

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY
COUNCIL held at the castle, Winchester on Wednesday, 6th December, 2017

Chairman:

* Councillor Peter Latham

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| * Councillor Judith Grajewski | * Councillor Alexis McEvoy |
| Councillor Christopher Carter | * Councillor Russell Oppenheimer |
| * Councillor Charles Choudhary | * Councillor Stephen Philpott |
| * Councillor Mark Cooper | * Councillor Roger Price |
| Councillor Roland Dibbs | * Councillor Lance Quantrill |
| Councillor Jane Frankum | * Councillor David Simpson |
| Councillor Marge Harvey | |
| * Councillor Keith House | *Present |
| * Councillor Gary Hughes | |

29. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Carter, Dibbs, Frankum and Harvey.

30. DECLARATIONS OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

31. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were reviewed and agreed

32. DEPUTATIONS

The deputation process was explained to attendees. It was confirmed that there were six deputations for the meeting.

33. CHAIRMAN'S ANNOUNCEMENTS

The Chairman confirmed that a Home to School Transport Appeal training session would take place following the meeting.

34. **BRYAN HIRST RECYCLING LTD BULLINGTON CROSS SUTTON SCOTNEY**

A). EXTENSION TO SITE TO PROVIDE CAR PARK (RETROSPECTIVE) AT BRYAN HIRST RECYCLING LTD, BULLINGTON CROSS, SUTTON SCOTNEY SO21 3FN (NO. 17/02238/CMAN)

B). VARIATION OF CONDITION 3 (HOURS OF OPERATION) OF PLANNING PERMISSION 11/01427/CMAN AT BRYAN HIRST RECYCLING LTD, BULLINGTON CROSS, SUTTON SCOTNEY SO21 3FN (NO. 17/02190/CMAN)

C). VARIATION OF CONDITION 3 (HOURS OF OPERATION) OF PLANNING PERMISSION 09/02530/CMAN AT BRYAN HIRST RECYCLING LTD, BULLINGTON CROSS, SUTTON SCOTNEY SO21 3FN (NO. 17/02192/CMAN)

(SITE REF: TV246)

Cllr Grajewski declared that in relation to agenda Item 6 the applicant bought equipment from a client of the company of which she is a director however there was no direct link whatsoever and as such she would be participating in the item.

The Committee considered a report from the Head of Strategic Planning (Item 6 in the Minute Book) regarding three planning applications relating to condition changes to extend the hours of use of the site and a proposal for an extension to the site to form a car park at Bryan Hirst Recycling in Bullington.

The officer introduced the item and confirmed the applications as well as the changes included in the update paper, which included reference in the report (paragraphs 1.4) to the Town & Country Planning (Environmental Impact Assessment) Regulations that should be to the new 2017 Regulations. Aerial and site photographs were shown to give the application further context, following a members' site visit on Monday 4 December.

The Committee received one deputation on this item. Rupert Wieloch spoke against the applications and claimed that there were properties closer to the site than stipulated in the officer presentation that would be affected by the proposals. The vegetation and trees removed was a habitat for dormice. Mr Wieloch stated that there was evidence of high stockpiles spilling over the fence into the surrounding woodland and noise from the site carrying quite a distance and being over 95 decibels. He also referred to weekend working, contrary to the current conditions, and felt that the site was dangerous, with no clear path marked for vehicles.

During questions of the deputation, it was clarified that the noise experienced from the site was that of metal being lifted and dropped onto stockpiles.

During questions of the officers, the following points were clarified:

- Complaints had been received regarding the site, which had been investigated.
- The Environmental Health officer had been consulted and had no concerns regarding the noise levels on site.

- Ecologist had not commented on the application as the vegetation had already been removed and there was nothing there left to assess, but previous inspections had not found any evidence of dormice.
- A Liaison Panel was not currently in existence.
- The tree removal did not require planning consent as the trees were not protected.
- The original condition regarding a tree planted bund was only regarding the boundary adjoining the A34, which had been complied with.
- There was some potential for planting to take place in the south-east corner of the site, but this would be looked at in more detail.
- It was unreasonable to request acoustic barriers at this stage as they were not part of the original application and many elements of the site activity were unchanged, with none of the new proposals affecting the existing processing taking place on site, which generate most of the noise.
- The nearest building pointed out by the deputation could not be confirmed as being residential.
- There had been no response from Highways England.

During debate, Members agreed that a Liaison Panel was important and would be of great benefit to all. This would be included as an Advice Note from the officers to the Applicant. Whilst some Members felt that the start time was too early, it was acknowledged that it was better than vehicles travelling through rush-hour. It was agreed that “Excluding Christmas Day, Boxing Day and New Years Day” be added to hours of working conditions.

