

Meeting PLANNING AND LICENSING COMMITTEE

Date Tuesday 10 March 2020 (commencing at 10.30am)

Membership

Persons absent are marked with `A`

COUNCILLORS

Chris Barnfather (Chair)
Jim Creamer (Vice-Chair)

Pauline Allan	John Longdon
A - Andy Brown	A - Rachel Madden
Neil Clarke MBE	Tracey Taylor
Sybil Fielding	Keith Walker
Tony Harper	Andy Wetton
Paul Henshaw	

SUBSTITUTE MEMBERS

Gordon Wheeler for Andy Brown

OTHER COUNTY COUNCILLORS IN ATTENDANCE

Mike Pringle

OFFICERS IN ATTENDANCE

Pete Barker – Chief Executive’s Department
Dave Collins – Via East Midlands Ltd (NCC Noise Advisor)
Keith Ford – Chief Executive’s Department
Sally Gill – Place Department
Ruth Kinsey – Place Department
Neil Lewis – Place Department
Joel Marshall – Place Department
Jonathan Smith – Place Department
Simon Smith – Chief Executive’s Department

1. MINUTES OF LAST MEETING HELD ON 21st January 2020

The minutes of the meeting held on 21 January 2020, having been circulated to all Members, were taken as read and were confirmed and signed by the Chair.

2. APOLOGIES FOR ABSENCE

The following apologies for absence were reported:-

Andy Brown - other reasons
Rachel Madden - illness

3. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

There were no declarations of interest.

4. DECLARATIONS OF LOBBYING OF MEMBERS

The Chair stated that all members of the Committee had received correspondence relating to Item 5, Change of Use of Waste Transfer and Treatment Station, Boughton Industrial Estate, Boughton, which did not preclude any member from speaking or voting on that item.

5. CHANGE OF USE TO WASTE TRANSFER AND TREATMENT STATION, BOUGHTON INDUSTRIAL ESTATE, BOUGHTON

Mr Jonathan Smith introduced the report which considered an application for the change of use of units 91 to 94 at Boughton Industrial Estate in order to undertake waste transfer and recycling operations, alongside garaging, workshops and other facilities. The key issues related to local traffic, noise and dust concerns.

Mr Jonathan Smith referred to paragraphs 36 to 41 of the report which contained comments from Tuxford Town Council. Mr Jonathan Smith informed Committee that contrary to officers' belief when the report was written, these comments are not the official view of the Town Council who had in fact voted not to object to the application. Mr Jonathan Smith informed Committee that the comments received would now be treated as an additional public objection.

Mr Jonathan Smith then referred to Condition 8 and informed Committee that if approved the wording would be amended so to provide the applicant a degree of the flexibility in the timing of the fencing under Condition 7 and, with regards to Condition 8, that the provision of noise attenuation for bird species of conservation concern would be introduced prior to the processing of any waste material and not prior to the importation of the waste material as originally stated. Mr Jonathan Smith informed Committee that this reflects how the potential for noise generation is greater from the processing of the waste rather than its importation.

Following the introductory remarks of Mr Jonathan Smith, Mrs Dunthorne was then given the opportunity to speak. Prior to speaking Mrs Dunthorne raised a number of issues including:

- The applicant having a contractual arrangement with Nottinghamshire County Council, meaning that the application should be decided by a neighbouring authority
- Neighbouring properties were not informed in writing by

Nottinghamshire County Council about the application, including the nearest residential property, Elm Tree House.

- Additional information has been submitted to Nottinghamshire County Council which has not been circulated or consulted upon.

After being invited by the Chair to provide an initial response to the issues raised by Mrs Dunthorne, Mr Jonathan Smith stated the following:

- Paragraph 12 of the report clearly states that the applicant undertakes work for the County Council but that this relationship has no bearing on the decision to be taken by Committee.
- The Statement of Community Involvement governs the nature of publicity and consultation and the authority has publicised and consulted on this application as required. The success of the consultation undertaken is reflected in the number of responses received and the good attendance at today's meeting.
- There is a degree of flexibility in the extent to which publicity and consultation must take place regarding additional information, and this information was made publicly available on the authority's website.

At this point in the Chair adjourned the meeting in order to take legal advice regarding the issues raised by Mrs Dunthorne.

Following the adjournment, Mr Simon Smith, the legal advisor to the Committee, confirmed that the applicant does undertake work for the County Council but that the authority also has contracts with many other companies and that it maintains a separation of function when making decisions. Mr Simon Smith informed Committee that if every application received from those with which the Authority had a contractual relationship was referred to another authority for decision, then the planning system would grind to a halt, as only County Councils and Unitary Authorities are able to make these types of decision. In this case, Highways are the contracting arm of the authority and Planning are the decision-making arm of the Authority – this separation of function is scrupulously maintained by the Council when making this type of decision. Mr Simon Smith informed Committee that he could see no reason why this application should be referred to another authority for decision.

