

TWC/2021/0101

Yard 5, Rookery Road, Telford, Shropshire, TF2 9BW

Removal of conditions 1-5 and variation of condition 6 on planning application TWC/2015/0742 to allow proposed changes to conditions relating to noise mitigation, appearance, ground conditions and site layout \*\*\*NOISE IMPACT ASSESSMENT AND MANAGEMENT PLAN & DUST ASSESSMENT AND MANAGEMENT PLAN RECEIVED\*\*\*

**APPLICANT**

, Mr Hill

**RECEIVED**

20/01/2021

**PARISH**

Wrockwardine Wood and Trench

**WARD**

Priorslee

**THIS APPLICATION HAS BEEN CALLED TO COMMITTEE AT THE REQUEST OF CLLR. VERONICA FLETCHER**

Online planning file:

<https://secure.telford.gov.uk/planning/pa-applicationssummary.aspx?Applicationnumber=TWC/2021/0101>

**1. SUMMARY RECOMMENDATION**

- 1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT FULL PLANNING PERMISSION** subject to Condition(s) and Informative(s).

**2. APPLICATION SITE**

- 2.1 The application site is located off Rookery Road in the St. Georges area of Telford and is currently owned by ADW Aggregates Ltd. The site extends to approximately 0.82 hectares and is located on the eastern section of a well-established industrial area, bordered on all sides by land uses of a similar industrial nature with exception to residential properties to the east. Access to the site is gained from an industrial road which joints the public highway at Rookery Road.
- 2.2 To the south of the site there are a number of existing porta-cabin buildings which are used for offices and staff welfare facilities. Close to the site access there is a space reserved for staff and visitor car parking. Towards the centre of the site there is an existing weighbridge for lorries/trucks entering and exiting the site. To the north of the site is where the aggregate recycling operates from and includes areas reserved for receiving and stock piling of various aggregates.
- 2.3 The site is self-contained and well screened by existing vegetation. Steel fencing around the site ensures its security. The closest neighbouring properties to the site are situated approximately 40-50 metres to the east off Kenwray Drive and these are separated from the application site by a large

embankment and tall vegetation. These properties are raised above the application site and are well screened by an established buffer zone.

### **3. APPLICATION DETAILS**

- 3.1 The site has planning permission as a motor vehicle recycling point with ancillary car sales and storage, vehicle depollution workshop, aggregate recycling facility including the importation, storage and treatment of non-hazardous inert and excavation materials and the erection of a recycling building. A number of Conditions were attached to the consent, TWC/2015/0742, to manage hours of operation, height of aggregate material stored on site and the construction of a treatment building.
- 3.2 This Section 73 application seeks planning permission for the removal of Conditions 1-5 and Variation of Condition 6 on planning application TWC/2015/0742 to allow proposed changes to Conditions relating to noise mitigation, appearance, ground conditions and site layout.
- 3.3 Conditions 1-5 of TWC/2015/0742 all relate to submission of details relating to the treatment building approved under the 2015 consent. The purpose of the treatment building was to enclose a 360° excavator, crusher and screener when they were operating concurrently on site. The Applicant advises that these operations will not all operate concurrently on site and they have removed End-of-Life Vehicle operation from their Environmental Permit (EP). For these reasons the Applicant considers the treatment building is no longer required and seeks to remove the Conditions requiring submission of further details for it.
- 3.4 Condition 6 of TWC/2015/0742 lists the approved drawings and if the removal of Conditions 1-5 is granted consent then Condition 6 will require varying in order to remove the approved drawings showing the treatment building. The Applicant also advises that as the End-of-Life Vehicle operation is no longer present on site, the previously approved plans showing it also need removing from the permission and replacing with new plans.
- 3.5 The Environment Agency (EA) confirmed at the time of the first round of consultation that an application to vary the Environmental Permit to this effect was under consideration. The Applicant has since provided evidence to the LPA that this Permit has been granted.
- 3.6 The previous planning permission granted consent for, inter alia, car crushing on-site and hence the Conditions attached to that permission required the crushing activities to be undertaken within the treatment building when excavating and screening were also taking place on site. The Applicant

advises the crushing activity will take place on a monthly basis and hired in when required, thereby not representing a continuous activity. Only the screener and excavator (for loading) will operate at the same time during site operations.

3.7 As the car crushing will no longer be taking place at the same time as the excavating and screening activities the Applicant has applied to remove the Conditions that relate to the construction of the treatment building required to house the equipment when all three activities were taking place simultaneously.

