2021/1300
Mr Graham White

Variation of condition 4 of application 2019/1213 (Installation of a back-up electricity generation facility and ancillary equipment) to allow for change in operating period

Land at Mitchells Industrial Park, Bradbury Balk Lane, Wombwell, Barnsley, S73 8HR

Site Location & Description

The site is in relation to piece of previously developed land at the head of Mitchells Industrial Estate in Wombwell. The site is approximately 0.15ha in size and is slightly raised above the rest of the industrial estate situated on higher ground. The site itself is an old mine which was capped in 1994 and is vacant but currently houses temporary cabins and an open fenced hardstanding yard.

The site is mainly surrounded by similar industrial and warehouse type uses but beyond its Northern boundary lies open land which separates the site from the Trans Pennine Trail (TPT). The nearest dwellings are located on Barnsley road, at a distance of approximately 125m to the South-West from the site – when measured boundary edge to boundary edge. The site is in the Urban Fabric and is also in a Coal Mining Risk area.



Previous Planning History

B/02/0796/WW: Use of land for the storage of concrete products (approved with conditions)

2012/1255: Change of use from engineering works/concrete storage yard/glass recycling yard to a Waste Transfer Centre with Treatment (Sui Generis) – Approved with conditions

2019/1213: Installation of a back-up electricity generation facility and ancillary equipment – Approved with conditions

Proposed Development

The applicant is proposing the variation of Condition 4 of 2019/1213 to allow for longer operating hours, from 2,000 hours to 3,500 hours.

Therefore, the amended wording of the condition would reflect this and read: The installation shall not operate for a period greater than 3500 hours per annum, except in the event of a national emergency therefore defined as a system stress event, as determined by the National Grid.

Policy Context

Planning decision should be made in accordance with the local plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

In respect of this application, relevant policies include:

Section 12: Achieving well designed places - The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Within section 12, paragraph 130 is the most relevant which indicates that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Local Plan

The new Local Plan was adopted at the full Council meeting held 3rd January 2019 after it was found to be sound by the appointed Planning Inspector following the examination

process. This means that it now takes on full weight for decision making process in planning law terms as the development plan for the Borough, superseding the remaining saved policies from the Unitary Development Plan (adopted in the year 2000) and the Core Strategy (adopted in 2011). In reference to this application, the following policies are relevant:

Policy SD1: Presumption in favour of Sustainable Development – sets out principles when considering development proposals.

Policy GD1: General Development – sets out appropriate proposals for development.

Policy D1: High quality design and place making – sets overarching design principles for the borough to ensure that development is appropriate to its context, and improves what needs improving, whilst protecting what is good about what we have.

Policy T4: New development and highway improvement - New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

LG2: The Location of Growth – Priority will be given to development in the following locations:

- Urban Barnsley
- Principle Towns of Cudworth, Wombwell, Hoyland, Goldthorpe, Penistone and Royston; and
- Villages

Urban Barnsley will be expected to accommodate significantly more growth than any individual Principle Town, and the Principle Towns will be expected to accommodate significantly more growth than the villages, to accord with their place in the settlement hierarchy.

Poll1: Pollution Control and Protection - Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.
We will not allow development of new housing or other environmentally sensitive development where existing air pollution, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.

Developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate.

Consultations (Summarised responses)

Enterprising Barnsley – Support the proposed application but are concerned by the impact of noise and health implications upon existing offices and businesses and the impact upon these. These comments were originally submitted in response to 2019/1213 and were addressed in the previous report.

Pollution Control (Environmental Health) – The associated documentation has been reviewed and the location and risks have been assessed and my comments are as follows:

I have concerns regarding noise from the above development, in particular low frequency noise and the impact that this may have on the quality of life of those living and working in the locality. Therefore, I recommend the following condition:

In relation to the additional noise report required by planning condition 7 on application 2019/1213 once the development is operational. The applicant shall include a detailed assessment of low frequency noise associated with the development, with reference to NANR45. This assessment shall be submitted and approved by the Local Planning Authority.

Regulatory Services (Air Quality) –

"The annual average assessment is based on a modelling exercise of operation of 6188 hours per annum (the assessment assuming operation for a maximum of 17 hours per day, for every day of the year), whilst the 1-hour average assessment is based upon continuous operation of 8760 hours per annum.

As the 2019 assessment was demonstrated to be a worse case assessment therefore, and the applicant is asking for a variation in operational hours up to 3500 hours, I do not object the proposed variation of:

"The installation shall not operate for a period greater than 3500 hours per annum, except in the event of a national emergency is therefore defined as a system stress event, as determined by the National Grid."

