

DEVELOPMENT CONTROL AND REGULATORY BOARD**11th June 2020****REPORT OF THE CHIEF EXECUTIVE****SUPPLEMENTARY REPORT****Variation of condition 10 of planning permission 87/1467/2 to change product delivery times – (Charnwood Borough Council) - 2018/2588/02 (2018/VOCM/0251/LCC) – 12th December 2018**

1. Further representation to the application has been received from Jane Hunt, MP for Loughborough, Shepshed, Quorn, Barrow, Sileby, Hathern, Mountsorrel Castle and the Wolds villages. The representation raises the following comments to the proposals from a constituent:
 - The move away from the current 05:30am start time for deliveries to a new 03:00am start time and the increased noise levels will have a significant impact on the health and wellbeing of residents. The WHO recommendation that adults require on average six hours sleep per night to maintain good health;
 - That British Gypsum vehicles are currently not abiding by the speed limit of 40mph, imposed as a condition of a previous application. It is believed that whilst British Gypsum vehicles have been fitted with telemetry devices to measure speed, this is not the case for subcontract vehicles accessing the site. British Gypsum have not installed the speed cameras also stipulated by a previous planning consent;
 - The resident would like the Mineral Planning Authority to consider a set of alternative proposals for delivery patterns. These have been put to British Gypsum by the residents who believe that these would enable British Gypsum to meet its delivery requirements with minimal disruption and impact on the community.
2. The resident requests that the planning committee considers these concerns and rejects the current application which they feel would have a significant impact on the health and wellbeing of the residents in the area.

Assessment of further representation received

Health and wellbeing of residents

3. The representation objects to increased noise levels and believes that the proposals would have a significant impact on the health and wellbeing of residents. WHO Guidelines for Community Noise suggest that in dwellings the critical effects of noise are on sleep. To avoid sleep disturbance WHO guidelines suggest indoor sound pressure levels should not exceed 45dB LA_{max} more than 10-15 times per night.
4. During the first consultation process, in response to the proposals as initially submitted, Charnwood Borough Council's Environmental Health Team objected to the proposals and requested confirmation that the LA_{max} limit had been assessed and that this limit is unlikely to be exceeded. It was recommended that where the LA_{max} limit is likely to be exceeded additional mitigation proposals should be considered to minimise impact.
5. In response to objections originally raised, revised proposals were submitted including an updated noise assessment. The assessment found that the revised proposals are not expected to have an adverse noise impact on the ambient noise environment at any of the receptor locations assessed. The Environmental Health Team were satisfied that the revised proposals and revised noise assessment addressed their initial concerns and objection. It was found that the increased movements during noise sensitive hours, if limited per hour and mitigated with the proposed acoustic fence, should not be significantly adverse. Cumulatively, should both applications be granted permission, the provision of the acoustic fence would have the advantage that it would impact both applications. Therefore, as set out in the Appendix in the main report to the Development Control & Regulatory Board on the 11th June 2020, it is recommended that planning condition no. 19 be imposed requiring the applicant to submit final details of the materials and specification of the acoustic fencing for approval and to construct the fence prior to commencement of development. This would mitigate against any increase in noise impact from the proposed operations before any development commences. The fence would not have a severe impact upon the landscape or visual amenity, with regards to the nearest residential property.
6. Overall, when considering the additional representation received it remains that the proposals include appropriate measures to protect against any detrimental impacts on the amenity and health of people and the environment and the proposals are found to accord with Policy DM2.

Speeding vehicles travelling to and from the site

7. The representation alleges that vehicles travelling to and from the application site are not abiding by a speed limit of 40mph. The national speed limit for HGVs travelling along Paudy Lane is 50mph. However, British Gypsum operates a voluntary speed limit of 40mph for its HGVs travelling along Paudy Lane during its operational hours. This voluntary speed limit is not imposed as a requirement through planning controls. Notwithstanding this, a letter to the Authority dated 19th September 2002 stated that British Gypsum would provide written records to the Mineral Planning Authority of those vehicles found to exceed the 40 mph speed limit.

8. It is not possible to enforce such a voluntary speed limit through planning controls. Whilst highway safety and traffic impacts are material planning considerations, speeding vehicles within the local area and the potential exacerbation of such an issue are not, as these matters are controlled by civil law. Notwithstanding this, the applicant has existing mitigation measures to control the speed of lorries which access its site. The voluntary speed limit of 40mph on Paudy Lane is reinforced through company procedures in addition to an existing complaint handling system. It is proposed that these existing measures would be retained. The applicant proposes that a planning condition be imposed requiring the company to submit a speed monitoring scheme to the Authority for approval. However, such a condition would not meet the relevant tests for planning conditions, as set out in paragraph 55 of the NPPF. Should the applicant wish to undertake independent monitoring and provide the results to the local parish councils or the liaison committee, this would be welcomed.

Compliance with existing planning conditions

9. The representation includes an objection to the site's compliance with existing planning conditions relating to the provision of speed cameras on Paudy Lane. Particularly, the requirement of Condition 4 of planning permission 2001/2001/02 which required the implementation of several traffic mitigation measures. Part b) of the condition required, 'Provision of traffic speed cameras (within the public highway) which are privately owned and operated by the Company. The traffic speed cameras shall be installed to monitor vehicles travelling to and from the Barrow Works'. The condition goes on to state, 'All information obtained from the traffic speed cameras shall be made available to the Director of Planning and Transportation within 7 days of a written request by him'.
10. Following the grant of planning permission 2001/2001/02 it was found that the installation of speed cameras would be difficult to provide owing to the lack of convenient electricity supply. Additionally, correspondence from the Local Highway Authority indicated that mobile cameras may be more effective than one static camera. Following this, a mobile speed camera scheme was submitted to the Planning Authority. The applicant used an independent contractor to carry out random speed checks along Paudy Lane for a period of 6 months. The applicant has been in discussions with the Local Highway Authority and it is considered that the permanent installation of speed cameras remains an unviable option. Given that speeding is a matter of civil law, it is not considered that any further assessment of the viability for the installation of speed cameras on Paudy Lane is required from the applicant in support of the application.
11. Notwithstanding the above, the applicant has proposed to carry out independent speed checks to record the speeds and registrations of HGVs travelling along Paudy Lane. The applicant proposes that a planning condition be imposed requiring the company to submit a speed monitoring scheme to the Authority for approval. However, such a condition would not meet the relevant tests for planning conditions, as set out in paragraph 55 of the NPPF.