3.8 The Applicant has provided the following additional information:

- The crushing activity will also only operate during a weekday between the hours of 0900-1700;
- The processing will be undertaken on the ground and not on top of any stockpiles;
- The processing will be undertaken to the west of the site and it is considered noise will be screened from the existing stockpiles requiring processing and the existing 10-15 metres high earth bund to the east of the application site;
- It is not suitable from a logistical point of view to have a fixed area for crushing or other processing activities as the equipment will need to be moved to the stockpiles which need processing to avoid double handling of the material which will nonetheless cause other amenity issues such as dust;
- The movement and loading of HGVs to /from the site is already a consented and the site is located in a well-established industrial estate where these movements are frequent.

3.9 The Agent advised during the course of the application that the Applicant is a relatively recent owner of the site and many of the historical complaints related to the previous owner.

#### **4. PLANNING HISTORY**

4.1 W98/0445 - Change-of-Use of land to a waste transfer station - Refused, 19 October 1998, Appeal Dismissed, 21 December 1999

4.2 W2002/1142 - Change-of-Use of land to motor vehicle recycling point with ancillary car sales and siting of a storage container and porta-cabin (Retrospective) - Full Granted, 31 March 2004

4.3 W2004/0973 - Extension of site area and construction of vehicle de-pollution workshop - Full Granted, 03 February 2005

- 4.4 TWC/2015/0742 - Resubmission of TWC/2014/1131 for the Change-of-Use of part of the site from car sales, storage and vehicle depollution workshop to motor vehicle recycling point with ancillary car sales and storage, vehicles depollution workshop, aggregate recycling facility including the importation, storage and treatment of non-hazardous inert and excavation materials and the erection of a recycling building (Part-retrospective) - Full Granted, 10 February 2016
- 4.5 TWC/2016/1120 - Variation of Condition 1 of TWC/2015/0742 to allow the treatment building to be constructed on site and be fully operational by 17 February 2017 and removal of Condition 3 to remove the need for additional ground works - Full Granted, 10 February 2017

## **5. RELEVANT POLICY DOCUMENTS**

- 5.1 National Planning Policy Framework (NPPF)
- 5.2 Telford and Wrekin Local Plan (2011-2031):

SP1: Telford

SP4: Presumption in Favour of Sustainable Development

EC2: Employment in the Urban Area

NE1: Biodiversity and Geodiversity

NE2: Trees, Hedgerows and Woodland

NE6: Green Network

C3: Implications of Development on Highways

BE1: Design Criteria

BE9: Land Stability

ER7: Waste Management Facilities

ER11: Sewerage Systems and Water Quality

## **6. NEIGHBOUR REPRESENTATIONS**

- 6.1 The application has been publicised through direct neighbour notification. Two stages of consultation have taken place, the second further to receipt of revised dust assessment and management plan, and revised noise assessment.
- 6.2 The Local Planning Authority received 61no. neighbour representations (from 54no. addresses) objecting to the scheme on the basis of the first consultation, the following summarised issues were raised:
- Excessive noise arising from site operations during and outside of normal working hours detrimentally impacts amenity;

- Existing dust and air pollution arising from site operations with potential to increase and detrimentally impact amenity;
- An increase in the site area of expansion of site would increase pollution and disturbance;
- Noise and pollution abatement systems are needed to mitigate these concerns;
- What external monitoring provision will be put in place as set out in the revised Noise Impact Assessment?
- Applicant's business should relocate to an industrial area;
- Expanding the car breaking operation is not fair to residents;
- Roads are already busy with traffic and proposals would lead to an increase in Traffic;
- Damage has been caused to roads by HGVs and these will deteriorate further;
- Negative impact on wildlife and ecology in the area;
- Mound of soil on site may topple over and spill into gardens or onto nearby children's play area;
- Applicant has not responded to residents' complaints;
- There are enough properties on adjacent housing estate;
- Devaluation of property.

6.2 The second round of consultation is due to expire on 14 November 2022 and any comments received will be reported to Planning Committee.

## 7. STATUTORY REPRESENTATIONS

7.1 Wrockwardine Wood and Trench Parish Council: **No Comment**

7.2 St Georges and Priorslee Parish Council: **Comment**

This site does not lie within the Parish. Despite the submission of an Updated Noise Impact Assessment the St Georges & Priorslee Parish Council has concerns that the proposals will adversely affect residential properties on the Timbers estate and along Gower Street and Stafford Street which are within the Parish. Given the proximity to residential areas the Parish Council wants to retain Conditions relating to noise and dust abatement. There is also concern that skip lorries will travel to the site along Stafford Street and Gower Street resulting in noise and dust nuisance.

