

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	04 October 2017
Application Number	17/07192/FUL
Site Address	Land off Abberd Lane, Abberd Lane, Abberd, Nr Calne, Wiltshire, SN11 8TE
Proposal	Erection of 2 No 10 metre high chimneys in association with on-site biomass boilers within approved building
Applicant	Bromview Ltd
Town/Parish Council	Calne Without
Electoral Division	Calne South And Cherhill- Cllr Alan Hill
Grid Ref	401166 172194
Type of application	Full Planning
Case Officer	Mark Staincliffe

Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Alan Hill who would like the Committee to consider the impact of the proposal on the local area. In particular he would like consideration of the development's impact on the character and appearance of the area, scale of development, design of the proposal, impact on the environment and impact on the local highway network.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to **GRANT** planning permission subject to conditions.

2. Report Summary

The key issues in considering the application are as follows:

- Principle of development.
- Impact on character and appearance of the area.
- Impact on the residential amenities of local residents
- Impact on the local highway network
- Environmental concerns

Calne Without Parish Council & Calne Town Council are concerned about the need/justification for the chimneys and possible increase in traffic from the site. 1 letter of objection was also received.

3. Site Description

The site is an existing waste management facility located on the west side of bridleway 56 from which access is derived. Three passing places are located to the south of the site before the bridleway meets the public highway (Abberd Lane). The bridleway has a

consolidated surface that continues just beyond the site entrance towards the recently constructed solar farm.

The site currently comprises areas of covered sorting and storage, outdoor storage of recovered material and storage of skips. A weighbridge is located inside the access gates, with existing buildings and currently under construction being located to the western portion of the site, comprising offices, staff welfare facilities and covered sorting and storage areas.

Land surrounding the site is predominantly in agricultural use, with a farmyard and buildings bounding the site immediately to the north. There is also a recently constructed solar farm in close proximity to the site.

1. Planning History

N/08/07002/FCM	Change of Use of Agricultural Land to Use of Land for Storing Empty Skips and for Lorry Parking; Involving the Removal of Top Soil and Laying 450cm of Hardcore & Scalping- Refused
N/08/07027/FCM	Change of Use of Agricultural Land to Use of Land For Storing Empty Skips and for Lorry Turning Involving The Removal of Top Soil and Laying 450mm of Hardcore/Scalpings. Plus Area for Storing Reclaimed Materials at Land Adjacent Reclamation Yard- Granted
N/09/01253/WCM	Change of Use of Agricultural Land to use of Land for Storing Empty Skips & for Lorry Turning Involving the Removal of Top Soil & Laying 450mm of Hardcore/Scalpings. Plus Area for Storing Reclaimed Materials for Disposal to Appropriate Sites Without Compliance with Condition 3 of Permission N/08/07027 Dated 18th June 2009 (to Change Operation Hours)- Granted
13/07238/WCM	Extension to existing waste processing building and erection of covered store- Granted
14/02739/WCM	Section 73 Application - Erection of building for sorting, recovery and reclamation of waste, office, weighbridge and office and mess room for staff, without compliance with conditions 4 and 6 of planning permission N/98/2073 (change types of waste handled and remove time limit imposed on the use)- Granted
14/04903/WCM	Change of Use of Agricultural land to use of land for storing empty skips & for lorry turning involving the removal of top soil & laying 450mm of hardcore/scalpings together with an area for storing reclaimed materials for disposal to appropriate sites without compliance with Condition 5 of Permission N/09/01253/WCM (stockpile heights).'- Refused but Granted at Appeal
15/10250/WCM	Extension to existing waste processing building to replace existing workshop premises- Granted
17/01154/FUL	Erection of 2 No 10 metre high chimneys- Refused at NAPC

2. The Proposal

The application is in response to a recently refused application. The application was refused at an earlier Northern Area Planning Committee. The previous planning application was refused for the following reason:

Insufficient information and detail has been submitted within the application as to the intended use to which the proposed chimneys are to be put and to assess any potential environmental impacts derived from their use. In the absence of such information and detail, the proposal must be considered to be contrary to the requirements of Policies CP55 and CP57(vii) of the Wiltshire Core Strategy.

The resubmitted application is for the same development as previously proposed and seeks consent for the erection of 2 x 10m high chimneys and external ducting. The chimneys will be installed on the northern elevation of the building and will project approximately 2 meters above the existing ridgeline of the building.

In response to the committee's previous refusal the applicant has provided additional information relating to the operations within the site and the intended final use of the chimneys.