Cumulative Impact

12. It is considered that the above assessment does not change the assessment of the cumulative impacts of granting planning permission for planning application reference 2018/2588/02 (2018/VOCM/0251/LCC) and planning application reference 2018/2589/02 (2018/VOCM/0252/LCC) as contained within the main report to the Development Control & Regulatory Board on the 11th June 2020.
13. It remains that the cumulative effects of the proposed development are considered appropriate for its location, subject to the recommended planning controls being imposed, in addition to those which exist on the site. It is considered that the development would not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from the sites and other factors in the locality. Therefore, the proposals if both granted permission would accord with paragraphs 180 and 205 of the NPPF and Policy DM11.

Alternative proposals for delivery patterns

14. The resident would like the Mineral Planning Authority to consider a set of alternative proposals for delivery patterns. By reason of the above assessment, in addition to the assessment presented within the main report to the Development Control & Regulatory Board on the 11th June 2020, it is considered that the proposal is in general accordance with the Development Plan. The proposal has also been assessed against national planning policies and guidance contained in NPPF and PPG. As set out in the main report, it is considered that subject to the imposition of planning conditions and the prior completion of a Deed of Variation legal agreement to ensure the continued imposition of lorry routeing to and from the site, the proposed development would be acceptable.
15. Planning Practice Guidance states, 'Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons'. Therefore, alternative hours for HGV movements submitted through representations have not been considered given that overall, the proposals are found to accord with the Development Plan.

Conclusion

16. Overall, it is considered that the representation received does not change the assessment of the proposal and the Recommendation for planning application 2018/2588/02 (2018/VOCM/0251/LCC) contained in the main report to the Development Control & Regulatory Board on the 11th June 2020. For clarity, this is displayed below.

Recommendation

- A. PERMIT planning application 2018/2588/02 (2018/VOCM/0251/LCC) subject to the conditions as set out in the Appendix and the prior completion of a Deed of Variation legal agreement to ensure the continued imposition of lorry routeing to and from the site;
- B. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of:
 - a. How Leicestershire County Council has worked with the applicant in a positive and proactive manner:
 - b. In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Variation of conditions 8 & 10 of planning permission 2001/2001/2 to increase imports of high-grade gypsum and reduce the permitted hours of importation – (Charnwood Borough Council) - 2018/2589/02 (2018/VOCM/0252/LCC) – 12th December 2018

1. Since the publication of the main report an error within the report for planning application reference 2018/2589/02 (2018/VOCM/0252/LCC) has been noted.
2. Paragraph 173 incorrectly states that the applicant proposes restricted vehicle movements between the hours of 08:00 and 13:00 on Saturdays. This is incorrect as it is proposed to restrict vehicle movements between the hours of 08:00 and 14:00 on Saturdays.
3. Additionally, Table 2 should be corrected and display a proposed restricted movement of HGVS between the hours of 13:00 to 14:00, subject to a maximum of 6 vehicle movements for this period. Movements between 13:00 and 14:00 on Saturdays are already permitted, as displayed within Table 1 of the main report to the Development Control & Regulatory Board on the 11th June 2020. Table 2 from the main report to the Development Control & Regulatory Board on the 11th June 2020 as corrected is displayed below, as Table 3.

Time Period	Days of the week						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
00:00-01:00							
01:00-02:00							
02:00-03:00							
03:00-04:00							
04:00-05:00							
05:00-06:00							
06:00-07:00							
07:00-08:00							
08:00-09:00						(6)	
09:00-10:00						(6)	
10:00-11:00						(6)	
11:00-12:00						(6)	
12:00-13:00						(6)	
13:00-14:00						(6)	
14:00-15:00							
15:00-16:00							
16:00-17:00							
17:00-18:00							
18:00-19:00							
19:00-20:00							
20:00-21:00							
21:00-22:00							
22:00-23:00							
23:00-00:00							
Maximum per day	50	50	50	50	50	26	0

Table 3. Proposed vehicle movement restrictions for gypsum importations.

Key: Green = permitted hours and red = curfew hours. The values proposed for Saturdays are a proposed maximum number of movements for each time period.

- This typographical error does not change the assessment, conclusion or the Recommendation for planning application 2018/2589/02 (2018/VOCM/0252/LCC) contained in the main report to the Development Control & Regulatory Board on the 11th June 2020. For clarity, this is displayed below.

Recommendation

PERMIT planning application 2018/2589/02 (2018/VOCM/0252/LCC) subject to the conditions as set out in the Appendix and the prior completion of a Deed of Variation legal agreement to ensure the continued imposition of lorry routeing to and from the site;

To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of:

- a. How Leicestershire County Council has worked with the applicant in a positive and proactive manner:
- b. In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Circulation Under the Local Issues Alert Procedure

Mrs Hilary Fryer CC (Quorn & Barrow) and Mr Richard Shepherd CC (Sileby & The Wolds)

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