7.3 Highways: **No Objection**:

- Rookery Road is private for its entire length and as such the Local Highway Authority has no particular jurisdiction over its extant use, future use, past maintenance or continued upkeep in the future;
- There is no public right of passage along Rookery Road except for those secured privately either with the owner of the road or established over time under prescriptive process. The junction that Rookery Road makes with Gower Street is within the control of the Highway Authority but there is nothing about this application which robustly indicates a demonstrable negative impact on highway safety or road capacity in the area and therefore it does not trigger the NPPF test under Para.111;
- Notwithstanding the above and without prejudice the Local Highway Authority would advise a comprehensive resurface of Rookery Road between Gower Street and the site, in order to help mitigate the future noise and vibration of HGVs on it, as the road falls into further disrepair. The road is not identified as being under the control of the Applicant, from the application material submitted, however, there would be significant merit in any discussions that the Applicant could have with the owner of the road, with a view to securing improvements in the near future;
- The matter of the private access road is not a material highways consideration, in its determination of this application, and the LHA's formal recommendation to the LPA is no objection with a request for no Condition(s) or Informative(s).

7.4 Arboriculture and Ecology: **No Comment**

7.5 Drainage: **Comment** that the drainage Conditions on TWC/2015/0742 remain applicable.

7.6 Environment Agency: **Comment**:

- This site is regulated by the EA under the Environmental Permitting Regulations (EPR) 2016;
- The site's Environmental Permit (EP) is comprised of the conditions outlined in two standard rules sets – SR2010No12 and SR2011No3.;
- The SR2010No12 standard rules set covers 'Treatment of waste to produce soil, soil substitutes and aggregate';
- The SR2011No3 standard rules set covers 'Vehicle storage, depollution and dismantling';
- Recent site inspections have shown that the activities permitted under SR2011No3 have ceased;

- On the 7 January 2021 the operator (Applicant) submitted to the EA a partial surrender application to remove the conditions outlined in SR2011No3 from their EP.
- **Treatment Building:** The operating techniques listed in section 2.4 of SR2010No12 do not require the permitted activities to be undertaken inside a treatment building. Table 2.4 of SR2010No12 states, ‘...all permitted wastes shall be stored and treated on hardstanding or on an impermeable surface with sealed drainage system.’
- **Potential Amenity Issues:** The site’s EP will seek to control the emission of substances not controlled by emission limits (for example, dust) through an Emissions Management Plan. This is a reactive measure if the permitted activities give rise to pollution. The EP will seek to control noise and vibration through a Noise and Vibration Management Plan if noise and vibration at levels likely to cause pollution outside the site are perceived by an authorised officer of the Environment Agency. Please note, there is no numerical decibel (dB) limit in place on the site’s EP.
- To date no reports of dust, noise or vibration pollution problems have been received for this site or subsequently investigated by the EA;
- The Environmental Noise Assessment (3341-1697-E\_Environmental Noise Assessment\_v1.0) as submitted, suggests that the impacts of noise are low with respect to BS4142:2014.

7.7 Coal Authority: **No Objection:**

- No objection to the removal of Condition 3 (mitigation in accordance with Coal Mining Risk Assessment).

7.8 Ministry of Defence: **Support subject to Conditions:**

Condition: The operation of the crusher shall be restricted to a maximum of 2 weekdays per calendar month, between the hours of 1000 and 1400, with prior notification for nearby residents. There shall be no working on Saturday, Sundays or Bank, National or Public Holidays.

7.9 Shropshire Fire Service: **Comment:** Consideration should be given to the ‘Fire Safety Guidance’ document.

7.10 West Mercia Police: **Comment:** Provide general design guidance.

8. **APPRAISAL**

8.1 Having regard to the development plan policy and other material considerations including comments received during the consultation process, the planning application raises the following main issues:

- Principle of Development
- Impact on Amenity of Adjacent Properties
- Highways Impacts
- Drainage
- Ecology and Trees

## 8.2 Principle of Development

8.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this instance, the development plan consists of the Telford and Wrekin Local Plan (TWLP). The National Planning Policy Framework (NPPF) sets out policy guidance at a national level and is a material consideration in planning decisions.

8.2.2 The principle of this use on this site is established. The matter to consider is whether the removal of Conditions pertaining to the treatment building would have a material impact upon amenity, highways and/or ecology that would warrant refusal of the change to the conditions.

8.2.3 A number of objections have made reference to the expansion of the site being unacceptable. For clarity, the application is not seeking to expand the site or extend its boundaries in any way.

## 8.3 Impact on the Amenity of Adjacent Properties

8.3.1 Policy BE1(xi) of the Local Plan states the Council will support development which demonstrates that there is no significant adverse impact on nearby properties by noise, dust, odour or light pollution or that new development does not prejudice or undermine existing surrounding uses. The majority of public objections to this application focus on loss of amenity arising from noise and dust.

8.3.2 The Applicant has submitted a Noise Assessment and Management Plan (NAMP), which has been assessed by the Council's Environmental Health Specialist and amended in accordance with their recommendations. As the plant used on site is mobile and may operate anywhere within the site, all calculations were made from the nearest boundary to the each sensitive receptor, in order to present a robust assessment. The nearest noise sensitive receivers have been identified off Kenwray Drive 53 metres (east) and residential properties 50 metres (north) of the site.



