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## Appeal Decision

Site visit made on 6 August 2019

**by Elizabeth Hill BSc(Hons) BPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> August 2019**

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**Appeal Ref: APP/Q1770/W/18/3217698**

**Unit 7 Waterbrook Estate, Waterbrook Road, Alton, Hampshire, GU34 2UD**

- 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 Waltet Ltd against the decision of Hampshire County Council.
  - The application Ref 51471/006, dated 29 January 2018, was refused by notice dated 31 July 2018.
  - The application sought planning permission for variation of conditions 3 (Site Layout) and 18 (to allow storage of wood) of planning permission 51471/002, without complying with conditions attached to planning permission Ref 51471/003, dated 29 September 2016.
  - The conditions in dispute are No 5, which states that: No heavy goods vehicles shall enter or leave the site and no plant or machinery shall be operated except between the following hours: 0700-1800 Monday to Saturday. There shall be no working on Sundays or recognised Public Holidays. No 11, which states that: Within three months of the date of this permission, an updated Dust and Noise Management Plan shall be submitted to the Waste Planning Authority for written approval. The scheme shall be implemented as approved for the duration of the site's operation. And no. 18 which states that: Material imported to the site shall comprise of inert construction and demolition waste (i.e. clean, uncontaminated soils, rubble, concrete and wood) only.
  - The reasons given for the conditions are: Nos 5 and 11 - In the interests of local amenity in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013). No 18 - In the interests of pollution control and the amenities of the area in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is: the impact of the proposal on the living conditions of neighbouring residents, in terms of noise and disturbance.

### Reasons

3. The proposal would allow for 12 of the existing 612 HGV movements, as set in Condition 20 of approval 51471/003, to and from the site to occur outside the existing operating hours of the site and allow limited night time operations at the site. It would also include the need for a revised Dust and Noise Management Plan to be approved and for the addition of road planings to the list of waste types accepted at the site. Of the 12 HGV movements, 10 of

these would be for the importation and tipping of road planings and 2 for the movements for the drop off and collection of a preloaded trailer.

4. The site is the end of the Waterbrook Industrial Estate, adjacent to the sewage treatment works and bordering the A31. The nearest house is Lynch Hill Cottage, about 262m from the borders of the site, and there is also residential development off Wilsom Road and at Spitalhatch. The current working hours on the site are 0700 to 1800 on Mondays to Saturdays with no working on Sundays and Public Holidays.
5. The National Planning Policy for Waste (NPPW) states that when determining waste applications decision-makers should only expect the applicants to demonstrate quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan (LP). In this case the LP is the Hampshire Minerals and Waste Plan (2013), which supports development of infrastructure to provide supplies of recycled and secondary aggregates (Policies 17 and 18); supports co-location of waste activities to promote recycling and diversion from landfill (Policy 25); and, supports development which helps to meet the need for capacity for non-hazardous recycling and recovery capacity in Hampshire. Since the proposal would help meet these policies, no need assessment is required.

#### *On-site noise*

6. The activities on site would include the importation of 5 loads of planings per night on a campaign basis and they would be tipped from an HGV but not consolidated until the next day. No plant, including the loading shovel would need to be used and neither would the weighbridge, which is also a noise source. The other activity would be the export of construction and demolition waste in a trailer, which would be preloaded during the day, following the bringing in of a trailer with hard core and crushed concrete, which would be parked and unloaded the next day. No loading or unloading would take place during the night as the trailers would be parked on the site. This would equate to 12 vehicle movements per day and be part of the total vehicle movements in condition 20 of approval 51471/003.
7. The proposed development has been the subject of a noise survey and modelling for the proposed night-time activities on the site. The proposal was assessed against British Standard BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound, using 4 representative properties: Lynch Hill Cottage, Spitalhatch off Mill Lane, Wilsom Road and Golden Chair Cottage. These locations were approved by the local District Council as being appropriate for the measurements to be taken and no alternative sites have been suggested by others. The model used is a recognised industry standard one for uses such as that proposed. It takes account of the local topography and weather conditions, including wind direction. As required by BS4142:2014 penalties were included to take into account the specific character of some of the noises which would be expected as part of the proposal and I consider these allowances to be appropriate.
8. The additional information provided on the sound power level for HGV movements (98.0dB(A)) were well in excess of the actuals measured which gave a sound power level of 88.8dB(A). Similarly, the levels for tipping (104dB(A)) as against actuals of 96.0dB(A) shows that the assessments are conservative in their assessment of the impacts of the proposal. The results of

the survey show that for evening activities the rating level at the receptors is predicted to be below the measured daytime background sound levels, with a minimum margin of -19dB(A). The figure for the night-time activities is -1dB(A). BS4142:2014 says that this equates to having a low impact, where there would be no observed effect on health or quality of life as a result of the proposal.

