

HAMPSHIRE COUNTY COUNCIL
Information Report

Decision Maker:	Regulatory Committee
Date:	11 December 2019
Title:	Appeal Decisions: (APP/Q1770/C/18/3197890) (APP/Q1770/W/18/3197963) relating to Variation of conditions 4, 7, 9 & 12 of planning permission 16/11117 (to increase vehicle movements; to allow retention of soil screener for external separation of soil and rubble; and to allow continuation of existing concrete panel fence); and retention of existing welfare units at Ringwood & Fordingbridge Skip Hire Courtwood Farm, Court Hill, SANDLEHEATH SP6 1QD (No. 17/10612) (Site Ref: NF262)
Report From:	Head of Strategic Planning

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Purpose of the Report

1. To advise the Regulatory Committee of the recent planning appeal decision.

Recommendation

2. That the contents of the report are noted.

Background

3. This report relates to the successful appeal by Ringwood & Fordingbridge Skip Hire against the Council's decision to refuse planning application 17/10612 for the Variation of conditions 4, 7, 9 & 12 of planning permission 16/11117 (to increase vehicle movements; to allow retention of soil screener for external separation of soil and rubble; and to allow continuation of existing concrete panel fence); and retention of existing welfare units at Ringwood & Fordingbridge Skip Hire Courtwood Farm, Court Hill, Sandeheath SP6 1QD
4. The appellant's unsuccessful appeal against the Council's Enforcement Notices served following the above refusal at the same site and application for costs, are also described in the report.
5. At the meeting of the Regulatory Committee held on 24 January 2018 it was resolved that planning permission be refused on the grounds:

1. The development is not in accordance with Policies: 4 (Protection of the designated landscape) and 13 (High-quality design of minerals and waste development) of the Hampshire Minerals & Waste Plan (HMWP) (2013) as it

would adversely impact on the tranquillity and noise environment of the area undermining the objectives of the AONB designation;

2. The development is not in accordance with Policy 10 (Protecting public health, safety and amenity) of the HMWP (2013) as it would have a significant adverse impact on residential amenity by reason of noise.

3. The development is not in accordance with Policy 12 (Managing traffic) of the HMWP (2013) and Policy DM22 (Employment development in the countryside) of the New Forest Sites and Development Management (part 2) (2014) as the scale of increase in HGV movements sought will have an adverse impact on the amenity and character of settlements through which these vehicles pass and it has not been demonstrated that the traffic generated by the proposal and the increase in vehicle movements will not cause severe highway safety and capacity impacts on the existing transport network;

4. The development is not in accordance with Policy 29 (Locations and sites for waste management) of the HMWP (2013) as it is not located in the locations identified for the development to provide recycling, recovery and/ or treatment of waste (pursuant to Policy 29(1)); the applicant has not demonstrated that the site has good transport connections to sources of and/or markets for the type of waste being managed (pursuant to Policy 29 (3)); and a special need for that location and the suitability of the site has not been demonstrated (pursuant to Policy 29 (3)).

6. The Committee also authorised officers to take appropriate enforcement action to bring the site into compliance with conditions 4, 7, 9 on its extant planning permission 16/11117, all of which were being breached.
7. Enforcement Notices (Breach of Condition Notices (BCNs)) requiring that the breaches of conditions 4 ((HGV) movements restricted to 50 per week (25 in and 25 out)), 7 (All sorting or treatment of waste/materials within the building shown on drawing: 'Block Plan') and 9 (External storage of waste or materials shall only take place in the hatched bays shown on drawing 'Block Plan') cease were served on the appellant on 6 February 2018, coming into effect on 19 March 2018. The appellant had 6 months to comply with the Notices coming into effect.
8. Both appeals concern changes (i.e. increases) to HGV numbers and movements to and from the site exceeding approved weekly numbers of 50 per week (25 in and 25 out) to 234 per week (117 in and 117 out) and compliance with approved plans (Block Plan) under extant planning permission 16/11117.

The Appeal

9. On 14 March 2018 the applicant submitted two appeals to the Planning Inspectorate (PINS), one against the breaches of conditions alleged in the Enforcement Notices (APP/Q1770/C/18/3197890) and one against the refusal of planning permission (APP/Q1770/W/18/3197963). Both appeals would be assessed by the same Inspector at a Hearing.

