

MINUTES of a meeting of the **REGULATORY – PLANNING COMMITTEE** via Microsoft Teams on 12 April 2021.

PRESENT

Councillor M Ford (in the Chair)

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

16/21 **MINUTES RESOLVED** that the minutes of the meeting of the Committee held on 15 February 2021 be confirmed as a correct record.

17/21 **SECTION 119 OF THE HIGHWAYS ACT 1980: PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.39 (PART) – PARISH OF BARLOW** The report by the Executive Director on this item recommended that the Director of Legal and Democratic Services be authorised to make a diversion order for the permanent diversion of part of Public Footpath No.39 in the Parish of Barlow, in the interests of the landowner. The Director explained under the report that:

Derbyshire County Council had received an application for the diversion from the landowner. The footpath currently passed close to domestic premises at Bolehill House and the diversion was being sought for security and privacy, partly due to instances of walkers straying off the path around the buildings and conflicts with the owner's dogs. The proposed diversion would move the footpath eastward away from the domestic premises.

If the proposed diversion took effect, it would divert approximately 137 metres of that part of the footpath on the route **A** to **B** shown on the plan appended to the report, as a bold solid line. The proposed alternative would be approximately 150 metres long on the route **A-C-D-E-F** shown by a bold broken line. To get to or from the existing roadside entrance at Point **B** required walking an extra 27 metres along the road (which had an accessible verge), taking the comparable distance to 177 metres. The alternative route had a natural surface between points **A**, **C** and **D**, and tarmac between points **D** and **E**, and would be surfaced in rolled stone on a fenced corridor between points **E** and **F**. The recorded width would be 2 metres. A short flight of timber steps would be installed between points **A** and **C**. Pedestrian gates to the current British Standard would be installed at **C** and **D**, and there would be a 1.1 metre-wide gap access at both **E** and **F**.

An informal consultation had been carried out with consultees including Barlow Parish Council, North-East Derbyshire District Council and the local Member, Councillor Angelique Foster. The Parish Council initially indicated opposition to the proposal but later withdrew its objections. One individual indicated opposition and details were given in the report.

Members commented on a short flight of steps that were within the diversionary route, which they were concerned might be restrictive in terms of accessibility by people with disabilities over the footpath. It was uncertain whether accessibility over the footpath was restricted by permanent features elsewhere on the footpath impeded. A motion was then proposed for a resolution to authorise the making of a diversion order as proposed subject to a proviso to ensure that such an order would only be authorised if the relevant officers were satisfied that the diversion would not impede accessibility over the footpath by people with disabilities.

RESOLVED (1) that The Director of Legal and Democratic Services be authorised to make an order for permanent diversion of part of Footpath No. 39 in the Parish of Barlow under the provisions of Section 119 of the Highways Act 1980 as specified in the report of the Director – Economy Transport and Environment provided that the Directors were satisfied that the diversion would not impede accessibility over the footpath by people with disabilities.

(2) that should objections be received to that order that could not be resolved, then the matter would be forwarded to the Secretary of State for determination.

18/21 APPLICATION TO NOT COMPLY WITH CONDITIONS 1,2,17 AND 19 OF PLANNING PERMISSION CW2/1007/155 TO COMPLETE INFILLING OPERATION BY 31 MAY 2035 AND ALL RESTORATION TO BE COMPLETED WITHIN A FURTHER TWO YEARS, AT ERIN LANDFILL SITE, MARKHAM LANE, DUCKMANTON, DERBYSHIRE APPLICANT: VIRIDOR WASTE MANAGEMENT LIMITED CODE NO: CW2/1020/38 An application had been received from Viridor Waste Management Limited which sought planning permission for the landfill operation at Erin Landfill, Duckmanton under Section 73 of the Town and Country Planning Act 1990, without compliant with conditions 1, 2, 17 and 19, to which a previous planning permission (CW2/1007/155) for the landfill operation was subject..

