



Appeal Decision

Hearing held on 22 October 2024

Site visit made on 23 October 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/Z1585/W/23/3327402

Fairfields Farm, Fordham Road, Wormingford, Essex CO6 3AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Terry Slade of East Anglia Environmental Services Limited against the decision of Essex County Council.
 - The application Ref is ESS/30/22/COL.
 - The development proposed is retrospective planning permission for a composting facility to process 25,000 tpa of green waste to include the provision of weighbridge, 0.4ha of hardstanding for windrows and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme is part retrospective. The appeal decision on an enforcement notice served by the Council covering operations on part of the appeal site established that the earth bunds to the north and south of the existing hardstanding are immune from enforcement action. The Inspector for the enforcement notice appeal granted planning permission for the bund running north to south that links these two bunds. The composting of waste has been taking place, but not to the scale that is proposed in the planning application that is the subject of this current appeal. The weighbridge, the hardstanding for the windrows and landscaping that are referenced in the description of development are not in place. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the principle of the proposal with regard to its location and need for the facility; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Principle of Development

4. Policy 1 of the 2017 adopted Essex and Southend-on-Sea Waste Local Plan (the WLP) identifies a shortfall in capacity of 218,000 tonnes per annum by 2031/32 of biological treatment for non-hazardous organic waste. The

supporting text to the policy states that open windrow composting facilities are considered to contribute to the biological treatment of waste. No substantive evidence has been submitted that presents a contradictory position with regard to a shortfall of capacity.

5. The Council's consideration of the development was based on the rationale that it would not represent a new open market waste facility that would cater for new waste arisings. Rather it is one that would allow for the diversion of waste from the nearby CSH Environmental (CSH) facility on Packards Lane that is currently being managed elsewhere. As such, the development would not contribute to reducing the capacity shortfall identified in Policy 1 of the WLP. In this regard, the Council refers to an email¹ dated 27 March 2023 sent by the appellant's agent which the Council identifies as providing clarification on the need for the green waste activity.
6. The appellant's position is that limiting or restricting the operation to processing green waste from one specific operator is not part of the proposal. The appellant considers that the email of 27 March 2023 has been misinterpreted by the Council to mean the only green waste delivered to the site would be from the CSH facility. Consequently, the Council's position that it would solely handle waste diverted from the CSH facility, with the implication that there would be no increase in capacity, is not correct. In support of this position, at the Hearing my attention was drawn to the inclusion of a weighbridge within the description of development, with it being stated that this would be a necessary part of an operation catering to an open market rather than one operating as a satellite site for the CSH facility. It was identified that the CSH facility has a weighbridge.
7. The appellant states that the intention is to produce a PAS100 compliant product to be used on the neighbouring agricultural land. To produce the amount of compost needed for the wider Fairfield's Farm complex, green waste from sources in addition to the CSH facility would be needed. The appellant identifies that around 2,000 tonnes per annum (tpa) would be diverted from the CSH facility and so around 23,000tpa of capacity would be provided.
8. The description of development on the application form and the Council's decision notice does not indicate that the development would be solely for the green waste from the CSH facility. The planning statement submitted with the application states that green waste arisings from the CSH facility would be used at the site, and this would stop CSH vehicles having to travel elsewhere in the County for disposal of green waste. It does not explicitly state that this would be the only waste arisings that would be used at the site.
9. In terms of the operations that were the subject of the enforcement notice appeal, it appears that the green waste that was being processed came from the CSH facility². However, I am mindful that this relates to the operations on site at the time of the enforcement notice rather than what is the subject of this current application.
10. From the written and oral evidence, I am persuaded by the appellant's argument that what is being sought is not a facility that would restrict the source of the waste to one specific operator. It therefore follows that the

¹ appendix M of the Council's appeal statement and appendix 9 of the appellant's appeal statement

² paragraph 23 of appeal decision APP/Z1585/C/23/3324623

development would enable the management of waste from other parties and so would contribute to reducing the identified capacity shortfall.

11. At the Hearing, the Council raised concerns that the proposal had not been assessed as an open market facility and such a change would be significant. However, the application documents would have been available to view by members of the public. The throughput of waste would be the same as would the site operations and so any effects on the living conditions of nearby residents would not be significantly different. The Transport Statement did not restrict its assessment to one particular source of waste and its consideration of the access suitability was based on vehicles entering and exiting from both the north and south. Accepting waste from other third parties would likely involve greater transport distances than if it was waste from just the CSH facility. However, the use of the compost on the neighbouring agricultural land would contribute to reducing the distance required to transport bought in compost.
12. Even if I was to adopt the Council's view, the proposal would provide a facility for the nearby management of the CSH green waste. This would in turn free up capacity at the two sites where this waste is currently taken to. As a result, there would still be an overall increase in capacity for this type of waste.
13. The site is not allocated in the WLP. However, Policy 6 allows for open waste facilities on non-allocated sites subject to listed criteria being met.
14. The Allocations in the WLP for biological waste management appear to be focussed on mechanical biological treatment rather than open windrow composting. The focus for the Areas of Search is on employment land within industrial estates that have existing planning policy support for B2 (General Industry) and B8 (Storage or Distribution) uses under the UCO³. Based on the evidence before me, I am satisfied that the Allocations and Areas of Search would not be suitable or available for the development.
15. There is no compelling evidence before me to demonstrate that the development would not manage waste arising within the administrative area covered by the WLP, with the appellant's evidence confirming that at least a small proportion would come from a nearby source. The site is not far from Colchester. It therefore appears to be situated to potentially make a contribution to minimising the distance required to transport green waste from this centre of population. The appellant has considered the proposal against the Area of Search methodology.
16. Additionally, Policy 6 lists several land use types where proposals for open waste facilities should be located at or in. These include previously developed land and redundant farmland. The evidence does not clearly demonstrate that the site as a whole is either redundant farmland or previously developed land. However, the policy goes on to state that any proposals that come forward on other land use types will be assessed on their merits, based on the policies in the WLP. Consequently, Policy 6 would not preclude the development at the site, subject to its assessment against other relevant policies.
17. Pulling these considerations together, the development would be well placed in the waste hierarchy. There appears to be a shortfall in capacity of biological

