

Meeting: Planning and Rights of Way Committee

Date: Tuesday 13 December 2022 (commencing at 10:30am)

### Membership:

#### County Councillors

Richard Butler (Chairman)  
Jim Creamer (Vice Chairman)

|                                  |  |
|----------------------------------|--|
| Mike Adams                       | Nigel Moxon                            |
| André Camilleri                  | Philip Owen                            |
| Robert Corden                    | Francis Purdue-Horan                   |
| Sybil Fielding                   | Sam Smith                              |
| Paul Henshaw                     | Daniel Williamson ( <b>apologies</b> ) |
| Andy Meakin ( <b>apologies</b> ) |  |

#### Substitute Members

None

#### Officers and colleagues in attendance:

|                |   |  |
|----------------|---|--|
| Mike Hankin    | - | Planning Applications Senior Practitioner    |
| Jaspreet Lyall | - | Solicitor and Legal Advisor to the Committee |
| Adrian Mann    | - | Democratic Services Officer                  |
| David Marsh    | - | Major Projects Senior Practitioner           |
| Jonathan Smith | - | Interim Group Manager for Planning           |

#### Public speakers in attendance:

|            |   |   |
|------------|---|---|
| Lea Hawkes | - | Variation of Planning Condition for Land off Private Road No.3, Colwick Industrial Estate, Colwick, Nottingham (item 5) |
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#### 1. Apologies for Absence

|                   |   |                   |
|-------------------|---|-------------------|
| Andy Meakin       | - | medical / illness |
| Daniel Williamson | - | medical / illness |

#### 2. Minutes of the Last Meeting

The minutes of the last meeting held on 1 November 2022, having been circulated to all Members, were taken as read and were confirmed and signed by the Chairman.

### **3. Declarations of Interests**

No declarations of interests were made.

### **4. Declarations of Lobbying**

No declarations of lobbying were made.

### **5. Variation of Planning Condition for Land off Private Road No.3, Colwick Industrial Estate, Colwick, Nottingham**

Mike Hankin, Planning Applications Senior Practitioner , introduced application 7/2022/1066NCC by Veolia Environmental Services (UK) Limited to vary the existing Planning Permission (7/2021/0648NCC) to enable the Colwick Waste Management Facility to operate without the use of the previously consented air filtration plant during periods when there are no waste shredding or refused-derived fuel (RDF) preparation activities being carried out, and to allow the passive ventilation of the building to be undertaken by permitting the opening of the air inlet louvres:

- a) The development site forms part of a wider area of industrial land on the Colwick Industrial Estate and is currently used for the open storage of drilling machinery and empty waste skips and containers. A new Sainsburys supermarket has been built 80m to the north-west and there is a Morrisons supermarket 150m to the north. The nearest residential properties are located to the north around 280m away, beyond the Colwick Loop Road.
- b) The original planning permission for the facility (which has not yet been implemented) provides consent for the development of a waste transfer station, in addition to scope to manage segregated food waste and produce RDF, with an appropriate filtration system designed to remove odours from the facility and control their release into the wider environment.
- c) The planning application seeks consent to modify the odour controls regulated under Condition 24 (Criteria C and D) of the existing planning permission, which require the installation and use of an air filtration plant during the daytime period when RDF would be manufactured, with the roof-mounted air vents to be closed during the night-time. The requested modification seeks to allow the site to operate initially as a waste transfer station only, without carrying out the RDF manufacturing and the importation and storage of segregated food waste. However, the air filtration plant would still be installed prior to the commencement of any RDF production activities or segregated food waste storage at the facility in the future, and would be operated at all times if and when the site is used for these purposes.
- d) The general industry practice is that waste transfer stations do not require air filtration equipment to operate. Other similar facilities operating in Nottinghamshire do not incorporate air filtration systems other than the Veolia facility in Kirkby-in-Ashfield, as this also manufactures RDF.

- e) The determination of the planning application requires an assessment to be made as to whether the alterations proposed to the site's operation in terms of modifying the composition of waste imported to the site, the arrangements for treating and processing this waste, and the arrangements to no longer install and use the previously-approved air filtration equipment during periods when the facility would not be used for RDF production or the delivery and storage of source segregated food waste, would continue to provide satisfactory odour control.
- f) In terms of the containment of odour within the building, to not use the air filtration plant and instead use a passive ventilation system has the potential to increase the risk of a greater odour impact on the wider environment. However, this is balanced against the fact that the level of odour release from the facility is likely to be less if it is not to be used for manufacturing RDF or storing source-segregated food.
- g) The National Planning Policy Framework and the National Planning Policy for Waste state that Waste Planning Authorities should work on the basis that the approved pollution control regime will be properly applied and enforced, so planning decisions should not seek to duplicate these controls. Since the original planning permission was issued, the applicant has obtained an Environmental Permit from the Environment Agency to operate the site in accordance with the modified odour controls for which the variation to the current planning permission is sought. The current application, therefore, ensures that the operation of the site permitted under the existing planning permission is consistent with the Permit in terms of its odour control.
- h) A consultation has been carried out on the proposed variation and no objections have been received.
- i) In conclusion, officers recommended that the proposed variation to the planning permission is reasonable and appropriate, on the basis that the revised method of operation of the facility will not result in significant levels of odour emissions that would adversely affect the amenity of occupiers of nearby land, and that the odour emissions from the facility will be controlled and regulated under the issued Environmental Permit.