The Executive Director had provided a detailed report published with the agenda, which included details of the application together with comments received from consultees and following publicity, and commentary on planning considerations, leading to a recommendation for authorising a grant of permission subject to a new set of conditions that would extend the timescales

for filling and for restoration. As detailed in the Directors report:

The operation was currently carried out under the previous planning permission. It allowed the importation of approximately 7.5 million cubic metres (m³) of non-inert wastes, and infilling of a void with the wastes. It was estimated that currently approximately 5 million m³ of void remains.

As a result of waste prevention initiatives, increases in landfill tax, improving recycling rates and new landfill management technologies, infilling rates to the site had been steadily declining, meaning that the void was taking longer to fill. The operator therefore now sought to vary the current planning permission to extend the duration of infilling, which currently expired 31 May 2021, until 31 May 2035, and restoration within a further two years (the most recent planning permission required restoration to be complete within 12 months of the cessation of filling, i.e. by 31 May 2022).

The applicant proposed to update the approved schemes of surface water management, restoration and landscaping, and also proposed provision of a new waste reception pad.

After publicity, a total of 66 individual representations had been received raising concerns or objections to the proposals. A petition with 258 signatures stating "Signatories' of this petition feel strongly that the Erin Landfill Site should close as per the previous planning date agreed of May 2021" had been received with a supporting statement entitled "Objections and Information from the Local Community."

He had concluded that the site of the established landfill operation was not within a sensitive locality with regard to landscape, heritage, or ecological designations. The site had an extensive planning history with previous planning permissions granted for landfill operations. He was satisfied that the principle of the development was acceptable given the context of the established planning history of the site as a landfill operation and were considered acceptable as outlined in the report

Erin in particular was a key site of useable landfill space. There were huge pressures on both local and national waste capacity.

There was little evidence that prolonging existing landfill as per this application would have any measurable impact on the delivery of other waste facilities, He was satisfied that there was a clear need for landfill capacity as not all waste types could be recycled or re-used.

In consideration of the potential impacts of extending the time for filling and restoration, and changes to landscaping/restoration and the waste pad

provision, no objections to the planning application had been received from statutory consultees.

He considered, that any impacts, either in isolation or cumulative, could be mitigated against appropriately either through the imposition of planning conditions where necessary, or through the EA permit for the operation.

The application was considered to be in accordance with the development plan and national planning guidance, and his recommendation was been made accordingly

A Principal Planning Officer presented a series of electronic slide images which included plans and photographic views of the site and surrounding area.

Written statements of up to 500 words had been duly received from J Cook, the agent acting on behalf of the applicant in support of the application and from Toby Perkins MP, and C Scarr, on behalf of Duckmanton residents, outlining their concerns in relation to the application, which were read out in full by officers.

Certain points mentioned in the statements were then responded to by the Officer.

Councillor Charles observed that whilst this was a contentious issue for local residents, communication and consultation with them was very important. She considered that the liaison group for the site should therefore be required to resume and engage again with local residents.

Councillor Smith commented that the application was more difficult to consider due to the time frame of the original application not having been met. The additional length of time being proposed was considerable and he recognised the validity of the concerns of residents over the impact it would have on the local community. However if the application was not approved and the operation ceased, this would leave an obvious problem in terms of restoration of the site, which in the long term would be of benefit to the area, but would need closely monitoring as it progressed. He also reiterated the need for the Liaison Committee to become active again.