At the invitation of the Chair, Mr Jonathan Smith commented further on the consultation / liaison that had taken place with neighbouring properties. Mr Jonathan Smith informed Committee that in the case of major developments the County Council was required to place a notice in the local press and on its website and that a site notice was required to be displayed for 21 days or owners of adjoining properties were to be informed. Mr Jonathan Smith informed members that in this case both of these had taken place with 10 other businesses being informed rather than just the owners of adjoining premises. Mr Jonathan Smith stated that officers considered that they had had sufficient information to allow them to fully assess the application and enable them to make the recommendation contained in the report. Mr Jonathan Smith confirmed again that discretion existed over the extent of further consultation required when additional information was received, and informed Committee that in this case the information received was just for clarification, that this information had

been put onto the County Council's website to allow people to review it and that the Parish Council had notified local people.

Mrs Dunthorne, a local resident, was then given the opportunity to speak and a **summary** of that speech is set out below:

- The effects of the proposed operation have not been adequately assessed.
- There is a flawed evidence base.
- This operation will produce harmful by-products and generate unacceptable levels of noise.
- The site is inappropriate for its intended use with 24 hour crushing to take place close to two residential areas.
- Tarmac is a harmful material.
- The problem of dust has not been scrutinised and no specifications for the machinery to be used have been received.
- The Local Plan has not been followed which requires applications for operations with overbearing impacts to be refused.
- This operation should be undertaken at a remote location and covered – not near residents. There are plenty of alternative, suitable sites.
- The noise assessment is flawed.
- There is no need for mitigation of the effects of the operation as the application should be refused.
- The JNCC winter guidelines have not been followed.
- The location of the water course is stated incorrectly.
- A full Environmental Impact Assessment (EIA) is required.
- A traffic count has not taken place, the information provided by the applicant has just been accepted.
- The need for upgraded lighting has not been considered.
- A drainage assessment has not been submitted.

Following Mrs Dunthorne's speech the following comments and questions were responded to:

- Crushing will not take place 24 hours a day. Condition 9 details the operating hours for the various operations involved and crushing is only permitted to take place from 07.00 to 17.00, Monday to Friday.
- In terms of any potential pollution, the site will require an Environmental permit from the Environment Agency.
- Condition 8 addresses ecological concerns. The authority's ecologist has been consulted and raised no objection to the proposed development.
- The response of the authority's Highways section is included in the report and no objections are raised. Condition 18 does limit the movement of HGVs.
- Members who attended the site visit would have seen that the water course is approximately 30 m from the application site. Condition 4 refers to drainage. A permit from the Environment Agency is also required by the applicant.

- A number of queries were raised by NCC regarding the timing of the various operations including night time tipping, and an error in the original noise assessment was identified. It is believed that all of the information is now correct.
- The time of the tipping includes the journey through the site with the noise assessment modelled on a whole route basis and the tipping noise assessed separately.
- Broadband reversing alarms have been conditioned.
- The nature of the noise likely to be generated by the operation is intermittent with absolute noise levels relatively low. This is so even when taking into account the low level of background noise, especially at night. Given this it is difficult to justify further noise restrictions.
- Tonality refers to a source of noise that is distinctive in character, such as a whistle, and which is recognised as annoying.

Mr David Valentine, a local resident, was then given the opportunity to speak and a **summary** of that speech is set out below:

- There are more than 50 Kirton residents attending today which gives an indication of the strength of feeling against this development.
- The report to Committee is 40 pages long but it is only a snap shot, probably containing only 10% of the information that has been produced.
- Paragraphs 103 to 113 contain the comments of the local member, Councillor Mike Pringle. Councillor Pringle knows the area very well and his views must carry considerable weight.
- The environmental impact requirement has not been met and therefore the planning officer should not recommend approval.
- Two previous materials recycling schemes on this site failed for reasons you should have been told about before being asked to decide on this application.
- In terms of expected noise, dust, water course pollution, traffic problems and disturbed wildlife there is nothing new or different in this application than previous failures.
- Paragraphs 4 to 7 attempt to describe the Boughton site but fail to mention that most of the businesses rely on retail customers, not business to business. The prospect of meeting HGVs on the narrow site roads will make retail customers go elsewhere and healthy businesses will close if this application proceeds resulting in jobs being lost.
- There are plenty of brown field sites in the county with better links to trunk roads which are away from homes and small retail businesses.