³ Town and Country Planning (Use Classes) Order 1987 (as amended)

treatment for non-hazardous organic waste within the WLP area which the proposal would help to reduce. There is no clear evidence to indicate that the development would compromise the overall WLP spatial strategy. While market characteristics can change over time, there would be some locational advantages to the development as described above.

18. Given the above, the principle of the proposal with regard to its location and need for the facility would be acceptable. In this regard, there would be no conflict with Policies 1 and 6 of the WLP as summarised above. However, Policy 6 also requires an assessment of proposals against other relevant policies. This is a matter to which I now turn.

Character and Appearance

19. The appeal site is an area of land lying just to the north of the former Wormingford Airfield and within the Fairfields Farm estate. Part of the site comprises an area of hardstanding enclosed by the mainly vegetated earth bunds referred to above other than at the entrance point from the access track. The submitted plans show that this area would be used for three of the five proposed stockpiles and the machinery and loading areas. The site also includes an area to the west and north west of the bunded area. The area to the west would be used for the other two stockpiles. The open windrows would be located within the area to the north west on a new area of hardstanding.
20. At the time of my visit, the area of land in between the southern boundary of the site and the perimeter track of the airfield, outside the application boundary, was being used for the storage of materials including an HGV trailer. The western part of the site was being used for the storage of what appeared to be metal and wood components, scaffolding and storage containers.
21. The main parties both identify the site as lying within the Rochford Farmland Plateau landscape character area as defined in the 2005 Colchester Landscape Character Assessment. Key characteristics are identified as a mixture of medium and large rolling arable fields interspersed with small woodland patches; fields enclosed by gappy hedges, with occasional mature trees within field boundaries; the landscape feels more open and exposed in places than the adjacent Great Horkesley farmland plateau to the west; large weatherboarded vernacular barns; settlement pattern consists of villages with varying forms, small hamlets and scattered farmsteads.
22. The appellant's Landscape and Visual Impact Assessment⁴ (LVIA) submitted with the appeal also identifies that the site is in the B3 Blackwater Stour Farmland landscape character area as defined in the 2003 Essex Landscape Character Assessment. This is described as a landscape dominated by large arable fields with relatively few hedgerows and woodlands, except in localised areas, resulting in an open character. Continuous views are common across the farmland to low horizons punctuated by intermittent lines of mature trees. Electricity pylons and telegraph poles are the only other strong vertical features in the flat to gently undulating landscape. Small villages, hamlets and isolated farmsteads make up the settlement pattern. There are no towns in the area which contributes to its remote tranquil character.

⁴ Prepared by Arborterra Ltd, 20 June 2023

23. A number of these characteristics are apparent in the landscape in which the site is set. The land slopes gently upwards from the south, with the site located close to its high point, before it slopes more steeply downwards to the north. The area of the former airfield is open in nature. At the eastern end of the airfield are the large buildings associated with the farm, anaerobic digestion plant and crisp factory. Also to the east are the smaller gliding club buildings and its car park. There are buildings along Fordham Road and Packards Lane which include dwellings, commercial enterprises and buildings associated with farms. Immediately to the west is a raised attenuation pond. The wider landscape is mainly gently undulating arable fields often bounded by hedgerows. Small groups and lines of deciduous trees are noticeable features.
24. In my view, while the area to the east is noticeably subject to human influences and development, the location of the site is more clearly set within a rural agricultural landscape.
25. Policy 10 of the WLP states that proposals will be permitted where it can be demonstrated that the development would not have an unacceptable impact (including cumulative impact) on a listed number of considerations. This includes the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to local distinctiveness and the character and quality of the area. Policy OV2 of the 2022 adopted Colchester Borough Local Plan 2017-2033 Section 2 (the CLP) is supportive of sustainable rural businesses if they are of an appropriate scale and harmonise with the local character and surrounding countryside. Policy DM7 of the CLP expects proposals for agricultural diversification schemes to have adequate landscape mitigation. Amongst other matters, Policy DM15 of the CLP requires proposals to respect and wherever possible enhance the character of the site, its context, and surroundings.
26. The appellant's evidence set out in the LVIA considers that the effects of the development would be restricted to a relatively small local area extending out to around 1km. From my site visit, I would not disagree with this given the scale of the development, the topography, and the screening effect of vegetation.
27. The effect on the immediate landscape character is identified by the LVIA as being slight/moderate to moderate/slight. This is due to the medium to high sensitivity of the landscape of the Rochford Farmland Plateau and Blackwater Stour Farmland landscape character areas and the low magnitude of change.
28. I acknowledge that the Inspector for the enforcement notice appeal concluded that the bunds at the site were not alien features in the landscape that caused harm. I also appreciate that given their status as a result of the enforcement notice appeal, they are part of the baseline landscape character. Nonetheless, the proposal that is the subject of this appeal includes development that was not under consideration for the enforcement notice appeal.
29. The proposed hedgerows would take time to reach a height sufficient to screen the windrows. However, the windrows themselves would not necessarily be uncharacteristic in an agricultural landscape. The existing bunds would screen some of the proposed operations. The appellant is agreeable to a limitation on the height of the stockpiles to below the height of the bunds. However, the tops of the plant and machinery, which I observed on site, are visible above