9. When examined under British Standard BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings, the daytime assessment shows that the predicted noise level would be less than 10dB and would not contribute to the overall daytime noise environment at the nearest sensitive receptors. The night time assessment for BS8233:2014 uses the World Health Organisation limit for sleeping in bedroom, of 30dB, with the window open, using the standard 15dB attenuation. The noise levels recorded were all below 30dB. The Noise Policy Statement for England as referenced in the footnote to paragraph 180 of the National Planning Policy Framework (NPPF), states that noise is a subjective matter and sets out a framework for assessment based on the perception of noise. Based on the changes shown on BS4142:2014 this would result in there being No Observed Effect Level (NOEL) at the nearest sensitive receptors. Therefore, the proposal would comply with paragraph 180 of the NPPF.
10. On the basis of the modelling and noise assessment carried out, which I consider to be satisfactory, as does the Environmental Health Department of the local District Council, there would not be an adverse effect in terms of noise from the proposed night time use of the site. The existing and proposed new conditions and the Noise Management Plan also assist with the mitigation of noise. The use of the site at night would not create a precedent for other development, since each case would be looked at on its merits and any cumulative impact taken into account. Whilst the Council say that this use is not compatible with other uses on the site, waste operations are usually compatible with other employment uses and located on employment land. The Council say that there have been seven complaints over the past 5 years but these have been mainly to do with stockpile height and dust, rather than noise, although night time working would be a new activity on the site.

#### *Off-site noise and HGV movements*

11. The number of vehicle movements at night would be low and limited to 12 during night time hours by condition. Nevertheless, there is considerable public concern about night time lorry movements and the Council has agreed a route that HGVs should take when leaving the site. This would ensure that they turned north west onto Mill Lane (B3004) from Waterbrook Road and then turned east onto the A31. This would ensure that the vehicles, which have trackers, did not travel through more residential areas of the town and would protect their occupiers. It would also help to prevent travel along the B3004 through villages like Kingsley.
12. This would need to be secured through a S106 agreement, which would be necessary to prevent noise and disturbance to surrounding occupiers from HGV movements. This routing agreement also has the support of the highway authority. It also needed to be provided with the appeal, so that it could be taken into account. Without the agreement in place, there is no guarantee that

surrounding occupiers would be adequately protected from noise and disturbance by HGVs.

13. Therefore, although on-site noise could be adequately controlled, I consider that there would be an adverse effect from night-time HGV movements without a routing agreement in place. As such, I conclude that the proposal would be harmful to the living conditions of neighbouring occupiers, contrary to Policy 10 of the LP which seeks to protect public health, safety and amenity.

#### **Other matters**

14. The site has a permit which the Environment Agency have confirmed would cover the proposed new activities on site. The permit also covers matters like pollution control and the need for an adequate fire plan, which is a concern for some residents. Local residents have also raised the issue of emissions from vehicle movements contributing to poor air quality. However, the vehicle movements which are the subject of this appeal would be part of the overall number of movements allowed by the original consent and would not be additional. Dust would be controlled by condition, the revised Dust Management Plan and the permit. The proposal would have little visual impact, since the bay within which the planings would be tipped is already in place. The appellant has said that there would be no lighting used at night on the site except from the vehicles and this would not give rise to any adverse visual or landscape impact or have an adverse impact on ecology. It has been suggested that each planings campaign should be licenced by the Council but this is not a matter for the town and country planning regime, which can only control issues by condition or planning obligation. There have been complaints about the level of consultation on the application but the Council has shown that it has consulted at the required times on the basis of the Council's Statement of Community Involvement.

#### **Conclusion**

15. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

*E A Hill*

INSPECTOR