- Up to paragraph 41 of the report the many problems are well described by others and I sincerely hope members have read the report to enable them to make an informed decision.
- The applicant's ecology survey is more than 40 pages long but has been produced from a desk and contains much incorrect or out of date information, some of which came from the council. There was very little information from the ground and it was seriously flawed, omitting important species and providing misleading conclusions, for example, it stated that there were no nearby water courses when Boughton Dyke is less than 50m from the proposed site.
- Missing from the reports are details of the 34 hectares of former quarry workings that have been returned to nature – lakes, trees, marshlands and an extensive water bird population. This is all immediately obvious to anyone who looks, regardless of ecology training.
- From Paragraph 76 onwards the report reminds you to be aware of the environmental impact, but does not state that this is a good location for the proposed activity.
- Approving the application will adversely affect Kirton residents who will report matters to the council. Councils have a statutory obligation to deal with noise and other pollution matters at their own expense.
- I urge you to refuse the application, there is too much risk and too much erroneous supporting data to allow it to proceed.

Following Mr Valentine's speech the following comments and questions were responded to:

- The previous recycling operation on the site did not result in any other businesses closing.
- The authority's ecologist has raised no objections to the application.
- If any of the data received was flawed officers would expect the technical consultees to raise any issues and this has not been the case.
- Officers have requested more information from the applicant where relevant and officers are satisfied that they have received enough information on which to base the recommendation contained in the report.

Ms Anthea Tate, the agent of the applicants, was then given the opportunity to speak and a **summary** of that speech is set out below:

- The aggregate brought to site will already have been broken up, with the crushing phase taking place during the day, it is not a 24 hours a day activity, though access to the site will be required 24 hours a day.
- The area of the application site is less than 3% of the total area of the industrial site.
- The site is geographically well placed.
- Traffic will approach the site from the East and the West via the A6075 so not all traffic will pass through Kirton.
- The amount of dust generated by the existing operation is not sufficient for employees to be required to wear dust masks.
- A variety of experts have been consulted on the application and no objections have been made.
- The applicant accepts that local residents have concerns but the conditions will be adhered to by the applicant who wants to work with the villagers if problems arise.
- The applicant, who owns his own plant, has been displaced, it is planning policy that is the driver for finding a new site.

Following Ms Tate's speech the following comments and questions were responded to:

- The hours of operation at the site would be controlled and are detailed in Condition 9.
- Vehicle movements and tipping will take place after 5pm, though on occasions there will be no vehicles either entering or leaving the site.
- The lorries bringing in the material will be 8 wheelers. The applicant also owns a road sweeper and a low loader and, depending on demand, some large equipment may be brought on site.
- Demand will dictate site use. At times some lorries could be coming in 3 times a day, at other times there could be no lorries coming in for 3 or 4 days at a time. On average, crushing will take place one week a month. In the last month at the current operation, recycling has only been undertaken over one weekend.
- Site access is required 24 hours a day as the operation requires flexibility to meet the demands of road closures, but the operation will not take place 24 hours a day.

There were no questions.

Ms Kate Hall from Kirton Parish Council was then given the opportunity to speak and a **summary** of that speech is set out below:

- The parish councils of Tuxford, Ollerton, Boughton and Kirton have all highlighted concerns over vehicle movements, with Tuxford showing the highest emission readings in Nottinghamshire. This alone should make you question the figures presented by both the applicant and VIA. These figures give a totally unrealistic picture of the expected impact of additional vehicle movements through the village.
- In the report VIA state that there would be no increased risk to our listed church through additional vehicle movements, but any extra vehicle movement is a risk, which is why we have been working with Mark Spencer MP, County and District Councillors to combat this problem.
- VIA are aware of this ongoing work but have chosen not to enlighten the Committee about the damage and congestion at the church corner, hiding instead behind the national formula.
- Dust was a major factor in complaints about the last user of this site and contributed to the business ceasing operations.
- The statement in the report that the current applicant's dust will not travel as it is heavier is ludicrous. There is nothing in the application to support this conclusion. This type of dust poses an unknown risk to humans and the environment.
- The report is also misleading when it is stated that the water supply is adequate to mitigate the dust problem. There is no proof of this and in the additional information submitted by the applicant there is no evidence that he has looked at the water supply. If this is the case then this is clearly weighted to the applicant's advantage.
- We are concerned that VIA appear to be content with the applicant's report into noise when an independently commissioned report finds serious flaws in it.
- VIA make assumptions that the noise from the site will be drowned out by the traffic noise which is currently negligible.
- The rather ambiguous report also suggests that the sound of night time tipping would be no more than a whisper as the material being tipped would be stone, which is difficult to believe.
- The ecology report is incomplete, contradicts itself, and was not completed in the specified window. On this point alone the report is inadequate and should be resubmitted before the committee can make a proper judgement.
- The report author states that there are no badgers in this area, however the added chart clearly shows the abundance of badgers and this can be verified by many of the residents here today.
- Given the scale and type of this operation a site should be selected away from residential areas like Kirton.