With the permission of the Chairman, Lea Hawkes addressed the Committee in support of the application and the recommendations as set out in the report. Committee members had the opportunity to ask questions for the purposes of clarification, and the following points were confirmed by the applicant and officers:

- j) Due to a revision of Veolia's current strategy, the new facility will operate initially as a collection point for waste, only. As such, the filtration system intended for use as part of waste shredding or RDF preparation activities is not required and would represent an overly expensive system for odour control for a waste transfer station.
- k) The drainage measures for the site are set out in Condition 10 to the existing planning permission, which requires that waste is held inside the building to avoid

rain wash-off. There will be a sealed internal drainage system to capture liquid waste, which will be separate to the normal, exterior building drainage system designed to collect rainwater. The facility will be cleaned regularly, with a deep clean carried out twice per year. If a high build-up of waste residue occurs, the next scheduled deep clean will be brought forward.

After the presentation of the application and the representation made in support, the Committee discussed the following points:

- l) Prior to the meeting, members of the Committee visited a similar Veolia waste transfer station at Worksop. This facility was built away from residential properties, but housing developments were later constructed in closer proximity to the site. However, at most times, a strong odour does not carry beyond the facility boundaries. The County Council has received one direct complaint in relation to odour concerning the Worksop facility over the last 10 years, and no complaints have been raised with the County Council via Bassetlaw District Council.
- m) The Environment Agency has carried out an assessment of the application site and concluded that the operation of a waste transfer station in the context of the proposed variation to the existing planning permission would not give rise to significant issues leading to complaint in relation to odour outside the site boundary. As such, the Agency has issued an Environmental Permit as it considers that the right processes are in place to prevent a significant nuisance in relation to odour.
- n) Compliance with these controls will be monitored, and any complaints will be responded to appropriately. The Environment Agency will enforce the conditions of the granted Permit and, should the measures in place prove insufficient to control the odour effectively, it would put more controls in place. Controls are also introduced by way of the conditions to the planning permission. The Permit is intended to control odour so that it does not reach a level considered to be a statutory nuisance. Should the odour levels reach that of a statutory nuisance, Gedling Borough Council has the powers to undertake appropriate enforcement action. A full consultation process has been carried out, including the Borough Council, and no representations have been received.
- o) The Committee was advised that the Local Planning Authority is expected, under national policy, to defer to the Environment Agency in the assessment of matters of odour impact and control. Any new planning permission as proposed would not supersede the existing planning permission, but would operate concurrently. Within the context of the current application, the remit of the Committee is to consider whether the ventilation measures put forward for the usage of the facility as now proposed are acceptable within the terms of the relevant local planning policies and requirements.
- p) The Legal Advisor to the Committee explained that the need to defer to the Environment Agency is contained in the National Planning Policy Framework and the associated legislation that requires the Committee to make decisions in accordance with National Policy and the relevant Local Plan documents.

- q) The Committee was advised that, as it is now proposed for the facility to be used as a waste transfer station only and not for waste shredding or RDF production, the level of odour generated will be less than that anticipated in the original planning application, so the required level of odour mitigation measures is not as high. The operation of a waste transfer station would not normally justify the use of a filtration system designed to be used as part of waste shredding or RDF production processes.
- r) The Legal Advisor to the Committee set out the need for conditions to planning permission to be necessary, in accordance with the National Planning Policy Framework.
- s) Members of the Committee expressed concern that the effective odour control measures that are in place as part of the current planning permission were being reduced as a cost-saving measure, and that this could have a negative impact on residents. They considered that although the development site is within an industrial estate, there are still residential properties 280m away, so the best possible odour control measures should be maintained for the benefit of the residents of the area. They noted that there are a number of other sites on the industrial estate that produce strong odours already, so the further contribution from the new waste management facility could result in a negative impact on residents, particularly during the hotter period of the year, if not mitigated against as much as possible – including through the proper use of rapid-action doors, as set out in Condition 24.
- t) The Legal Advisor to the Committee explained that Gedling Borough Council would be responsible for investigating statutory nuisances caused by odour, and that the conditions in the proposed planning permission would be aimed at controlling any odour nuisances up to the statutory nuisance level.

Following a vote, the motion to grant planning permission for the reasons as set out in the report was not carried, as it was opposed by a majority of the members present. It was:

**Resolved (2022/055):**

- 1) To refuse the application on the basis that planning permission has already been granted for a facility with strong odour controls through a previous application. The current proposal makes these controls less robust and is not supported for this site because of its location near to other properties, with the subsequent potential for odour complaint. The site is too close to housing with regard to the potential for odour release from the facility.
- 2) To instruct officers to draft the formal reasons for the refusal of planning permission to convey the Committee's concerns, with the appropriate references to planning policy.

**6. Development Management Progress Report**

Mike Hankin, Planning Applications Team Leader, presented a report on the recent Planning applications received and decisions taken, and the details of applications likely to come to Committee in the near future. The following points were discussed:

- a) The report details the applications received between 14 October 2022 and 25 November 2022, and the decisions made since the last Committee meeting on 1 November 2022.
- b) In relation to the application concerning the Daneshill Landfill Site, Lound (1/20/00544/CDM), the Environment Agency has declined to issue an Environmental Permit for the processing of soils containing asbestos at the site. As a result, the planning application has been refused under delegated powers.
- c) The application concerning Ness Farm and Cromwell Quarry, Cromwell (3/22/01790-88-87/CMA) is now likely to arise at the February meeting of the Committee, rather than at the January meeting. A new application relating to the Outwood Academy, Portland is also likely to arise at the February meeting.

**Resolved (2022/056):**

- 1) To note the Development Management Progress Report, and to confirm that the Committee required no further actions to be taken in relation to the contents of the report.

There being no further business, the Chairman closed the meeting at 11:53am.

**Chairman:**