certain stretches of the bunds. This would also be the case with the acoustic screen recommended through the noise assessment work⁵.

30. No shredding of the waste material would be undertaken on the site. From the written and oral evidence, it is unlikely that the screening of the composted material to remove contaminants and to achieve the required grade of material would be undertaken on a continuous basis. The appellant's noise assessment work⁶ concludes that noise from the plant at the site could be controlled such that it would be similar in level to background noise levels.
31. However, this does not include noise from HGV reversing equipment. It was stated at the Hearing that the size of the site would not allow HGVs to both enter and exit in a forward gear. No clear evidence is before me to demonstrate otherwise. Given that third parties would be using the site, it would be difficult to control the reversing equipment fitted to HGVs.
32. Additionally, while HGVs already use part of the southern access track, those accessing the site either from this access or the more northerly one, would extend that activity more noticeably into the countryside. As set out in the Council's officer report, through the noise assessment work, it was established that HGV movements would be restricted to 8 per hour (4 in/4 out). While this would be a maximum, and would potentially fluctuate throughout the year, it would be a not insubstantial number of vehicle movements along the access tracks and manoeuvring at the site.
33. Pulling these points together, some of the components of the proposed operations, when taken individually, would not appear incongruous within an agricultural landscape. Nevertheless, when taken as a whole, the combination of the operations and the HGV movements would appear more industrial/commercial in character and appearance. The result would be an urbanising effect that would be at odds with what is otherwise a rural landscape.
34. This harm would extend over a limited area. However, it would be clearly experienced by users of the public right of way just to the south of the site and to a lesser degree by users of the closest public rights of way to the north. There is no clear evidence to indicate that a condition requiring a landscape management scheme would adequately mitigate the identified harm. While the harm would be limited in extent, the development would nonetheless conflict with Policy 10 of the WLP and Policies OV2, DM7, and DM15 of the CLP as summarised above.
35. The Council's reason for refusal on this issue also refers to a conflict with several other policies. WLP Policies 11 and 12 relate to climate change and transport and access. Policies DM1, DM24 and ENV5 of the CLP relate to health and wellbeing, sustainable urban drainage systems, and pollution. Policy SP1 of the 2021 adopted North Essex Authorities' Shared Strategic Section 1 Plan is reflective of the presumption in favour of sustainable development in the National Planning Policy Framework. In my view, none of these policies are specific to the effects of development on the openness, quality and character of the landscape and countryside. I do not therefore find a conflict with these policies.

⁵ Acoustic Design Note, prepared by Applied Acoustic Design, 27 February 2023

⁶ Acoustic Design Note, prepared by Applied Acoustic Design, 27 May 2022

Planning Balance and Conclusion

36. The proposal would have benefits in terms of providing some additional waste management capacity in the County of a type where there is an identified shortfall. This weighs positively for the proposal.
37. However, the relevant policies of the WLP and CLP also set out the importance of maintaining an area's prevailing character. This would not be the case with the proposal, based on the harm I have identified to the character and appearance of the area. The harmful effects would persist for the long term. In my judgement the identified benefits of the scheme would not outweigh the harm. To this extent, there would be conflict with the development plan when considered as a whole. Accordingly, for the reasons given, the appeal should be dismissed.

F Wilkinson

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Michael Bedford KC - Barrister, instructed by Paul Calder

Mr Paul Calder - Agent, Real8 Group

Mr Daniel Cox - Operations Manager, East Anglia Environmental Services Limited

Ms Jo Wild - Arborterra Ltd

FOR THE LOCAL PLANNING AUTHORITY

Mr Terry Burns - Principal Planning Officer, Essex County Council

INTERESTED PARTIES

Councillor Peter Bentley – Wormingford Parish Council

Councillor Andrew Boyce – Wormingford Parish Council

Councillor Ralph Patmore – Wormingford Parish Council