- We are very concerned about this proposal and strongly support a decision to reject it completely.

Following Ms Hall's speech the following comments and questions were responded to:

- Included in the Conditions, Informative Note 2 relates to concerns about the church and requests that HGV drivers are regularly trained.
- Condition 18 clarifies the maximum number of HGV vehicles permitted on site and at which times.
- Condition 14 relates to dust management, including the use of water suppression equipment.
- The issue of badgers has not been raised as a concern by the authority's ecologist.
- The noise from night time tipping has been assessed against the low level of background noise. At the distance residential properties are from the site, the night time tipping noise levels would be the equivalent of a person whispering next to you. The noise levels at neighbouring properties are predicted to be in the mid-30s dB, which are not considered to be intrusive. Night time impact considers factors such as sleep disturbance and the possibility of windows being open in summer. Recommendations are that internal noise levels do not exceed 30dB in these circumstances. Given that there would be at least a 10dB reduction through an open window, concern would only be raised if the external noise levels exceeded 40dB.
- No badger setts have been identified in the vicinity of the site by the authority's ecologist.

Councillor Pringle, the local County Council member, was then given the opportunity to speak and a **summary** of that speech is set out below:

- Comparing this operation with the previous business is like comparing apples and oranges – the former business used 4 tonne trucks, this operation will use 20 tonne trucks.
- This group of residents are experienced in dealing with planning applications and should be treated as professionals in their own right.
- I raised objections initially to this application because of the highways issues. The residents have been active in negotiating successfully with one of the largest logistics companies in Nottinghamshire, which is based locally, on how to best serve the delivery of goods and reduce the number of HGVs passing through the village.
- It is acknowledged that it is an 'A' road and that Highways conclude that it is able to take more traffic, but it is not an 'A' road without problems. There is a

pinch point at church corner, HGVs will be slowed down, emissions will increase, and residents will be affected.

- Nottinghamshire County Council has just endorsed the turning off of engines when at a standstill and this was supported by all councillors. This will not be an option for HGVs approaching the site, especially for those either turning or delayed at church corner.
- If approved, this application will allow 256 20 tonne vehicles to pass through the village every 24 hours, 7 days a week. A recent article in the Times states that dirty air is responsible for more deaths than war, AIDS and smoking combined.
- I have worked in heavy engineering involving the conveying of material from one point to another most of my life and I have never known a conveyor belt or dust suppression reduce levels to below that required by guidelines. In fact a worldwide battle to eliminate dust is continuous, with sealed tubular conveying touted as a possible solution.
- I suggest more detail is required regarding the dust issue and I would like to be reassured that the site operator will be held responsible should the operation cause dust issues that affect residents and local businesses, possibly due to changing weather conditions.
- I understand the Environment Agency will play a lead role in the event of failure, but I am more concerned about the management systems which will be put in place because residents have inherited nothing but failure from business and legal support.
- The introduction of an operation that will allow 256 20 tonne vehicles to pass through the village on a 24 hour, 7 days a week basis, will have a negative impact on the village, and indeed any village which is along the route of operation.
- Policy WCS3 has the objective of a 70% recycling rate for Nottinghamshire, but the policy also states that any operation should not have an unacceptable impact on those living close by, but it is clear that through vehicle movements and material crushing this operation will have an impact on residents like never before and that is unacceptable.
- No matter how much recycling is recognised as a positive and that this operation will take place on an existing industrial site, the impact goes against Policy WCS3 which balances production with protection.

Following Councillor Pringle's speech the following was responded to:

- For clarity, a slide was projected detailing the restrictions on the number of HGVs permitted to enter and leave the site.

- Paragraph 140 of the report refers to HGV movements. The conditions are designed to provide flexibility for the peaks in workload, throughput will not be on a continual basis.

