

REGULATORY COMMITTEE
17th DECEMBER 2008

**CHERHILL/COMPTON BASSETT: SECTION 73 APPLICATION TO UNDERTAKE
MINERAL EXTRACTION AND RESTORATION TO AGRICULTURE USING IMPORTED
WASTE WITHOUT COMPLIANCE WITH CONDITION 9 OF PLANNING PERMISSION
N/06/07009 DATED 19th JUNE 2007 (TO AMEND OPERATING TIMES FOR MINERAL
AND LANDFILL ACTIVITIES) LOW LANE EXTENSION LOWER COMPTON QUARRY
AND LANDFILL SITE, LOWER COMPTON, NEAR CALNE
FOR HILLS WASTE SOLUTIONS LTD
Application No. N/08/07006**

Purpose of Report

1. To consider the above application and to recommend that planning permission be **refused**.

The Site

2. The 24 hectare site comprises agricultural land with planning permission for mineral extraction and landfilling using imported waste. The site is immediately north of the existing quarry and landfill site at Lower Compton, approximately 3 kilometres east of Calne and 2 kilometres north of the A4. The centre of Compton Bassett lies around 1.3 kilometres to the east.
3. A location plan is attached at **Appendix 1**.

Planning History

4. In brief, the planning history of the site is as follows:

N/06/07009 Extension of mineral and landfill operations.
Approved 13th June 2007.

Proposal

5. This application seeks to continue development without complying with Condition 9 of planning permission N/06/07009.
6. Condition 9 restricts operation of the site to the following hours:

Except in emergencies to maintain safe working (which shall be notified to the Mineral Planning Authority in writing within seven days) no operations shall be carried out on the site except between the hours of:

07.00 - 18.00 Monday to Friday

07.00 - 13.00 Saturday

No working on Sundays or Bank/Public Holidays

Operations shall not take place on Sunday or Bank or Public Holidays

7. The applicant is seeking to extend the approved operating hours to the following:

Except in emergencies (which shall be notified to the Planning Authority as soon as practicable), no landfilling operations shall be carried out except between the following hours:

06.00 - 20.00 Mondays to Fridays

06.00 - 18.00 Saturdays following a Bank Holiday (three consecutive Saturdays following Christmas and New Year period

06.00 - 18.00 Bank Holidays

The site may also open for an additional eight Saturdays per calendar year, the date of which are to be notified to the Planning Authority in advance by 31st December in the preceding year.

8. The applicant states that the need for the extended operating hours arises from the four District Councils which bring household waste to Lower Compton, operating two different systems for waste collections over Bank/Public Holidays.
9. Two Councils choose to collect waste as normal on Bank/Public Holidays. The other two do not collect on Bank/Public Holidays, preferring to collect on the following Saturday (so called 'Catch up Saturday'). As the collected waste would need to be landfilled on the day it is collected, the applicant states that the landfill site needs to be open to accommodate both approaches.
10. In addition, the extended operating hours are requested to allow for landfilling of household waste collected at Household Recycling Centres (HRCs) on Bank/Public Holidays and Saturdays following Bank Holidays.

Planning Policy

11. The following planning policies are considered relevant to this proposal:
- Policy W4 of the Wiltshire and Swindon Structure Plan 2016 (WSSP).
 - Policies 2 and 6 of the Wiltshire and Swindon Waste Local Plan 2011.
 - Policy 13 of the Wiltshire and Swindon Minerals Local Plan 2001

These policies are set out in **Appendix 2**.

Consultations

12. **Local Member, Mrs. N. Bryant** – no comments received.
13. **North Wiltshire District Council** – recognises that the requested hours of operation do appear to extend quite late into the evening and as such it is necessary for the County Council to ensure that the additional hours of operation would not pose an unacceptable impact upon the amenities of those nearest residents. It would appear that there is insufficient information relating to noise submitted as part of the application that would allow for such an assessment to be made. Beyond this general point, no objection is raised.

14. **North Wiltshire District Council (Environmental Health Officer)** – considers the proposed hours have the potential to cause loss of amenity to nearby residents due to noise from the site. Recommends that operating hours are limited to current planning restrictions.
15. **Cherhill Parish Council** – no objection.
16. **Compton Bassett Parish Council** – no comments received.
17. **Calne Without Parish Council** - considers the application should be rejected as the current 7.00 a.m. start time produces enough feedback from residents about noise and a start time of 6.00 a.m. will only produce more reaction. Local Councillors can hear tipping into the recycling centre and reversing so those living that much closer will most certainly be disturbed.
18. **Environment Agency** – confirms that the proposal falls outside the scope of matters with which the Environment Agency is concerned.
19. **Local Highway Authority** – no objection.
20. Copies of the consultation responses are available in the **Members' Room**.

Publicity

21. The application has been advertised in the local press and by site notice. A neighbour notification exercise has also been undertaken. One letter of representation has been received. The concerns expressed relate to:
 - The company is already causing noise, odour and rubbish pollution in the area.
 - To start noise pollution one hour earlier at 6.00 am would be intolerable, as would the additional hours on Saturdays and Bank Holidays.
22. Representations have also been received from the following Groups:

Friends of Compton and Surrounds (FOCAS) – infringements of operating hours have been recorded by residents thus have little confidence that amended hours will be observed. Approval would lead to even earlier occurrences of noise and nuisance from vehicles accessing the site early in morning and evenings, adding to burden of local residents. Believe extended hours are completely unnecessary and give freedom to Hills which would not be accorded to other normal industrial companies.

