



Appeal Decision

Site visit made on 13 August 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 September 2025

Appeal Ref: APP/T1600/W/25/3361308

Unit 16, New Dunn Business Park, Sling, Gloucestershire GL16 8JD

- 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 K & B Recycling Limited against the decision of Gloucestershire County Council.
 - The application Ref is 23/0008/FDMAJW.
 - The development proposed is described as 'Retrospective application for a metal recycling and car breaking operations facility at Unit 16, New Dunn Business Park, Coleford, Gloucestershire, GL16 8JD.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Gloucestershire County Council against K & B Recycling Limited. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council's second refusal reason contends that the information shown on the submitted plans does not accurately depict the development which has been undertaken at the appeal site and in addition, excludes development associated with the business which has occurred on land beyond the appeal site boundary. The planning application form indicates that the use of the site as a metal recycling and car breaking operations facility began some time ago, the appeal is therefore being considered retrospectively. However, at the time of my site visit, it appeared that the layout of the site differed, in part, from that on the submitted 'Site Layout Plan'¹, particularly in relation to the position and extent of parking spaces and storage bays within the site. In these circumstances, I have determined the appeal based on the submitted drawings. Moreover, any development which may have taken place beyond the site boundary is a matter for the parties to resolve and is not for consideration as part of the appeal.

Main Issues

4. The main issues are the effect of the development on:
 - the living conditions of the occupiers of nearby residential properties, with particular regard to noise;

¹ Drawing number 220314KBR201 Rev. E

- land stability;
- ground and surface water pollution; and
- whether the development is in a suitable location, having regard to development plan policy.

Reasons

Noise

5. The appeal site consists of land and buildings on the edge of New Dunn Business Park, which comprises a variety of commercial enterprises. The surrounding area includes agricultural land, woodland and residential properties within the adjoining settlement. The appeal seeks retrospective permission to enable the site to continue to be used as a metal recycling and car breaking operations facility.
6. At my site visit I observed a generator and various large pieces of heavy machinery and mobile plant at the site. The appeal submissions indicate that forklift trucks, a telehandler and tracked loader, as well as a fixed shredder are used in association with the existing business. While the machinery was not in operation at my site visit, the metal recycling and car breaking operations has the potential to generate noise from a range of sources associated with the movement of materials around the site and from machinery involved in the processing of the waste materials.
7. A Noise Impact Assessment (the NIA), which was subsequently updated², was submitted as part of the application. The appellant highlights that a range of measures are taken to minimise noise emissions from the site. I am also mindful that the site is located on an existing business park whereby there are other uses which generate noise which is perceptible from the surrounding receptors. There is dispute between the parties as to the extent of the effects of the noise generated by the development. However, I share the concerns of the Council that, due to the location of the appeal site and the difference in land levels, while the existing buildings may offer some screening, there is limited screening to other parts of the site. In addition, I note the concerns that the Council has with the overall robustness of the NIA. The Council requested more information be submitted prior to the consideration of the noise issue as based on the report, as submitted, there is potential for a significantly harmful impact to the occupiers of at least one nearby dwelling. Consequently, the Council contend that it has not been demonstrated that noise from the activity taking place at the site could be appropriately mitigated so as to not have a harmful effect on the occupiers of surrounding residential properties.
8. From the evidence before me and my observations on site, particularly in relation to the existing screening, the issues raised by the Council cast sufficient doubt over the findings of the NIA for me to be unable to determine the exact level of noise disturbance. In addition, while not determinative, I also note that concerns regarding noise levels have been raised by nearby residents. In any case, the appellant's evidence indicates that, while they acknowledge the Council's concern regarding noise, a mitigation assessment to establish measures which may be necessary to mitigate the effects of noise to the residential properties in the area,

² Noise Impact Assessment by AC Environmental dated 12 July 2024 (revised 14 August 2024)

has not yet taken place. They go on to state that they are committed to implementing necessary measures such as acoustic barriers and restricted operating hours to address any issues that arise from the assessment. Even if it were the case that effects of noise could be suitably mitigated, in the absence of a mitigation strategy, there is no clear evidence that the proposal could incorporate suitable measures so as to mitigate noise levels to an appropriate level, or that any necessary mitigation would not compromise the local built environment or character and appearance of the area. In these circumstances, without certainty regarding the form or extent of any mitigation measures which may be necessary, it would not be appropriate to secure these details through a planning condition.

9. Consequently, in the absence of this information, I therefore conclude that the development would harm the living conditions of the occupiers of nearby residential properties, with particular regard to noise. Accordingly, it would fail to comply with Policy 37 of the Gloucestershire Waste Local Plan 2002-2012, adopted October 2004 (GWLP) which sets out that proposals for waste development will take account of the effect on the environment, amenity and health, and shall include measures to attenuate and control, among other things, noise, and Policy AP 106 of the Forest of Dean District Council Allocations Plan 2006 – 2026, adopted June 2018 (FoDAP) which requires new development at New Dunn Business Park to be designed to respect the amenity of neighbouring residential properties.