I would however suggest a slight change in wording of this condition to:

"*The installation shall not operate for a period greater than 3500 hours per annum, except in the event of a national emergency* ***which*** *is therefore defined as a system stress event, as determined by the National Grid."*

Highways DC – There are no objections to this application from a highways point of view.

Ward Councillors – No comments

Representations

Neighbour notification letters were sent out to surrounding properties – no comments were received.

Assessment

Principle of development

The principle of development was established with the planning approval 2019/1213. This application seeks to vary condition 4 which is in relation to air quality. The site is allocated within the Urban Fabric which has no specific land allocation; however, the site falls within an industrial estate and as such the surrounding uses are typically industrial, manufacturing or warehousing and result in associated noise and disturbance which is typical of such areas. That being said, a very close unit (approximately 20m to the South) is undergoing a change into an office building. However, this is undergoing the change whilst knowing that the surrounding uses are typically industrial/manufacturing and warehousing.

Notwithstanding this change and the surrounding uses, local Plan Policy GD1: General Development and Poll1: Pollution Control and Protection are the starting points for such development in the Urban Fabric and development needs to have an acceptable impact in terms of noise and disturbance into neighbouring properties. Subject to these policies being complied with as well as other relevant policies, the proposal is acceptable in principle in this area as the site is in an industrial estate which other sources of noise, disturbance and traffic.

Impact on Pollution Control

The applicant submitted information to the Council in the shape of a supporting statement and also a noise impact assessment prepared for the 2019/1213 application.

The EHO has concerns regarding the extension of hours proposed upon neighbouring properties, both commercial and residential, in particular relating to low level frequency noise. However, condition 4 relates to air quality rather than noise. An additional condition has been suggested by the EHO which requires the submission of a low frequency noise survey once the development is operational. The LPA therefore has no reason to refuse on these grounds in accordance with Local Plan Policies GD1 and Poll1 subject to the addition of this condition

Impact on Air Quality

An air quality assessment was submitted with application 2019/1213. *The annual average assessment is based on a modelling exercise of operation of 6188 hours per annum (the assessment assuming operation for a maximum of 17 hours per day, for every day of the year), whilst the 1-hour average assessment is based upon continuous operation of 8760 hours per annum.*

As the 2019 assessment was demonstrated to be a worse case assessment of 6188 hours per annum, and the applicant is asking for a variation in operational hours up to 3500 hours, there are no objections to the proposed variation.

The LPA therefore has no reason to refuse on these grounds in accordance with Local Plan Policies GD1 and Poll1.

Residential amenity

The site is on an industrial estate with the nearest residential properties located on Barnsley road approximately 150m to the South-West. As covered in more detail in the noise pollution section above, this proposal was subject of significant discussion between the developer and the Council's Environmental health officer in regards to the proposed noise generation from the generators, in particular the impact of low frequency noise. The Environmental Health Officer requested that an additional condition be attached.

The distance (150m) is significant enough so that the proposal will have no other detrimental impact upon the residential amenity enjoyed by these neighbouring properties.

Design & Visual Amenity

There are no proposed changes to the physical development which has been previously approved. The STOR would be situated at the head of an industrial estate in a partially vegetated area and will be bounded by a 5m-high acoustic fence. Given that the generators themselves have a maximum height of 3m, they will largely not be visible from public areas,

especially from Bradbury Balk lane. Additionally, the surrounding area is typical of an industrial park/estate being comprised of typical warehousing and industrial uses with a large amount of storage of such materials and also HGVs often parked up visible from the road. The site is also at the very head of the cul-de-sac after veering slightly left, which is not a through road to any other site or area. As such, the generators themselves are considered to have a very small impact upon the visual amenity of the local area which is characterised by industrial units in any case. The acoustic fencing, at 5m high, will be the most visible element. Given that it is set back from the highway, in an area characterised by industrial, buildings, and is screened by industrial buildings from the TPT and by trees from the main public vantage point, A633,it is not considered it would be of detriment to the visual amenities of the area.,

It is considered that the proposed development is in compliance with Local Plan Policy D1: High Quality Design and Place Making and is acceptable in terms of visual amenity and design.

Highway Safety

Highways DC have been consulted on the proposal and have raised no concerns to the variation of condition.

Conclusion

This application is for the variation of condition 4 of planning permission 2019/1213. The variation specifically seeks an increase in operation hours from increase from 2,000 hours to 3,500 hours.

All in all, whilst concerns were initially held against this proposed increase, principally in reference to noise pollution, significant discussions were held between these relevant colleagues subject to appropriate conditions. It is felt that the initial concerns were removed due to the amended conditions and information and as such the scheme is now considered to be acceptable.

Recommendation

Approve with conditions