RESOLVED:

The Head of Law and Governance was authorised to draw up a Section 106 Agreement to transfer the obligations relating to lorry routing in the existing Section 106 Agreement for planning permission 09/02530/CMAN and subject to all parties entering into the Section 106 Agreement with the County Council, it was AGREED that authority be delegated to the Director of Economy, Transport and Environment to grant:

- 1) Planning permission for extension to site to provide car park (Retrospective) (No. 17/02238/CMAN), subject to the conditions in Integral Appendix B.
- 2) Planning permission for variation of condition 3 (hours of operation) of planning permission 11/01427/CMAN (No. 17/02190/CMAN), subject to conditions in Integral Appendix B.
- 3) Planning permission for variation of condition 3 (hours of operation) of planning permission 09/02530/CMAN (No. 17/02192/CMAN), subject to conditions in Integral Appendix B.

Voting:

Favour: 12 (unanimous)

35. **DOWN END QUARRY DOWN END ROAD FAREHAM**

The Committee considered a report from the Head of Strategic Planning (Item 7 in the Minute Book) regarding an application for the continued use of the site for a range of waste related activities and the addition of wood processing, with shredding and screening, at Down End Quarry in Fareham.

The officer introduced the item, and it was confirmed that there was an amendment to Condition 11 as follows:

*Within three months of the date of the installation of a wood shredder in accordance with this permission, noise monitoring shall be undertaken to compare the effects of the development with the predicted impacts within the Wood Shredder Noise Assessment (dated 9 June 2017) submitted with the application. The scope and duration of the monitoring shall be agreed in writing with the Waste Planning Authority prior to implementation and the results of the monitoring shall be submitted to the Waste Planning Authority within one month of being carried out. If the results of the monitoring indicate that impacts are at or above Lowest Observable Adverse Effect Level (Noise Policy Statement for England, 2010) **then operation of the wood shredding process shall cease until such time as mitigation measures are undertaken to reduce the impact to below this level, in accordance with a mitigation scheme which has first been agreed in writing by the Waste Planning Authority. The approved measures shall be installed before operation of the wood shredding process recommences and shall be retained for the duration of the use.***

Reason: In the interests of public amenity and to ensure the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals and Waste Plan (2013).

A correction to the reference to the Town & Country Planning (Environmental Impact Assessment) Regulations in paragraphs 1.4 and 4.8 was also reported.

A location plan was shown to Committee and the private haul road and SSSI were clearly marked. An aerial photograph showed the nearest properties. It was confirmed that wood shredding was being proposed as an additional activity at the site which would result in an increase of 15,000 tonnes of material being brought to the site, with an additional 20 HCV movements per day. Permanent permission for the site was being sought and the restoration of the site conditions remains as it was with the original application.

The Committee received one deputation on this item. Owen Dimond spoke on behalf of the applicant in support of the application. He told Committee that the applicant (Veolia) had many sites across Hampshire and that this was the primary site for wood waste and processing. Noise levels had never been an

issue due to the background noise from the M27 motorway being quite high, but there were 4 metre concrete walls and shutter doors proposed to keep processing noise to a minimum. The revised Condition 11 required further noise monitoring to assess compliance and if additional mitigation was required, then operations would cease until the noise levels were found to be suitable. The applicant preferred the use of this condition rather than a temporary permission due to the up front investment costs involved. Veolia had a record of high standards of operation.

During questions of the deputations, the following points were clarified:

- “lowest observable adverse effect level” meant that the noise level was below that of the background noise.
- Down End Farm generally used local drivers and vehicles so there was minimum risk of the wrong roads being used.
- Temporary permission would not be suitable due to the amount of investment required as part of the application

During questions of the officers, the following points were clarified:

- Additional use on existing activity requires Hampshire County Council to approve.
- No comments had been received from Fareham Borough Council regarding the Local Plan Policy.
- To cease an operation (as permitted by the proposed Condition 11) is a measure that has been used before by Hampshire County Council with other sites and provides additional safeguarding.

Some Members had concerns regarding the application being made permanent before the noise levels could be assessed. It was proposed and seconded that “the wood shredding process be permitted for a temporary period until 31 December 2019” to assess its impact. This was felt to be too strict and unnecessary by others Members of the Committee who believed that the proposed amended condition 11 gave the necessary assurance and was lost on a vote.

RESOLVED:

The Head of Law and Governance be authorised to draw up a Section 106 Agreement to transfer the obligations relating to lorry routing in the existing Section 106 Agreement for planning permission P/13/0593/CC and subject to all parties entering into the Section 106 Agreement with the County Council then authority be delegated to the Director of Economy, Transport and Environment to GRANT planning permission subject to the amendment to Condition 11 and the Conditions set out in Integral Appendix B.

Voting:

Favour: 12 (unanimous)

36. **APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO RECORD PUBLIC FOOTPATHS AT ASHE HILL PARK ESTATE, OAKLEY**

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 8 in the Minute Book) regarding an application for a Definitive Map Modification Order to record public footpaths at Ashe Hill Park Estate in Basingstoke.

The officer introduced the item and explained that despite there being many issues and concerns from local residents regarding the application, only matters of evidence could be considered in determining the application. A location plan was shown and the background and closures of the paths was explained to Committee. The plan showed the footpaths that had been closed in 2009, but the majority were free of permanent obstruction and had been since the 1960's. Over 120 people had been written to as part of the consultation process and responses had been received from those who wanted the paths to remain open along with those who wished them to remain closed.

