

**MINUTES** of a meeting of the **REGULATORY – PLANNING COMMITTEE** held at County Hall, Matlock on 3 December 2018.

**PRESENT**

Councillor M Ford (in the Chair)

Councillors J Atkin, A Griffiths, L Grooby, R Iliffe, R Mihaly, R A Parkinson, P Smith and B Wright.

Apologies for absence were received from Councillor D Charles.

No non-pecuniary interests were declared.

No Significant Lobbying had been received.

**83/18**      **SITE VISIT** In accordance with the Code of Practice Members visited the Ward Recycling site at, at Hallam Fields, Quarry Hill Industrial Estate, Ilkeston (Minute No. 86/18).

**84/18**      **MINUTES RESOLVED** that the Minutes of the meeting of the Committee held on 5 November 2018 be confirmed as a correct record and signed by the Chairman.

**85/18**      **PROPOSED PERMANENT CHANGE OF USE OF PART OF AN AGRICULTURAL FIELD TO PLAY AREA FOR SCHOOL USE AND TEMPORARY CHANGE OF USE TO A SITE COMPOUND TO ENABLE THE CONSTRUCTION OF THE CLASSROOM BLOCK (GRANTED UNDER PLANNING PERMISSION CD3/0218/97) IN THE INTERIM PERIOD ON LAND ADJACENT TO ST OSWALD’S CHURCH OF ENGLAND PRIMARY SCHOOL, MAYFIELD ROAD, ASHBOURNE APPLICANT: DERBYSHIRE COUNTY COUNCIL CODE NO: CD3/0718/28** The report of the Strategic Director explained the application together with comments received from consultees and following publicity. The application was for planning permission for a permanent change of use of part of an agricultural field to a play area for educational use, and the construction of a temporary vehicular access into the field for use with the construction compound associated with the construction of a three classroom block on land adjacent to St Oswald’s Church of England Primary School, Mayfield Road, Ashbourne. The application site was located in the Ashbourne Conservation Area and close to a Grade I listed building, the parish church of St Oswald. Large groupings of other listed buildings were also close by.

The proposed development would bring public benefit through the expansion of the existing school’s facilities which were under pressure as a

result of new housing development in the town. The development would also result in harm to the character and appearance of the Ashbourne Conservation Area and the setting of St Oswald's church, a Grade I listed building. Derbyshire Dales District Council had raised an objection to the proposal on these grounds.

The proposal did not accord fully with relevant policies contained in the Derbyshire Dales Local Plan and in the National Planning Policy framework, since it would result in harm to heritage assets including one of exceptional importance. The proposal would also result in landscape and visual impacts. Some of these impacts could be minimised through the imposition of conditions although they would not prevent the impacts altogether. The law required the Council, in determining planning applications, to give special regard to the preservation of affected heritage assets which were represented by listed buildings, including impacts on their settings (Government planning guidance affirms that this is a matter of great weight), also to give special attention to their effects on any Conservation Area. The Strategic Director's report had been produced in recognition of the special importance of the issue of harms to the listed buildings heritage and Conservation Area which were associated with the application in this case. The application site was the only available land adjoining the school which could possibly serve its purpose. The Government also placed great weight on the expansion and improvement of schools.

The Strategic Director in conclusion recommended the application for approval, subject to conditions set out in the report, on the basis that the value of the benefit was sufficient to outweigh the limited extent of the harm to the listed heritage asset.

**RESOLVED** that planning permission be granted, subject to the conditions contained in the report of the Strategic Director Economy, Transport and Environment.

**86/18      SECTION 73 APPLICATION SEEKING PERMISSION TO AMEND CONDITION 24 OF PLANNING PERMISSION CW8/0811/61 TO EXTEND THE HOURS OF WORKING ON THE ESTABLISHED WARD WASTE RECYCLING FACILITY ON LAND AT THE QUARRY HILL INDUSTRIAL ESTATE, HALLAM FIELDS ROAD, ILKESTON, DERBYSHIRE APPLICANT: WARD RECYCLING LIMITED CODE NO: CW6/0818/45** Details of the application together with comments and objections received from consultees were given in the report of the Strategic Director Economy, Transport and Environment The application related to an extant planning permission granted previously (code no. CW8/0811/61) for an amendment to the site layout of the application site and the erection of a new building. The site was situated within the Quarry Hill Industrial Estate, Ilkeston and within the setting of two Grade II listed buildings. The application sought

permission not to comply with the requirements of Condition 24 of planning permission code no. CW8/0811/61, which restricted the hours of operation on the application site. Condition 24 limited the operation of plant and equipment to between the hours of 0700 hours and 1900 hours on Mondays to Fridays and between 0700 hours and 1300 hours on Saturdays, and limited vehicular movements to and from the site to between 0700 hours to 1900 hours on Mondays to Fridays and 0700 hours and 1700 hours on Saturdays. The condition also prevents all working on Sundays, Bank Holidays and other National Holidays.