3. Local Planning Policy

Wiltshire Core Strategy Jan 2015:
Core Policy 1- Settlement Strategy
Core Policy 2- Delivery Strategy
Core Policy 08- Spatial Strategy: Calne Community Area
Core Policy 51- Landscape
Core Policy 55: Air Quality
Core Policy 57- Ensuring high quality design and place shaping
Appendix D
Appendix E
Appendix G

National Planning Policy Framework 2012:
Achieving sustainable development – Core Planning Principles (Paragraphs 7 14 & 17)
Chapter 7- Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)
Chapter 8- Promoting healthy communities (Paragraph 75)
Chapter 11-Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 &123)

4. Summary of consultation responses

Calne Without Parish Council- Object

Calne Town Council- Members objected to this application on the grounds of insufficient information to make a decision, concern about increased demand for materials and requested that an independent environmental assessment is carried out.

Highways- No objection

Public Protection (Noise)- No objection

Public Protection (Air Quality)- No objection in principle and from the information submitted officers are now satisfied and can confirm that that the development would not require an environmental permit. Some observations:

- a. The site is not within the Calne AQMA or AQ planning assessment zone.

- b. If the boilers are installed it is unclear if the height is sufficient for good dispersal of flue products.

Minerals and Waste Team- This application looks to be one example of what appears to be a current trend for waste management businesses to utilise materials handled at the site in a biomass boiler.

The building within which the biomass boilers are to be installed is the 'existing waste processing building'. Planning Permission for this building was granted in 1999 (ref: N/98/2073), with extensions to it approved in 2014 and 2015.

I am inclined to agree with the applicant that provision of the boilers would not represent a material change of use.

The application confirms the boilers are directly associated with the waste use and that the chimneys are connected to the boilers. In my view the chimneys therefore come under 'operations and uses ancillary to the purposes of recovering, treating, storing, processing, sorting, transferring, or depositing of waste' and the application should be registered as a 'county matter' application

Classification of the application as a 'waste application' would not however automatically make it one for the SPC to determine and I agree the change in classification of the application does not alter the planning considerations relating to the chimneys.

5. Publicity

The application was advertised by neighbour letter, site notices and press advert.

The application has generated 1 letter of objection. A summary of the comments is set out below:

- Fire hazard - they have had a fire at the site previously causing extensive damage and pollution.
- Silage, hay and straw bales are stored adjacent to the site. This is a fire hazard.
- Smoke pollution will cause dangerous fumes for livestock and humans.
- We have had a constant battle with them over rubbish, dust and smoke blowing into feed stuffs and cattle sheds giving serious cattle welfare problems.

6. Planning Considerations

Principle of Development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Area. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight.

Application Form

The application has been submitted on a full planning application form. The Council's Minerals and Waste team have looked at the application and have provided some observations on the application. In their view the chimneys come under 'operations and uses

ancillary to the purposes of recovering, treating, storing, processing, sorting, transferring, or depositing of waste' and they believe that the application should be registered as a 'county matter' application (minerals and waste and associated developments). The applicant disagrees with this conclusion and has declined to submit a revised application form.

The application has been registered by the Council as a Full Planning Application and there is no mechanism to 'unregister' an application after the validation process has been concluded. The Council are therefore required to determine the application as submitted.

Classification of the application as a 'waste application' would not automatically make it one for the Strategic Planning Committee to determine. Under the constitution/scheme of delegation, the remit of the Strategic Planning committee is to make planning decisions on 'Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility'. As the chimneys are 'small scale works ancillary to an existing waste disposal facility', then the planning application would go to the Northern Area Planning Committee irrespective of the application form used.

Though there is disagreement over the type of application, this does not change the material planning considerations for determination due to Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. There are no valid planning reasons for the application not to be determined.

Use of the Site

The applicant has now confirmed that the proposed chimneys will be linked to biomass boilers, which the applicant believes can be installed without the need for planning permission. The biomass boilers are to be installed in the 'existing waste processing building'. Planning Permission for this building was granted in 1999 (ref: N/98/2073), with extensions to it approved in 2014 and 2015.

Condition 4 of the original consent for the site (N/98/2073) restricts the use of the building to "the purpose of storing, sorting, recovery and reclamation of recyclable materials and for no other purpose".

The 'Planning Statement' explains that the biomass boilers will be incorporated into the 'picking line' which is employed to sort and separate the waste materials handled at the site, which includes wood. The boilers would be fuelled by some of this wood and "are specifically intended to produce direct heating on the site, and wood drying facilities".