10. In early 2019 the Hearing was set for 8 May 2019. This was subsequently postponed due to the Inspector's ill health until 10 September 2019.
11. Prior to the Hearing, following the provision of additional noise mitigation by the appellant, the 2nd reason for refusal '*Significant adverse impact on residential amenity by reason of noise*' was deemed by the District Council's Environmental Health Officer to have been allayed. The Environmental Health Officer's objection was withdrawn subject to the proposed mitigation being imposed by condition/s should the appeal be allowed.
12. Shortly before the Hearing date, the appellant advised that he sought to win costs, citing '*the Council had acted unreasonably through firstly refusing to grant planning permission and secondly through the serving of the Enforcement Notices*'. The County Council informed the Inspectorate that it would contest this.

The Hearing

13. The Hearing took place at Avon Community Centre in Fordingbridge on 10 September 2019. It was attended by the Inspector, County Council officers (Planning, Enforcement and Highways) and the Appellant - Ringwood & Fordingbridge Skip Hire Ltd - and his advisors (Planning, Noise and Highways consultants). Several interested parties attended, including local residents and a Sande Heath Parish Councillor.
14. The three remaining reasons for refusal, 1 (AONB impact), 3 (Road safety and capacity impacts) & 4 (Location), and those supporting the Enforcement Notices, were still discussed with both parties questioned by the Inspector.
15. A site visit was undertaken by the Inspector and both the County Council officers and the appellant and his advisors attended. The Inspector used the visit to look at areas of the site and its environs relative to the reasons for the refusal of planning permission and breach of conditions on the Enforcement Notices.
16. It was acknowledged by all parties that since the Appeal was lodged and at the Council's most recent site visit in January 2019, the appellant had been in compliance with conditions 7 and 9 of extant permission 16/1117. The appellant had ceased waste handling, treatment and storage operations outside of the main building, except those wastes being stored in approved external bays.
17. All parties were invited by the Inspector to discuss the proposed site layout plan for accuracy as it (and any others) would be imposed by condition/s should the appeal be allowed. A 10 day deadline was set for an agreed version of the plan to be submitted to the Inspector.

Appeal Decision

18. On 28 October 2019 the Inspector determined that the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963) be allowed and the appeal against the Council's Enforcement Notices (APP/Q1770/C/18/3197890) be dismissed. Further, the Inspector dismissed the appellant's application for costs against the Council.
19. In allowing the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963), the Inspector advised *"that on balance, the increased number of HGV movements to 234 per week (117 in and 117 out) will not harm the character and amenity of the AONB (refusal reason 1) or adversely affect highway safety, capacity or traffic flow (refusal reason 3), and would accord with the development plan (refusal reason 4)"* and granted planning permission subject to planning conditions. Appendix A contains the Appeal Decisions.
20. In dismissing the appeal against the Council's Enforcement Notices (APP/Q1770/C/18/3197890), the Inspector acknowledged that through allowing the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963), the breaches of conditions 4 ((HGV) movements restricted to 50 per week (25 in and 25 out)), 7 (All sorting or treatment of waste/materials within the building shown on drawing: 'Block Plan') and 9 (External storage of waste or materials shall only take place in the hatched bays shown on drawing 'Block Plan') on extant permission 16/1117, whilst valid when the notices were originally served, the appellant had essentially complied with them in the interim (7 and 9) and through allowing the HGV movements of 234 per week (117 in and 117 out) exceeding the previously permitted HGV movements of 50 per week (25 in and 25 out), this breach and impact was deemed acceptable.

Costs Award Decision

21. In refusing the appellant's application for an award of costs, the Inspector concluded that in his view *"the Council has not, as alleged, relied on vague, generalised or inaccurate assertions, and it was not incumbent on the Council to withdraw its AONB reason for refusal (reason 1) when it accepted the appellant's evidence that residential amenity would not be unacceptably harmed by noise (reason 2)."* This fully supported the Council's position in rebutting this costs application.

Appendices

Appendix A - Planning Inspectorate Appeals Decision (dated 28 October 2019).

Link to the application and appeal

<https://planning.hants.gov.uk/ApplicationDetails.aspx?RecNo=18189>