the emergency access to the south, but for cars and as an entrance point only. Cars would exit the site from the current exit to the north. To achieve this, the layout plan detailed in

Condition 10 of the 2019 permission would need to be replaced with an alternative plan. For clarity, I will hereafter refer to the amended layout plan and the permanent use of the access for cars as an entrance point as the 'proposed development'.

4. In view of the above, the main issue is the effect of the proposed development on highway safety.

Reasons

5. The appeal site relates to an existing industrial resource recovery facility situated on Chittening Road. Chittening Road is a long straight single carriageway road on an industrial estate. It has a wide footway and grass verge to the one side, a 40mph limit as well as street lighting. At the southern end of Chittening Road there is a 90-degree curve in the road. From this point onwards the road is known as Smoke Lane.
6. The proposed development would be located to the south of the existing buildings. Vehicles would access the site via Chittening Road, but significantly closer to the 90-degree curve in the road than the existing access point to the north of the buildings. The Transport Statement submitted by the appellant states that there would be no increase in traffic to and from the site, simply a redistribution of cars entering the site. Based on the evidence before me, I am satisfied that there would be no material increase in the level of traffic to the site. Consequently, the proposed development would not impact upon the capacity of the surrounding highway network.
7. With regards to the safe use of the access, there is a dispute between the Council and the appellant over whether Manual for Streets 2 (MFS2) or Design Manual for Roads and Bridges (DMRB) is applicable when assessing the Stopping Sight Distance (SSD) for cars turning right into the proposed development. The Council have indicated that Chittening Road displays characteristics of a trunk road, such as high speed, large flows, large numbers of HGVs and strategic long-distance trips. Consequently, it is the Council's position that the DMRB guidance should be applied.
8. I have had regard to the Council's position, but Paragraph 1.36 of Manual for Streets 2 (MFS2) specifically indicates that it is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters for Stopping Sight Distances (SSD) are recommended. Where speeds are lower, MFS2 parameters are recommended. The Transport Statement, including a traffic and speed survey identifies that the 85th percentile speed of northbound vehicles on Chittening Road is 30.2mph. The appellant has also indicated in the Technical Note response to the Highways Authority that MFS2 provides a formula for calculating SSD, considering HGV movements and vehicle speeds that incorporates the DMRB based perception time and deceleration rate values into the calculation.
9. In view of the advice set out in MFS2, and the evidence before me, the appellant's approach in using MFS2 and the formula for calculating the SSD would appear reasonable. Accordingly, I have assessed the appeal based on the 66.6m SSD.
10. The appellant has stated that to achieve the required visibility, the overgrown vegetation, which could limit clear views of traffic travelling northbound, would

need to be cut back and maintained. The appellant states this can be addressed as part of the existing highway maintenance regime. However, there is limited evidence before me to identify that the existing vegetation is situated wholly within land controlled by the Highways Authority and the SSD could be achieved by relying on the highway maintenance regime. As such, in my judgement, relying on the highway maintenance regime in this case is not appropriate to ensure the access is safe.

11. I have also had regard to imposing a condition, but the land is outside of the identified application site and there is no plan or information defining other land owned by the appellant. As such, the condition would be imposed on land outside of the application site, making it unreasonable and not enforceable.
12. In light of this, I have no mechanism to ensure that the forward visibility of 66.6m SSD can be achieved and maintained. The position and depth of the vegetation would limit visibility below the required 66.6m. Consequently, the proposed development would result in a conflict between vehicles rounding the bend and those turning across the carriageway, thereby resulting in an increased risk of vehicle-to-vehicle collisions to the detriment of highway safety.
13. A condition is also proposed by the appellant to mitigate the concerns over the access being used by vehicles other than cars, and also as an exit point. The condition would require details of a signage scheme for a 'Car Only Entry' to be agreed by the Council. I am satisfied that a condition requiring signage could be imposed via condition to restrict the use of the proposed development to entrance by cars only. However, as I have identified an issue with achieving the necessary SSD, this is a neutral matter, and does not alter my conclusions on the effect of the proposed development on highway safety.
14. Accordingly, the proposed development would have an unacceptable effect on highway safety. I find that the proposed development would conflict with Policy DM23 of the Site Allocations and Development Management Policies 2014, which requires safe and adequate access for all users to the highway network. This is also contrary to Section 9, Paragraph 111 of the National Planning Policy Framework (the Framework), which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Conclusion

15. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations worthy of sufficient weight that indicate the appeal should be determined other than in accordance with it. The appeal is accordingly dismissed.

M. P. Howell

INSPECTOR