Applicant is somewhat vague as to why the current hours and days of opening fail to meet the authorities' requirements. It is unclear as to why so many additional days are required following specific Bank Holidays. The request for additional Saturdays following a Bank Holiday and for full Bank Holiday operations would appear excessive – surely requirement should be either/or, rather than both?

Campaign to Protect Rural England (CPRE) – considers the application extremely thin on detail and confusing. A local resident has informed of lorries leaving the site at 5.00 a.m. Is there any guarantee that departures will not start at 4.00 a.m. if amendment is approved? Principle problem for Hills appears to be it has no waste management licence to leave waste in containers over holiday periods and weekends. Suggest WCC look into and seek to resolve this thereby managing the site to best advantage and with least disruption to the public service and local residents.

Believe site being open Bank Holidays and Saturdays following Bank Holidays is excessive. Object to application and seek much more detailed information on collection patterns from all four districts and an explanation on the issue of storing containers on site over holidays and weekends.

23. Copies of the representations are available in the **Members' Room**.

Planning Considerations

24. This planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
25. Applications to vary or modify conditions attached to a planning permission are properly known as Section 73 applications. The procedure for such applications requires the planning authority to consider only the question of the condition(s) subject to which planning permission should be granted.
26. If it is decided permission should be granted subject to conditions differing from the previous permission, the planning authority may grant permission accordingly. Alternatively, if the planning authority decides that the permission should be granted subject to the same conditions as in the previous permission, then it should refuse the application.
27. The main issue associated with this application is the claimed need for the proposed extended hours to accommodate waste collection requirements.
28. The Applicant has stated the extended hours are sought primarily to provide flexibility to accommodate the District Councils' residual waste collections and waste generated at Household Recycling Centres. However, there are currently no landfill operations taking place at this site, nor are there likely to be for some years to come.
29. Planning permission for the Low Lane extension was granted in June 2007 but mineral extraction has yet to be commenced. It is anticipated that mineral extraction will take place over a period of 6 years. Therefore, even if mineral extraction was imminent, landfill would not take place for some years. Consequently there is, at present, no basis for the Applicant to request extended working hours to accommodate waste collection requirements and the application must be regarded as premature.
30. It should also be noted that the current condition 9 restricts working hours for both mineral extraction and landfill operations, but the revised condition sought relates only to landfill operations. It is not clear what the Applicant's intentions are in respect of extraction operations.
31. It would seem therefore that the basis of the request to extend operating hours is simply to pre-empt and reduce the risk of a situation arising in the future where commercial decisions made by other parties might have a knock-on effect of causing the applicant to breach the current planning condition if it chooses to accede to those decisions. Officers do not consider this way of thinking to represent a robust land-use planning reason to extend the opening hours.
32. Objectors have raised concerns that the proposed extended hours are unnecessary and excessive and the rationale for the hours is incomplete and confusing. As highlighted by the District Council, the Applicant has made no attempt to demonstrate that the additional hours proposed would not cause an adverse impact on local amenity. The Environmental Health Officer recommends the current restrictions on working hours remain, given the potential for loss of local amenity. Officers concur that these factors have not been satisfactorily addressed by the Applicant.

Conclusion

33. No landfill operations are currently taking place at this site. Officers recommend that in the absence of any clearly demonstrated need, the flexibility and comfort the Applicant seeks in extending the stated opening hours is not a sufficiently exceptional reason as to outweigh the normal practice of not permitting operations on Saturday afternoons, Sundays and Bank Holidays. It is considered that insufficient details have been submitted to enable the Council to assess the impact the proposed extended hours may have on the quality of life of people in the area. The need for the additional hours has not been demonstrated satisfactorily.

Recommendation

34. That permission be refused for the following reasons:
1. In the opinion of the Waste Planning Authority, the need for the proposed extended hours of working has not been adequately demonstrated and in the absence of any need the permission should be granted subject to the same conditions as those subject to which the previous permission was granted. It is not considered that the notion of extending operating hours to reduce the risk of a potential future breach of the imposed condition is a valid reason to amend the condition which is necessary to protect local amenity. Accordingly the development would not be in accordance with Policy 2 of the Wiltshire and Swindon Waste Local Plan 2011.
 2. The proposed extension of opening hours to include Bank Holidays and every Saturday following a Bank Holiday and an additional eight Saturdays per year has the potential to generate an unacceptable level of activity at the site to the detriment of the amenity of the locality and neighbouring residential areas, contrary to Policy W4 of the Wiltshire and Swindon Structure Plan 2016, Policy 13 of the Wiltshire and Swindon Minerals Local Plan and Policy 6 of the Wiltshire and Swindon Waste Local Plan 2011.
 3. It is considered that insufficient details have been submitted to enable the Waste Planning Authority to fully assess the impact that the proposed extended hours might have on the environment and on residential and local amenity. Accordingly, the proposal is contrary to Policy W4 of the Wiltshire and Swindon Structure Plan 2016, Policy 13 of the Wiltshire and Swindon Minerals Local Plan and Policy 6 of the Wiltshire and Swindon Waste Local Plan 2011.

GEORGE BATTEN

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The following unpublished documents have been relied on in the preparation of this Report:

Consultation replies and correspondence