Members then debated the item and the following comments and questions were responded to: -

- As detailed in paragraph 10 of the report, planning permission for this operation is still needed as it is a different class of recycling to that which already has permission and therefore requires its own permission.
- It is standard practice to liaise with applicants and in this case there was a request for some flexibility regarding the noise attenuation measures linked to the installation of the perimeter fencing. As it is the crushing that generates the noise and has the greatest effect on birds, it was agreed to reword Condition 8 so that the provision of noise attenuation measures take place prior to the recycling of materials and not the importation of those materials.
- It was also agreed to reword Condition 7 to require the remaining fencing works to be undertaken within reasonable timescales, as opposed to before any waste is first imported into the site. In the case of both Conditions the applicant will still need to submit schemes with details of the timescales involved before the importation of any material. The Committee has the power to agree to the original wording of the conditions but officers feel that the rewritten conditions are still reasonable.
- This is a difficult application and recycling is a priority but it should not take place without first taking account of everyone's concerns. A range of conditions have been put in place and action will be taken if these are not observed.
- Conditions 14 and 15 relate to dust management. It is the operator's responsibility to run the operation according to the conditions imposed.
- Some complaints have been made previously but these were to Newark & Sherwood District Council and some of these complaints were passed on to the Environment Agency. No complaints were made directly to Nottinghamshire County Council. This is in the nature of the planning process. Nottinghamshire County Council is the waste authority, if this application were to be approved then complaints would be dealt with by the County Council and not the District Council.
- Whatever decision is taken today a mechanism should be put in place for the applicant to keep open lines of dialogue. An informative could be added to the conditions recommending the setting up of a liaison committee. A regular item could be added to the agenda of the Parish Council meetings and locals could be invited to visit the site once operations commence.
- At this point the applicant, Mr Jordan, informed Committee that his main concern was to work with the villagers. Mr Jordan stated that this operation represented a large investment for him and that he needs it to work. Mr Jordan informed members that he wanted to employ local people, not to be a

nuisance and that there would be days when there would be no work at all on site.

- The routing of HGV vehicles was a consideration with this application but this has not been recommended by the highways authority because of the number of vehicles involved and the direct access from the industrial estate onto the A6075.
- Condition 4 relates to drainage and surfacing and is considered reasonable by officers in this case. The recent application in Worksop involved asbestos, and the conditions imposed in that case reflect the differences in waste streams.

On a motion by the Chair, seconded by the Vice-Chair, it was: -

RESOLVED 2020/006

That planning permission be granted subject to the conditions set out in Appendix 1 and with Conditions 7 and 8 re-worded to read:

Condition 7

Prior to the importation of any waste material on the site a scheme, including timescales for its implementation, for the improvement or replacement of the existing site fencing/enclosures around the site shall be submitted to the WPA for its written approval. The approved works shall be implemented in accordance with the timescales and thereafter maintained for the life of the operations.

Condition 8

Prior to any waste processing on the site a scheme for the provision of noise attenuation for bird species of conservation concern in the adjacent woodlands shall be submitted to the WPA for its approval in writing. The scheme shall form part of the wider site boundary treatment works pursuant to Condition 7 above and shall include the provision of noise monitoring to confirm its effectiveness once the measures have been installed and the site is fully operational. The noise attenuation measures shall be implemented in accordance with the approved details prior to any waste processing taking place within the bird breeding season (1 March to 31 August inclusive) on the site and shall be maintained for the life of the development. Details of the noise monitoring shall be submitted to the WPA for its approval in writing.

5. CONVERSION OF PUBLIC FOOTPATH IN WEST BRIDGFORD TO BE USED BY BOTH PEDESTRIANS AND CYCLISTS

Mrs Gill introduced the report which sought approval to carry out the statutory procedure for the conversion of a Footpath to a Cycle Track, to enable it to be used by both pedestrians and cyclists.

Members then debated the item and the following comments and questions were responded to: -

- This route will be a shared one with appropriate signage in place.

- The Ramblers' Association withdrew their objection once it had been made clear that the route of the footpath would still be protected even though it would be removed from the Definitive Map and Statement.

On a motion by the Chair, seconded by the Vice-Chair, it was: -

RESOLVED 2020/007

1. That the proposal be approved and officers authorised to make and to advertise the making of a footpath conversion order to convert part of West Bridgford Footpath No.63 to a Cycle Track comprising a public right of way on foot and on pedal cycles;
and
2. That the Footpath Conversion Order be approved subject to no objections being made, but that should objections be received, the matter be brought back to Committee for a decision as to whether to refer the Order to the Secretary of State for confirmation.

7. DEVELOPMENT MANAGEMENT PROGRESS REPORT

Mrs Gill introduced the report, informing members that it was the usual report brought regularly to Committee.

On a motion by the Chair, seconded by the Vice-Chair, it was: -

RESOLVED 2020/008

That no further actions are required as a direct result of the contents of the report.

On behalf of the Committee the Chair thanked Ruth Kinsey for all of her hard work and support over the years and who would be retiring at the end of March after 28 years' service.

The meeting closed at 12.55pm

CHAIR