8.3.3 The calculations in the NAMP noise emissions of the operations undertaken within the site would indicate a 'low impact' as defined in BS B4142: 2014 subject to proposed mitigation and suggestions.

8.3.4 The NAMP states the main sources of noise which could arise from the site operations are as follows:

- Skip lorries/HGVs travelling to and from the site for delivery / collection of soils and aggregates;
- Loading of material into mechanical treatment plants i.e. screener, crusher;
- Operation the of the mechanical treatment plant (screener, crusher);
- Loading material into vehicles for removal off site;
- Manoeuvring of plant around the site;
- Small vehicles travelling to and from the site (e.g. staff and visitor's cars, courier van deliveries etc.)
- Repairs.

The NAMP sets out a table of how noise sources from the site will be managed and mitigated. Following amendment and refinement the Council's Environmental Health Specialist supports the contents of the NAMP and recommends a Condition ensuring development in accordance with it.

8.3.5 The Applicant has also submitted a Dust Assessment and Management Plan (DAMP) which has been reviewed by the Council's Environmental Health Specialist and amended in line with their recommendations. The DAMP sets out management and mitigation measures designed to minimise the distribution of dust arising from the site and a Condition is recommended ensuring development in accordance with the DAMP.

8.3.6 The original planning consent includes a Condition restricting hours of operation and it is proposed to retain this as it is. Furthermore, the Applicant has advised that the crusher will be hired in when required (a maximum of twice per month) between the hours of 1000 and 1400 on weekdays only with prior notification for nearby residents. The MoD has requested that these arrangements be secured by planning conditions and this is considered appropriate.

8.3.7 Taking the above matters into account, it is considered that appropriate mitigation measures are proposed to appropriately manage any pollution or noise arising from site operations, such that the site may continue without impacting unacceptably upon residential amenity.

#### 8.4 Highways

- 8.4.1 The Council's Highway Engineer advises that Rookery Road is private for its entire length and the Local Highway Authority has no jurisdiction over its use, maintenance or upkeep. There is no public right of passage along Rookery Road except for those secured privately either with the owner of the road or established over time.
- 8.4.2 The junction that Rookery Road makes with Gower Street is within the control of the Local Highway Authority, however, this application would not trigger the NPPF test under Para.111 which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.4.3 The LHA has advised a comprehensive resurface of Rookery Road between Gower Street and the site would be beneficial, in order to help mitigate the future noise and vibration of HGVs on it. However, as the road is not identified as being under the control of the Applicant this cannot be achieved within the parameters of this planning application. It would be a civil matter between the Applicant and the owner of the road.
- 8.4.4 This request has been put to the Applicant and they have advised they are willing to approach the owner of the road and discuss the matter. This would be at their own discretion and outside the control of the Local Planning Authority.

## 8.5 Arboriculture and Ecology

- 8.5.1 The Council's Arboricultural Officer and Ecology raise no objection to the Variation of Conditions 1-5 as proposed, or the removal of Condition 6.

## 8.6 Drainage

- 8.6.1 The Council's Drainage Engineer has advised they have no objections to the proposal subject to the inclusion of Conditions attached to TWC/2015/0742. Members are asked to note there are no drainage Conditions attached to the 2015 consent and therefore none would be applicable to this s.73 Application.

## 8.7 Other Matters

- 8.7.1 Several neighbour representations were received citing devaluation of property as an objection. This is not a material planning consideration and therefore cannot be taken into account in the determination of this planning application.

8.7.2 One neighbour representation objected to the proposals on the grounds that enough residential development has taken place on the adjacent housing estates already. This planning application is not applying for further housing.

## **9. CONCLUSION**

9.1 On balance, it is considered that the proposal is compliant with Policies BE1 and C3 of the Telford & Wrekin Local Plan 2011-2031. The principle of development is already established through TWC/2015/0742 and the Noise Assessment and Management Plan, along with the Dust Assessment and Management Plan, set out appropriate mitigation measures to ensure neighbouring residential receptors are not unacceptably impacted by dust, noise or other forms of pollution.

9.2 The proposal is therefore deemed to be compliant with the Telford & Wrekin Local Plan 2011-2031 and the guidance contained within the NPPF.

## **10. DETAILED RECOMMENDATION**

10.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is to **GRANT PLANNING PERMISSION** to the Development Management Service Delivery Manager, subject to the following:

A) The following conditions (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):

Development in Accordance with Plans

Development in Accordance with Dust Management Plan

Development in Accordance with Noise Management Plan

Hours of Operation

Hours of Operation of Crusher Restricted to Maximum 2 days per month

Restriction on raw stock material height