The details with the application referred to an operational need for days and hours of operation in the waste recycling building to enable the processing of waste to occur between 0400 hours and 2300 hours Monday to Friday inclusive and between 0400 hours and 1900 hours on Saturdays, Sundays and Bank Holidays. The application also proposed a slighter extension in the hours of operation for all other site operations, including the acceptance and processing of waste and associated activities outside the building, to between 0600 hours to 1900 hours on Mondays to Fridays inclusive, and between 0600 hours and 1900 hours on Saturdays.

This application had received 103 objections, raising concerns regarding noise, pests, odour, traffic, heritage and cumulative impacts. A petition had also been received, in objection to the application on the grounds of increased noise, smell, and traffic impacts on residents. The proposed amendment would result in activities taking place over longer periods of the day and on days of the week where operations did not currently take place and this had the potential to impact on local amenity.

The conclusion in the report reflected the Strategic Director's opinion that the proposed amended hours for processing inside the building and for activities outside the building would help the business to process waste efficiently and in accordance with sustainable waste management methods. The representations and petition which raised a number of concerns, had been taken into consideration. A new permission subject to conditions which authorised such amended hours would not, in his opinion, affect any listed heritage assets adversely or generate extra traffic or pollution and would accord with the Waste Local Plan and the adopted Erewash Core Strategy. He did not consider that the proposal would result in any adverse environmental or amenity impacts that would be so significant such as to warrant refusal to grant a new permission. The recommendation was therefore for a new permission to be granted, subject to conditions based on a set of conditions that would provide for the proposed amended hours for inside and outside operations.

Councillor Frudd addressed the meeting as the local County Council member. He stated that the operations respectively inside the building and outside it, were two distinct issues to consider. He was familiar with the road infrastructure around the site, and was concerned that any increase in its use for haulage would be harmful to residents and damaging to buildings. He had already tried to rectify the issues with the road and had arranged a public meeting in January 2019. He urged members to defer their decision or reject the application.

Donald Ward addressed the Committee on behalf of the applicant. He was a grandson of the founder of the applicant's business and commended the content of the officer report, which he considered to be well balanced. He emphasised the beneficial role of the Company as a local employer. He estimated that only about four per cent of the traffic in the industrial estate was from the company's operations.

Don Pringle addressed the Committee as Chair of Trowell Parish Council, and as a resident of Trowell, which he described as being no further from or nearer to the site than Stanton-by-Dale, and suffering from the effects of traffic which included traffic to and from the site. He expressed disappointment that neither Trowell Parish Council nor Broxtowe had been consulted on the application. According to a traffic census of the area in 2016 15,000 vehicles used the road through Trowell in a five day period. He was apprehensive of what the Company might do during the extended hours, and whether it might increase the tonnage it handled at the site, given that it was currently restricted to 40,000 tonnes per year. He suggested that if the drivers were required to use a single proper access and exit then the traffic could disappear from the roads that were unsuitable. He requested that a condition be imposed on any new permission to be granted, to provide for the operation of a traffic routeing scheme to this effect.

Councillor Harley of Trowell Parish Council then addressed the Committee. She also considered that the local Councils in Nottinghamshire should have been included on the consultation list. Residents had only found out about the planning application through a local newspaper. She said the use of the A609 road at a rate of 15,000 vehicles a week was causing considerable and expensive damage, and nuisance through smell and dust. The traffic did not produce any economic benefit for the village. The quality of life for elderly people, and for everyone at weekends, needed protecting.

Christine Barlow addressed the Committee as one of the residents of Kingston Avenue, which was close to the site. . She was concerned that there would be extra traffic, noise, dust and smell. She could see that the recycling at the site might bring more jobs to the local economy but this did not excuse noisy activity every day at all times of day and night. Their lifestyle

was already being affected by it and this proposal would only make things worse.

Mark Adam, a resident on Kingston Avenue for 25 years, addressed the Committee. There was a lot of noise and dust created by the site and he had complained previously about the use outside permitted hours. He considered that lorries should be required to use another route to and from the site. He stated that this application was too much; he feared that noise would come from the site at night and that smells and flies would increase, especially in the Summer.