Councillor Mihaly, endorsed Councillor Smith's views and also mentioned that it was apparent that many of the resident's concerns had been reported to the Borough Council rather than directly to the Environment Agency, which would be required to investigate any complaints it its statutory remit. He suggested that this communication gap would be addressed by the reintroduction of the Liaison Committee

The Head of Planning Services, thanked Members for their comments, including their support for the recognition of the importance of the liaison committee in public engagement with the local community. He would revisit this with the applicant, and also endeavour to secure representation by the Environment Agency at the meetings of the liaison committee

RESOLVED that planning permission be granted subject to the conditions based on or substantively similar to the draft conditions listed in the Executive Director's report

19/21 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO NOT COMPLY WITH CONDITION 2 (DURATION OF USE, AND CLEARANCE) OF PLANNING PERMISSION CW9/0816/45 IN ORDER TO REMOVE THE 10 YEAR TIME LIMIT ON THE PERMISSION AT WILLSHEE'S SKIP HIRE LIMITED, CADLEY HILL PARK, BURTON ROAD, SWADLINCOTE: APPLICANT: WILLSHEES SKIP HIRE LIMITED CODE NO: CW9/1119/61 An application had been received from Wilshees Skip Hire Limited which sought Planning permission under Section 73 of the Town and Country Planning Act 1990, for carrying on inert waste and wood waste transfer station and skip storage on land at Cadley Hill Park without compliance with Condition 2 (duration of use, and clearance) to the previous planning permission, code no. CW9/0816/45. That planning permission, granted in October 2017, had been limited by the condition to a period of 10 years to ensure that it would not conflict with a policy in the South Derbyshire Local Plan (SDLP) to reserve the land for future use as a railhead.

The Executive Director had provided a detailed report published with the agenda, which included details of the application together with comments received from consultees and following publicity, and commentary on planning considerations, leading to a recommendation for authorising a grant of permission subject to conditions. As detailed in the Directors report:

This Section 73 application sought to remove the 10 year time limit set out in the Condition and to thereby make this permission compatible with a more recent planning permission at Cadley Hill Park for the construction of a waste handling facility for the storage, treatment and processing of refuse derived fuel for use in waste to energy plants (code no. CW9/1018/63), which was not time limited.

The application documents for the development granted conditional planning permission under code no. CW9/1018/63, issued in May 2019, had included a transport appraisal which the Council considered satisfactorily demonstrated that a railhead was not likely to be feasible. Therefore, through the application successfully meeting the exemption set out within the policy,

this more recent permission did not include a time limiting condition.

The applicant had submitted the same transport analysis as part of this section 73 application in order to demonstrate that a railhead at the site was not likely to be feasible and to therefore justify the removal of the time limiting element of the permission. The Executive Director was satisfied that the transport analysis was equally applicable to this development and that the same exemption within the relevant policy could now be applied to the development involving the processing of wood waste and inert waste materials at the site.

The proposed release, by this application, from the requirement of the current Condition 2, was considered to be in accordance with the Development Plan and consequently the application was recommended for approval.

No objections had been raised to the proposal following consultation and publicity.

He had concluded that the proposed removal of Condition 2 would enable the continuation of the development on a permanent basis in line with more recently granted waste permissions at the site. He was satisfied with the conclusions of the Rail Freight Feasibility Study submitted in support of the application and that the proposal would not conflict with national or local planning policies, and his recommendation had been made accordingly

A Principal Planning Officer, on behalf of the Head of Planning Services, presented a series of electronic slide images which included photographic views of the site.

Written statements of up to 500 words had been duly received from Mr Bayliss and Mr Eyley acting on behalf of Cadley Hill residents and County Councillor S Swann, which were read out in full by officers. The Cadley Hill residents' concerns centred specifically around existing conditions regarding noise, lighting and community liaison which they considered had not been implemented effectively, leading to negative impacts on health and wellbeing of residents and local amenity. They believed also that the specifying of operating and maintenance hours as set out at condition 6 in the recommendation in the report could only increase noise and light nuisance without other conditions.

Cllr Swann commented that if the Committee was minded to grant the application, it would be an excellent opportunity for the Authority to remind the site's operators of the conditions originally imposed and the responsibilities owed to the wider community, and particularly to the residents living in the

immediate vicinity of the facility.

Certain points mentioned in the statements were then responded to by the Officer.

