



Appeal Decision

Site visit made on 6 September 2011

by **Andrew Jeyes** BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 September 2011

Appeal Ref: APP/M2460/A/11/2153650

Manor Farm, Sharnford Road, Aston Flamville, Hinckley LE10 3AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which previous planning permissions were granted.
 - The appeal is made by J & F Powner Ltd against the decision of Leicestershire County Council.
 - The application Ref 2011/0097/01 (2011/C425/01), dated 14 February 2011, was refused by notice dated 4 May 2011.
 - The application sought planning permission for a proposed new and extended composting, reception and storage facility to replace existing facility without complying with condition 3 attached to planning permission Ref 2008/0653/01 (2008/C323/01) dated 9 April 2009 and conditions 1 and 2 of planning permission Ref 2010/0484/01 (2010/C310/01) dated 24 August 2010.
 - The conditions in dispute are:-
 - No 3 of planning permission Ref 2008/0653/01 (2008/C323/01) which states that: Unless otherwise agreed in writing by the Director of Community Services, no deliveries of compostable materials, or shredding or handling of such materials shall take place except between the hours of: 08:00 and 17:30 Monday to Friday; and, 08:00 and 15:00 on Saturdays. No deliveries shall take place on Sundays or Public/Bank Holidays unless previously agreed in writing by the Director of Community Services.
The Reason given for the condition is: To safeguard the amenities of the locality and minimise any adverse impacts.
 - No 1 of planning permission Ref 2010/0484/01 (2010/C310/01) which states that: Notwithstanding the provisions of Condition No 3 of planning permission no. 2008/0653/01 (hours of operation), no more than 10 deliveries per week of compostable materials by, or on behalf of, municipal authorities shall be permitted between 0700-0800 hours and 1730-1800 hours Mondays-Fridays (except on any Public/Bank Holiday).
The Reason given for the condition is: To safeguard the amenities of the locality and minimise any additional impacts arising from the approved extended hours of operation.
 - No 2 of planning permission Ref 2010/0484/01 (2010/C310/01) which states that: In all other respects, the requirements of Condition 3 of planning permission No. 2008/0653/01 (hours of operation) shall apply to the development.
The Reason given for the condition is: To safeguard the amenities of the locality and minimise any additional impacts arising from the approved extended hours of operation.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted in 2009 for a revised receiving, storing and composting facility subject to restricted hours of operation. A limited extension to

the hours of operation was granted permission in 2010 for compostable materials from municipal authorities. The current appeal proposal seeks to extend further the hours to allow four deliveries on Sundays and eight deliveries on Public/Bank Holidays on behalf of municipal operators.

3. The main issue arising from the appeal is the effect of the additional deliveries on the living conditions of local residents.

Reasoning

4. The composting facility is part of a complex of farm buildings at Manor Farm, which lies some 350 metres to the east of dwellings in Weston Flamville village. Access is via a farm access track that is also a public bridleway. The amendments are required to provide for deliveries from green waste collection rounds carried out on bank holidays by Hinckley and Bosworth Borough Council and to enable the County Waste Authority to deliver full skips of green waste from its Barwell site, where it is stated that there is insufficient capacity on Sundays.
5. Aston Flamville is a comparatively isolated hamlet set within an area of relatively quiet countryside. Residents are used to quiet enjoyment of their properties and gardens, especially outside of normal working hours that includes Sundays and bank holidays. At present, under the terms of the permission issued, local residents should not be subject to any HGV activity associated with the facility on Sundays or bank holidays.
6. The extension of opening hours, even for the limited number of journeys suggested by this appeal, would introduce traffic and activity into these periods. Planning Policy Guidance 24: *Planning and Noise* indicates that in some rural areas background noise levels are very low and that the introduction of noisy activities may be especially disruptive and Planning Policy Statement 10: *Planning for Sustainable Waste Management* indicates that the likely impact on the local environment and amenity should also be considered.
7. A noise assessment has been submitted with the proposal indicating that the additional traffic would give rise to a small but perceptible increase in noise levels over defined periods. However, the individual events of HGV's passing through the village in front of houses would intrude into the quiet enjoyment of residents, even though one-hour noise levels would only rise by a small but perceptible amount. It would represent a specific, marked and intrusive change to the present circumstances.
8. For these reasons, the proposal would harm the living conditions of local residents contrary to Policy WDC8 of the adopted Leicestershire and Leicester Waste Development Framework: *Core Strategy & Development Control Policies up to 2021*. This aims to ensure that development does not generate unacceptable adverse effects from noise or traffic to land users in close proximity to the development. This is further supported by saved Policy C2 of the Blaby District Local Plan 1999 that indicates that where small scale employment development is provided in the countryside, there should be a satisfactory relationship with nearby uses including matters arising from noise and vehicular activity.
9. In support of the appeal, the appellant points to the need of Hinckley and Bosworth Borough Council to dispose of green waste on bank holidays and the need of the County Council to recirculate skips from their Barwell site. The nearest alternative site able to accept the green waste would be at Soars Lodge Farm, Foston, which would involve an additional 19 mile round trip from the Barwell site. This journey would be over more major roads likely to be used by larger volumes of traffic at

weekends and bank holidays, so that the environmental impact of the small number of journeys involved on individual households would be less significant.

10. Whilst Hinckley and Bosworth Borough Council support the appeal to enable them to meet contractual obligations, neither this nor the additional mileage that may need to be travelled would override the need to ensure that additional days and hours of operation do not harm the living conditions of residents near the site.
11. In addition, there is no analysis of alternative working arrangements or waste management procedures from the two Councils who would use the facility into alternatives for dealing with their green waste on Sundays and bank holidays.
12. The Government has issued a Draft National Planning Policy Framework [NPPF] that consolidates national planning policy. This has been considered in relation to this appeal, but it carries limited weight at this stage of the consultation process as it is in draft form and subject to change. Existing national planning policy remains and carries substantial weight and the NPPF does not propose any change in national policy relative to the issues of this appeal.
13. There are therefore no substantive advantages to having extended hours that would outweigh the harm that would arise to the living conditions of local residents. For the reasons given and having considered local representations and all other matters, the appeal is dismissed.

Andrew Jeyes

INSPECTOR