Gabrielle Peters, resident at Hallam Fields addressed the Committee. She took exception, as one of the residents living closest to the site, to being informed by people who did not live in the area that noise from the development was acceptable. She said they were unable to sell their properties because of the excess noise. At this point she played a recording of noise from her kitchen at 4:00 a.m.. She suggested that if the proposed changes to working hours were permitted and went ahead, there would be no “work-life balance” as there would be too much noise to enjoy time at home.

The Planning Officer presenting the report on behalf of the Strategic Director then responded to questions and matters raised from the speeches referred to above :

- No overall increase was proposed for the number of HGVs using the roads around the site;
- There was a limit on the tonnage under the existing permission of 40,000 tonnes per year, which would remain;
- Developments which supported an increase in waste being transformed by recycling represented sustainable waste management;
- The Environmental Agency would be dealing with any complaints it received of environmental issues of noise, smells, dust and monitoring for which it was responsible for monitoring
- The applicant was not proposing any increase in HGV use.

Members then had the opportunity to ask questions of the officer and make some comments and observations

Councillor Smith enquired how the Erewash EHO could provide figures for noise when there was nothing to measure, and asked if an amendment could be made to the application for lorries to have access to the site at 7 am. He was informed that the road had been improved by companies who used the road.

Councillors Smith and Ford sought clarification on whether all the activities that the company was intending to carry on up to 23:00 and from

04:00 would be inside, and what noise this might involve. At the invitation of Councillor Ford as Chair, Mr Ward then responded; explaining that that these hours of working were sought because recycling equipment in the building had been found to be fully effective only when run at a lower speed so required longer to run. The waste entered the process by delivery into a hopper by use of a mobile grabber under a covered but partly open-sided loading bay (which was illustrated by a slide projection showing a grabber in the loading area).

Mr Ward also mentioned that noise monitoring had been done when the hopper was being loaded, and that he understood that any activity which was beneath the roof of the building would be considered to be inside it. The legal officer in attendance from Legal Services then explained that the phrase “entirely inside the building” had been included in draft condition 26 in the officer recommendation to ensure that these hours of working applied only to activities that were fully internal, in the sense of being fully contained within four walls.

Councillor Ford proposed a motion for a resolution for a planning permission be granted under the application, subject to the conditions based on those recommended in the report of the Strategic Director Economy, Transport and Environment; except with the hours for operations as recommended being limited to a temporary period of months and then reverting to those set out in the existing permission, to further limit the potential impact on amenity from noise. It was pointed out that such a 12 month scheme of operating hours would provide an opportunity for specific noise monitoring to inform any application that might be made for any extension to it.

Councillor Wright expressed a major reservation about the reliability of consultee opinions which had been received regarding noise, and the surface water on site. He did not feel able to accept that there would not be any noise or disturbance from what was proposed and feared that there would be increase in Health and Safety issues. He did not support any approval under the application.

Councillor Mihaly stated that the proposed change in hours would be significant and that the needs of the Company and those of the residents were at opposite poles. The impact of the additional hours was a massive change.

**RESOLVED** that (1) planning permission be granted, subject to the conditions based on those recommended in the report of the Strategic Director Economy, Transport and Environment; except with the hours for operations being as recommended for a temporary period of 12 months and then reverting to those set out in the existing permission, to further limit the potential impact on amenity from noise.

Councillor Smith left the meeting at this point.

**87/18      SUBMISSION OF A HABITAT MANAGEMENT PLAN UNDER AN OBLIGATION PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO PLANNING PERMISSION CM6/0910/94 LODGE HOUSE SURFACE MINE EXTENSION ON LAND AT AND TO THE NORTH OF THE EXISTING LODGE HOUSE SURFACE MINE, HEANOR ROAD, SMALLEY APPLICANT: HARWORTH ESTATES PROPERTY GROUP LTD      SUBMISSION NO: SM3040** The Committee was asked to consider, for approval, in accordance with an agreement of November 2011, a 20 year Habitat Management Plan for the restored site of the Lodge House Surface Mine Extension under the planning permission granted by the Council (code number CM6/0910/94).