Conflicting evidence had been received regarding the path marked U-V. On the one hand, the adjacent landowners had indicated that the paths had been blocked on a regular basis, but on the other hand the user evidence did not bear this out. Therefore, the recommendation in respect of this path was that an Order should be made to record it so that the conflicting evidence could be tested further at public inquiry.

The Committee received four deputations on this item. Chris Burrowes, a local resident told Members how the route U-V was not as wide as had been stated in the report, and had been blocked to prevent anti-social behaviour. Only one person had claimed to use the route regularly yet no one had ever been witnessed using the path. Mr Burrowes felt there were other more suitable paths that could be used as alternatives.

Dorothy Collard thanked the officer for the detailed report but also spoke in favour of path U-V remaining closed. She told Committee that blocking the path should be enough to deter people from using it, but had they known that a sign was required then they would have put one up. Many of the roads surrounding the paths were quiet culs-de-sac, and therefore it was not too much of an issue that there were no pavements. Ms Collard felt that the only route required was B1-Y-X-T-S, which had been upgraded.

Beverley Fenn addressed Committee on behalf of her Mother, Ethel Wilcox, who had lived in her property since the 1960's and sought to legally get path U-V blocked after an incident with dogs that had managed to get from the path into her garden. She and her husband had been advised to block the route for a day a year and had done so for 50 years. Those who tried to use the route soon after closure were told why the route had been blocked and Mrs Wilcox had not expected to have to provide further evidence regarding the closure. Anti social behaviour in the area had drastically decreased since the path had been blocked.

John Bonner, another local resident, told Committee how he had regularly used the route U-V, and had never known the path to be blocked, but accepted it didn't mean that it hadn't happened. Mr Bonner felt that using the road network on foot was dangerous and the paths were important, particularly with young

children and vulnerable people getting around and accessing the local shops and school.

During questions of the deputations, the following points were clarified:

- The fence lines were still visible where some had been removed from blocking paths
- Mr Bonner accepted that paths could have been blocked on occasion even if he had not witnessed it himself.
- Beverly Fenn could recollect the paths being blocked and assisting with it whilst growing up in the property.
- Path L-M was currently blocked.

During questions of the officer, the following points were clarified:

- The paths needed to be looked at collectively. It was not open to the County Council to pick and choose which paths were recorded as public because of the prejudicial effect on landowners. If the recommendation to make an order was not accepted, then the applicant could appeal, in which case the county council might nevertheless be directed to make an order.
- The routes that were blocked could arguably leave landowners open to a civil challenge by other residents of the estate, but this was not a matter in which the County Council could involve itself.

Committee debated the item and were sympathetic to the local residents who had attended to speak at the meeting. An amendment to the recommendation was proposed and seconded, namely that a Definitive Map Modification Order was not made in respect of footpath section U-V. The amendment was debated but defeated on a vote. Committee agreed that the evidence of witnesses and landowners should be cross examined further at an Inquiry.

RESOLVED:

- A) That a Definitive Map Modification Order be made to record the route shown between C-E-G-H-I as a public footpath with a width varying between 1.8 and 2.7 metres.
- B) That a Definitive Map Modification Order be made to record the route shown between E-F as a public footpath with a width of 2.4 metres.
- C) That a Definitive Map Modification Order be made to record the route shown between H-J-K-L-O as a public footpath with a width varying between 1.1 and 2.2 metres.
- D) That a Definitive Map Modification Order be made to record the route shown between L-M as a public footpath with a width of 2.3 metres.
- E) That a Definitive Map Modification Order be made to record the route shown between P1-R-R1-U as a public footpath with a width varying between 1.4 and 1.9 metres.
- F) That a Definitive Map Modification Order be made to record the route shown between Q-R as a public footpath with a width varying between 1.8 and 2.1 metres.
- G) That a Definitive Map Modification Order be made to record the route shown between N-O-U-V-C1-D1 as a public footpath with a width varying between 2.2 and 2.9 metres.

- H) That a Definitive Map Modification Order be made to record the route shown between A1-C1 as a public footpath with a width of 2.3 metres.
- I) That a Definitive Map Modification Order be made to record the route shown between Z-B1 as a public footpath with a width varying between 2.1 and 2.4 metres.
- J) That a Definitive Map Modification Order be made to record the route shown between T-V as a public footpath with a width varying between 1.7 and 2.1 metres.
- K) That a Definitive Map Modification Order be made to record the route shown between S-T-X-Y as a public footpath with a width varying between 2.1 and 2.4 metres.
- L) That a Definitive Map Modification Order be made to record the route shown between W-X as a public footpath with a width varying between 2.4 and 2.6 metres.
- M) That the application to record A-B-C as a public footpath be refused.
- N) That the application to record C-D as a public footpath be refused.

Voting:

Favour: 12 (unanimous)

Chairman, Cllr Peter Latham
24 January 2017