Land stability

10. The appeal submissions indicate that the site includes made up ground, whereby parts of the site have been raised so that the ground levels are higher than the adjoining land to the east of the site adjacent to the Forestry England track which runs alongside the boundary of the site. A concrete pad and a series of storage bays formed from concrete blocks, used for the storage of waste materials, occupy this part of the site. The Council has expressed concern regarding the structural integrity of these works and resulting land stability in light of visible erosion of land beneath the concrete base which is apparent in views of the site from the track.
11. The National Planning Policy Framework (the Framework) sets out that decisions should ensure a site is suitable for its proposed use, taking account of any risks arising from land instability. It is clear that, where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. In addition, the Framework indicates that decisions should contribute to and enhance the local environment by preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability.
12. National planning policy for waste advises that locations, and/or the environs of locations, that are liable to be affected by land instability, will not normally be suitable for waste management facilities. Planning Practice Guidance sets out that if land stability could be an issue, developers should seek appropriate technical and environmental expert advice to assess the likely consequences of proposed developments on sites where subsidence, landslides and ground compression is known or suspected.
13. While the appellant has indicated a willingness to undertake a land stability assessment, this has not yet been forthcoming. As such, it has not been

demonstrated that the development has not had an impact on land stability or would not do so in the future. Without confirmation of this, together with details of any remedial action which may be necessary, I cannot be certain of the overall effects of the development on neighbouring land uses. Furthermore, given that investigations may find that the land is not sufficiently stable to support the development which has taken place, or that a scheme for remediation would not be practical or viable, it would not be reasonable to address this matter through the imposition of a planning condition.

14. Even if the works that have taken place were carried out by an experienced contractor, I would expect that to be evidenced by appropriate assessments, surveys and calculations to demonstrate that the development was carried out in a manner that ensured that structural integrity of the sub-base below the concrete cap is suitable for the combined weight of the concrete blocks, materials and plant machinery that are sited on or are in close proximity to the periphery of the concrete pad.
15. Thus, in the absence of any robust evidence to the contrary, I am unable to conclude with any certainty that the proposal would not have an adverse effect on land stability. Accordingly, the development is contrary to the aims of Policy CSP.1 of the Forest of Dean District Council Core Strategy, adopted 23 February 2012 (FoDCS) which requires new development to, among other things, consider the risk to the development from ground instability and requires appropriate remediation measures and verification works to be undertaken where contamination and/or stability issues are identified.

Ground and surface water pollution

16. The Council indicate that the appeal site is located on a Principal Aquifer of the Carboniferous Limestone Supergroup bedrock aquifer and within Groundwater Source Protection Zone 2 related to Lucozade Ribena Suntory Water Supply boreholes. In the absence of an appropriate scheme of pollution control, contaminated surface water run-off from the site, which may include pollutants such as fuel, oil and break fluid, along with others, could enter protected waters and may have an adverse effect on groundwater and surface water quality in the area through contamination.
17. Appendix B of the National planning policy for waste sets out locational criteria for the suitability of sites, and that in order to protect water quality, considerations will include the proximity of vulnerable surface and groundwater or aquifers. The appellant indicates that measures are in place at the site, including soakaway interceptors, to prevent any pollution from the operations from polluting the wider water environment. While my attention has been drawn to potential shortfalls in the current arrangements, there is no compelling evidence, that, should further details of a scheme or specific measures be required to be undertaken, they could not be secured through a suitable planning condition.
18. In light of these considerations, subject to the imposition of a suitably worded condition, the development would not give rise to any adverse effects in terms of ground and surface water pollution. In that regard it would not conflict with Policy 33 of the GWLP which sets out that proposals for waste development will only be permitted where there would be no unacceptable risk of contamination to surface watercourses, bodies or water or groundwater resources or Policy CSP.1 of the

FoDCS in so far as it requires new development to conserve, preserve or otherwise respect important characteristics of the environment in a manner that maintains or enhances their contribution to the environment, taking into consideration the potential for the development to cause pollution.

Suitability of location

19. Policy AP 106 of the FoDAP supports the intensification or redevelopment for employment at New Dunn Business Park. While it indicates that it is likely that new development or redevelopment will be B1, B2 and B8 uses, in order to be in keeping with the existing uses, it does not explicitly preclude sui generis uses, such as the appeal scheme, in this location. Considering this and given that the development represents redevelopment for an employment generating use, it would not conflict with the general policy aspirations of Policy AP 106 in terms of its location.
20. Notwithstanding this, given my findings in relation to the first main issue, the development would fail to accord with the aims of Policy AP 106 of the FoDAP which require new development to respect the amenity of neighbouring residential properties. For this reason, I therefore conclude that the development is not in a suitable location, having regard to development plan policy.

Other Matters

21. The development accords with the aims of the Gloucestershire Waste Core Strategy, adopted November 2012 which support in principle, proposals relating to the development of new and expanded recycling and composting facilities to meet recycling targets and seek to move the management of hazardous waste up the waste hierarchy and close to source. It also reflects the objectives set out in the Framework that seek to minimise waste and pollution and the aims of the National planning policy for waste, which include the provision of facilities for efficient hazardous waste recycling and disposal.
22. In addition, the development offers benefits in terms of employment opportunities and the local economy and may reduce the number of vehicular movements associated with the transportation of waste materials further afield for disposal, through the provision of a local facility.
23. The proposal may comply with various other provisions of the development plan, including landscape character, flood risk and biodiversity. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
24. The appeal submissions indicate that the site benefits from a permit in relation to metal recycling, vehicle storage and depollution, which the appellant suggests indicates that the site is suitable for the recycling business use. However, the holding of a permit granted under a separate regime does not remove the need for consideration of the development against the development plan.
25. The Council's fourth refusal reason relates to the concern regarding the provision of adequate fencing to the eastern boundary of the site. However, were I minded to allow the appeal, a suitable planning condition could be imposed to agree appropriate fencing to the site boundary, in the interest of public safety and security of the site.

Conclusion

26. The development offers benefits in terms of waste management and associated economic and environmental benefits set out above. However, set against this, it would give rise to harm to the living conditions of nearby residents and land instability and would therefore conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding to justify granting planning permission contrary to the development plan. The appeal should therefore be dismissed.

E Worley

INSPECTOR