The Strategic Director, informed members that Planning permission (code no: CM6/0910/94) was granted for Lodge House Extension at Smalley on the completion of a Section 106 legal Agreement in November 2011 (following approval by the Committee on 13 October 2011, Minute No. 110/11 refers). The agreement required, amongst other items, the submission by the Owner for the approval of the Council, of a Plan for Management of Habitat areas of the site for 20 years, following the completion of the five year aftercare as required by Condition 51 of planning permission CM6/0910/94.

The agreement also required that a bill of costs and quantities for the carrying out of the Plan, was submitted to the Council and an agreed sum was deposited in a bank account designated by the Council's Chief Financial Officer, which should be sufficient to meet the potential costs of carrying out the Plan. The Council had the discretion to release monies from the sum back to the Owner or to draw on the sum to fund the works should the Owner fail to carry out works. All interest from the accrued sum was to be added to the deposit.

A Habitat Management Plan had been submitted by the Owner. It was designed to continue the rehabilitation of the site and ensure continuing net gains in terms of the biodiversity value of the site by continuing the measures set out in the Restoration and Aftercare Strategy for the site. This Strategy had been very successful and the restoration of the site was considered to be of a very high standard.

The measures set out in the Plan were based upon discussions between the Owner, operator and the Council's officers that had been ongoing through the lifetime of the development and were considered to be well thought out. The Strategic Director believed that the measures set out in the Plan were appropriate and was satisfied that the Plan met the requirements of the legal agreement and that it would ensure the proper management of the site for a further 20 years. It was therefore recommended for approval.

**RESOLVED** to approve the Habitat Management Plan submitted in respect of the obligation at Schedule 1, Part 1a, Paragraph 1 of the Deed of Agreement pursuant to Section 106 of the Town and Country Planning Act 1990, as amended on 27 October 2017 by Fisher German LLP, on behalf of Harworth Estates Property Group Ltd.

**88/18**        **CURRENT ENFORCEMENT ACTION**    **RESOLVED** to receive the report on Current Enforcement Action.

**89/18**        **OUTSTANDING APPLICATIONS**    **RESOLVED** to receive the list on decisions outstanding on 5 November 2018 relating to EIA applications outstanding for more than sixteen weeks, major applications outstanding for more than thirteen weeks and minor applications outstanding for more than eight weeks.

**90/18**        **CURRENT APPEALS/CALLED-IN APPLICATIONS**    **RESOLVED** to note the report on current appeals/called-in applications relating to County matters.

**91/18**        **MATTERS DETERMINED BY THE STRATEGIC DIRECTOR ECONOMY, TRANSPORT AND ENVIRONMENT UNDER DELEGATED POWERS**    **RESOLVED** to note that the following applications had been approved by the Strategic Director Economy, Transport and Environment under delegated powers on:

### **8 November 2018**

1.     Delegation Decisions on Schemes Required by Planning Conditions:
  - SD3169

### **15 November 2018**

1.     Proposed Installation of an All Weather Games Area on the Existing School Field, Adjacent to the School Building at Woodthorpe C of E Primary School, Seymour Lane, Woodthorpe  
Applicant: Derbyshire County Council  
Planning Application Code No: CD2/0918/54
2.     Proposed Change of Use of Land from Community Use for Allotments (Sui Generis) to Educational Use (D1 Non Residential), the Erection of 2 Metres High 2D Mesh Fencing, a 5 Metres Wide Double Leaf Gate and a Hobbit House, to form a Forest Area for Pinxton Nursery School, Kirkstead Road, Pinxton  
Applicant: Derbyshire County Council



Planning Application Code No: CD5/0818/41

3. Delegation Decisions on Schemes Required by Planning Conditions:
  - SM3187
  - SD3190

### **22 November 2018**

1. The Proposal was to Repair the Majority of the Existing Single Glazed, Timber Windows, where Possible. This Includes for General Repair and Overhaul Items and Installation of Secondary Glazing/Slimline Double Glazed Window Panes. There are also 5nr Windows which are Down for Replacement, with Sympathetic, Slimline Double Glazed Timber Units, or Double Glazed Aluminium Window Units, where Appropriate at Riddings Junior School, 15 Church Street, Alfreton  
Applicant: Derbyshire County Council  
Planning Application Code No: CD6/1018/57
2. Delegation Decisions on Schemes Required by Planning Conditions:
  - SM3165
  - SM3191

### **29 November 2018**

- 1 Installation of a Proposed Timber Trim Trail and Retrospective Planning Permission for a Timber Storage Shed at Middleton Community Primary School, Main Street, Middleton by Wirksworth  
Applicant: Derbyshire County Council  
Planning Application Code No: CD3/0818/56