Committee members made various comments concerning the application and outlined the importance of the Liaison Committee gathering momentum again following the covid pandemic

RESOLVED that planning permission be granted subject to the conditions based on or substantively similar to the draft conditions listed in the Executive Director's report.

20/21 PUBLICATION OF A LOCAL ENFORCEMENT PLAN

Paragraph 58 of the National Planning Policy Framework 2019 (NPPF), advised local planning authorities to consider publishing a Local Enforcement Plan (LEP) to manage enforcement proactively, in a way that was appropriate to their area.

Following this advice, the Planning Service had prepared such a plan, which it intended to publish on the Council's website. The LEP set out the enforcement and site monitoring service that businesses and the public could expect from Derbyshire County Council. The Plan was a guide and set out how the Council would deal with alleged breaches of planning control and also its proactive role in periodic monitoring of minerals and waste sites within the County.

The Local Enforcement Plan that had been prepared for publication was appended to the Executive Director's report.

Members welcomed the provision of such a plan, and emphasised the need to ensure that there was adequate resources in place to ensure the enforcement work would be effective

RESOLVED to endorse the publication of the Local Enforcement Plan on the Council's website.

21/21 LOCAL LIST OF INFORMATION REQUIREMENTS

In accordance with guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG), a draft revised list of County Council requirements for planning applications had been prepared to enable a consultation to be carried out on the adoption and implementation by the Council of a revised list.

The consultation exercise to be carried out would be extensive. It would

include consultation with statutory consultees, the minerals and waste industry, planning agents and consultants, neighbouring authorities and parish/town councils.

After the responses under the consultation exercise had been assessed, a report would be made to the Cabinet Member – Highways, Transport and Infrastructure to recommend authorisation for adoption of a revised list.

RESOLVED to approve the carrying out of a consultation exercise on the publication by the Council of a revised local list of requirements for planning applications.

22/21 **CURRENT ENFORCEMENT ACTION RESOLVED** to receive the report on current enforcement action

23/21 **OUTSTANDING APPLICATION LIST RESOLVED** to receive the list on decisions outstanding on 29 March 2021 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.

24//21 **CURRENT APPEALS/CALLED IN APPLICATIONS RESOLVED** to note that the following appeal has been lodged with the Planning Inspectorate:

Appeal Reference APP/U1050/C/20/3257919

Land at Lady Lea Road, Horsley, Ilkeston

Appeal against Enforcement Notice Issues on 16 July 2020

Appeal Start Date – 8 September 2020

25/21 **MATTERS DETERMINED BY THE EXECUTIVE DIRECTOR ECONOMY, TRANSPORT AND ENVIRONMENT UNDER DELEGATED POWERS** **RESOLVED** to note that the following applications had been approved by the Executive Director Economy, Transport and Environment under delegated powers on:

Date	Reports
10/02/2021	<p>Applicant: Mr Neil Adams, Riverside Works Planning Application Code No: CW2/1020/35 Change of Use from and Industrial Process E(G) to an Asbestos Waste Transfer Station (Sui-Generis) Comprising of a Fenced Compound where a Container (Enclosed, Lockable Asbestos Skip) will be sited on an Impermeable Concrete Base at Riverside Works, Storforth Lane, Chesterfield</p>