Taking into consideration the views of the minerals and waste team and the submitted supporting statement, officers consider, based on the operation as described, that the applicant is correct and that the provision of the boilers does not require planning permission or represent a material change of use of the site.

Noise and Pollution

Taking into consideration the lawful use of the site it is considered that the proposal will not have an adverse impact on local residents and businesses in terms of noise disturbance. The development therefore accords with CP57 of the Core Strategy.

Concerns have been raised in relation to pollution and the discharge of toxins from the proposed chimneys. As set out in the consultation responses above- the public protection team have confirmed that an environmental permit would not be required if the site is operated in accordance with the details and information provided within the supporting statement.

Should a permit be required in the future this will be controlled under The Environmental Permitting (England and Wales) Regulations 2010 and falls outside of the remit of the Council's planning function. This legislation, depending on what type of license is required, will require continuous emissions monitoring, thus ensuring that acceptable quality air is maintained. As a minimum, the legislation will ensure that the boilers and chimneys are installed and operated correctly. If, during the permitting application process, it transpires that the chimney clearance above the ridge line is insufficient to meet the above regulations a new planning application may be required for any changes. If changes are required to the size and design of the chimneys any new planning application would be the subject of further public consultation.

The application is clear that it seeks consent for only the chimney and the applicant is of the opinion that the boilers, do not require consent. Officers have considered the additional information submitted with this application and are satisfied that the boilers and operation of them, as explained in the supporting information, will not require planning permission and do not constitute a material change in use of the site. However, should complaints or concerns be raised by local residents with regards to the operation of the site this will be a matter for the council to investigate at a later date and to determine if a breach of planning control has occurred. Taking into consideration the above it is considered that the proposal for the chimneys is in accordance with CP57 and CP55 of the Core Strategy.

Impact on amenity

To satisfy concerns raised by Councillors when refusing the previous planning application the agent has provided supporting information relating to the boilers and the operation of the site.

The submitted layout clearly demonstrates that the proposal will not result in adverse residential amenities for existing or future occupants due to the distance between the nearest residential property and the chimney. It is considered that the proposal will not have a significant adverse impact on the residential amenities of adjoining properties in terms of loss of sunlight daylight or privacy and will therefore accord with CP57 and the NPPF.

The points relating to the livestock sheds adjacent to the property and the concerns expressed by the land owner are noted. However, the installation of the boilers and use of them will be carried out in accordance with the manufacturer's instructions and it is considered that the proposal will not result in harm to the adjacent livestock business. Furthermore, the site already has an extant permission for an existing waste processing facility so an element of disturbance will already be experienced.

Impact on the Character and Appearance of the Area

The size and scale of the proposed chimneys is relatively minor in comparison to the existing building and only projects 2m above the existing ridge line of the building. Taking into consideration the existing site circumstances and the surrounding built development it is considered that the proposal will not have an adverse impact on the character and

appearance of the area. The proposal is considered to accord with both local and national planning policies and in particular CP57 of the Core Strategy.

Highways

Concern has been expressed with regards to highway safety. The proposed development is for the construction of two chimneys. The two chimneys do not alter the planning status of the land or alter the permitted use of the site. The use of the site is still controlled by the planning conditions attached to the decisions referenced in section 4 above.

The number of vehicle movements to and from the site will remain the same as that permitted by the previous approvals. Should the nature of the site change in the future this will be a matter for the Council's enforcement team to investigate and take appropriate action if necessary.

The proposed development will not result in and adverse impact on highway safety and the development is therefore considered to accord with the NPPF and CP63 of the Core Strategy.

7. Conclusion (The Planning Balance)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that "*determination must be made in accordance with the plan unless material considerations indicate otherwise*".

As set out above, the proposed development is an addition to an existing waste site and would be in accordance with both local and national planning policies and would accord with CP1, CP2, CP55 & CP57 of the Core Strategy.

Concerns have been raised in relation to the ultimate use of the site and the need for the chimneys. However, there is no requirement within the Core Strategy to demonstrate need for additions to the building. Should any internal works materially alter the use of the site this will be a matter for the Council to investigate and take action, if deemed necessary and expedient to do so.

Taking into consideration the above it is considered that planning permission for the proposed chimneys should be approved subject to conditions.

RECOMMENDATION

To **GRANT** planning permission subject to conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall commence on site until details of the external finish and colour to be used on the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan

AB/017-02

AB/017-03

REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

INFORMATIVE TO APPLICANT:

The development relates solely to the installation of two chimneys on site. The installation of biomass boilers on site and a change in the nature of the use of the site may require a further grant of planning permission.