10/02/2021	Delegation Decisions on Schemes Required by Planning Conditions: CD9/0520/8 Roundabout, Occupation Lane, Woodville: SD3505: Materials Management Plan SD3506: Written Archaeological Works
18/02/2021	Applicant: LHoist Submission No: PD17/5/80 Request for the Council's Prior Approval for the Erection of a Solid Recovered Fuel Silo at Whitwell Quarry, Southfield Lane, Whitwell
01/03/2021	Applicant: Ben Bennett Jnr Ltd Submission No: PD17/3/81 Request for the Council's Prior Approval for Replacement Portacabins at Grange Mill Quarry, Wirksworth
04/03/2021	Applicant: Derbyshire County Council Planning Application Code No: CD8/1220/45 Change of Use from First Floor Library to Registration Service and Ceremony Room, Ancillary Joint Office Use and Staff Workplace Facilities in Basement at Ilkeston Library, Market Place, Ilkeston
04/03/2021	Delegation Decisions on Schemes Required by Planning Conditions: CW5/1117/69 Oxcroft Disposal Point, Stanfree SW3523: Restoration and Aftercare Management Scheme
15/03/2021	Applicant: Breedon Southern Ltd Planning Application Code No: R1/1017/33 First Periodic Review of Mineral Planning Permission at a Mining Site under Schedule 14 of the Environment Act 1995: Application for Approval of New Conditions Relating to the Operation of the Existing permitted Quarry Development at Dowlow Quarry, Buxton
15/03/2021	Applicant: Derbyshire County Council Planning Application Code No: CD8/0121/47 Proposed Temporary Classroom Building, Brackenfield Special School, Long Eaton
15/03/2021	Delegation Decisions on Schemes Required by Planning Conditions: CD8/0920/33 Former Ormiston Enterprise Academy, Ilkeston SD3522: Submission of details of a Liaison Committee
17/03/2021	Applicant: Tarmac Cement and Lime Limited (Tarmac) Submission No: PD17/1/82 Request for the Council's Prior Approval for the Erection of a Chlorine Bypass and Increased Solid Recovered Fuel Storage and Feeding Capacity at the Existing Cement Plant at Tunstead Quarry, Waterswallows Road, Buxton
29/03/2021	Applicant: Derbyshire County Council Planning Application Code No: CD8/0221/48

	Demolition of Existing Temporary Classroom Unit and Construction of New Extension to Form Additional Accommodation including Alterations to Existing Building, Brackenfield Special School, Bracken Road, Long Eaton
29/03/2021	<p>Delegation Decisions on Schemes Required by Planning Conditions:</p> <p>R1/1197/11 R1/0913/27 ROMP Tunstead Quarry and Old Moor Quarry: SM3531: 2 Year Quarry Development Plan SM3545: 2 Year Quarry Development Plan SM3538: 2 Year Quarry Development Plan SM3532: Noise Management and Mitigation Protocol SM3546: Noise Management and Mitigation Protocol SM3539: Noise Management and Mitigation Protocol SM3533: Noise Monitoring Survey SM3547: Noise Monitoring Survey SM3540: Noise Monitoring Survey SM3534: Dust Monitoring SM3548: Dust Monitoring SM3541: Dust Monitoring SM3535: Groundwater Monitoring SM3549: Groundwater Monitoring SM3542: Groundwater Monitoring SM3536: Groundwater Monitoring Report SM3550: Groundwater Monitoring Report SM3543: Groundwater Monitoring Report SM3537: Annual Plan of Rock Faces to be Disturbed SM3551: Annual Plan of Rock Faces to be Disturbed SM3544: Annual Plan of Rock Faces to be Disturbed</p> <p>R1/0697/7 ROMP Brierlow Quarry SM3524: Scheme of Working, Reclamation, Landscaping and Aftercare</p> <p>CD1/0420/5: Glossopdale School, Newshaw Lane, Hadfield, Glossop SD3530: Construction Management Plan and Construction Method Statement</p> <p>CD8/0920/33 Former Ormiston Enterprise Academy, Ilkeston SD3511: Source of Material SD3512: Method Statement SD3513: Suitable Methodology for Testing for Contamination SD3514: Construction and Environment Management Plan SD3515: Construction Management Plan SD3516: Arboricultural Method Statement SD3517: Intrusive Site Investigations SD3519: Surface Water Run-off Details SD3521: Assessment of Ground Conditions</p>

26/21 **DEPARTMENTAL MANAGEMENT PERFORMANCE**
MONITORING RESOLVED to receive the Planning Services Development
Management Performance Management Statistics for 1 October 2020 to 30
December 2020.