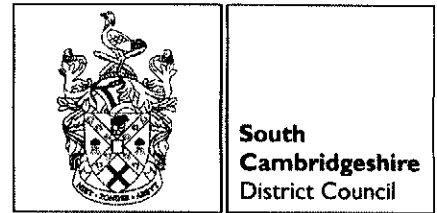


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Our Ref: S/0506/09/F
Your Ref:
Date: 10th June 2011

Dear Mr Darke,

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and European Environmental Impact Assessment (EIA) Directive 85/337/EEC (as amended)

Proposed Extension to Camgrain Site Comprising Additional Grain Storage Facilities and Ancillary Works Including Drainage Proposals, Landscaping and Highway Improvements – Land Adjacent to Wilbraham Chalk Pit, West Wrattling

Following the decision made in the Court of Appeal on 22nd February 2011 to quash the above planning permission, the Local Planning Authority has re-considered the need for an Environmental Impact Assessment in accordance with Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and the European Environmental Impact Assessment (EIA) Directive 85/337/EEC (as amended).

I enclose a copy of this Authority's Screening Opinion, which concludes that the Local Planning Authority considers the proposed development is not EIA development.

In accordance with the 1999 Regulations, a copy of this screening opinion has been placed on the Planning Register.

Yours Sincerely,



NIGEL BLAZEBY
Development Control Manager

Town and Country Planning (Environment Impact Assessment) (England and Wales) Regulations 1999 and European Environmental Impact Assessment (EIA) Directive 85/337/EEC (as amended) – Screening Opinion

Site, description of development and background

The site lies within the countryside and beyond the West Wrattling village framework. It comprises a 90,000 tonne grain store facility, which was granted planning permission in 2006 under reference S/2494/04/F. A later application (reference S/0506/09/F) sought to extend the approved facility with an additional 210,000 tonnes of storage on a site measuring 11.3 hectares. The application proposed the erection of 60 no. new storage silos, a 3000m² extension to the east side of the flatstore facility, 6 no. new holding bins, 4 no. bulk bins, a plant house and 4 no. driers. The proposal also included further landscaping to the eastern and western boundaries, and the widening of Mill Road between the site and the A11.

The scheme proposed in application reference S/0506/09/F was approved by this Authority. This decision was subsequently quashed by the Court of Appeal, as it was deemed that the Council had provided insufficient reasoning for its decision not to require an EIA. The proposal therefore needs to be re-screened, in order to determine whether an EIA is required, and the application subsequently re-determined. In preparing this screening opinion the Council has had regard to representations made on behalf of the successful claimants in the Court of Appeal and on behalf of the developers.

Regulations

The site is not in a sensitive area as defined by Regulation 2(1) of the 1999 Regulations, and does not therefore require to be tested on that basis. The development falls within the description within Section 10(a) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ('the 1999 regulations') and exceeds the 0.5 hectare threshold in Column 2 of the table. The development therefore requires to be screened in accordance with the Regulations. In screening the proposal, the Council is required to consider whether there are likely to be likely significant environmental effects having regard to factors such as the nature, size and location of the development.

In considering whether the proposal is likely to have significant effects on the environment, the Council notes that in the Habitats Directive case of Waddenzee [2004] ECR I-7405 the ECJ considered what '*likely*' meant in the context of the test for conducting an appropriate assessment for projects potentially affecting special areas of conservation and special protection areas for birds. The court expressly drew attention to the identical phrasing of the test in the EIA Directive and held in effect that '*likely*' meant *possible*. The Council has applied that test in this case.

The term '*significant*' has not been the subject of explanation by the ECJ. The preamble to the Directive talks of the need for EA for projects having a '*major effect on the environment*'. The Council has applied that test in this case which is consistent with the general understanding of the appropriate way to apply the Regulations and the approach of the Government set out in Circular 02/99.

The Council also notes that recent case law suggests that it is arguable that proposals for development should also be assessed against the criteria in EC Screening Guidance published in 2001. The guidance states that the criteria are intended to be of assistance where there is no Member state guidance or where the need for EIA "is still not clear". Even though the Council is clear in its opinion, the EC guidance has been considered nonetheless and does not alter that opinion.

Regulation 4(5) of the 1999 Regulations states that when screening a Schedule 2 project, the Council must consider the project in accordance with the following criteria in Schedule 3 to the Regulations:

Characteristics of the development: This should take into account the size of the development, cumulation with other development, the use of natural resources, the production of waste, pollution and nuisances, and the risk of accidents.

Location of development: This should have regard to the environmental sensitivity of areas likely to be affected by the development, in particular to the existing land use, abundance and quality of natural resources, and the absorption capacity of the natural environment.

Characteristics of the potential impact: This should take account of the extent of the impact (geographical area and size of affected population), the magnitude and complexity of the impact, and the probability, duration, frequency and reversibility of the impact.

These are assessed in further detail below.

Characteristics of Development

a) Size

The proposal is for an additional 210,000 tonnes of grain storage incorporating new silos, an extension to the flat store building, ancillary works, new drainage facilities, and additional landscaping and highways improvements. The extension consists of 60 new storage silos, a 3000m² extension to the flatstore, new holding bins, a new swale and road widening. In considering the original application for the 90,000 tonne facility, a landscape assessment was commissioned by the Council in order to assess the impact of the development on the landscape. This assessment admitted that the impact on the immediate landscape, when viewed from Mill Road bridge and from the footpath/byway that runs along the northern edge of the site, would be significant, but considered that these impacts would be ameliorated by the proposed landscaping and soil bunding. Due to the lie of the land and the fact that the site sits in a valley, the report also concluded that there would be no material harm to the longer distance views of the site. The development that has been carried out to date is most prominent from the Mill Road bridge over the A11, and from the byway that runs directly adjacent to the northern boundary of the site. The proposals seek to extend the flat shed on its eastern side and to site the additional silos behind the existing silos on a level site that cuts into the gradually rising topography. As such, whilst the proposal represents a significant extension to the existing facility, the vast majority of the additional bulk would be concealed by the already permitted development. The landscaping measures approved in connection with the previous application have already been carried out, and these have helped to minimise the visual intrusion of the development in the landscape, particularly when viewed from the bridleway to the north, from where high bunding largely conceals views of the development. The proposal seeks to add new bunding and planting on the western

and eastern boundaries in order to further minimise the visual impact of the development. These measures are summarised within the Planning Statement and Design and Access Statement, both dated April 2009, and are also referred to within the Landscape Assessment dated March 2009, which was carried out by David Brown Landscape Design on behalf of the applicants and submitted with the application.

Whilst the development is substantial in size, the visual effects would be localised and could be effectively mitigated by landscaping. Looking at the development as a whole (ie as existing plus the proposed extension) and having regard to the mitigation it is considered that the effects on the environment would not be significant.

The proposed development would result in an increase in vehicle movements from 150 to 500 two way movements per day. In the assessment of the original application for the 90,000 tonne facility, following concerns from the Highways Agency and Local Highways Authority regarding the adequacy of the road network, the permission was conditional upon improvements being carried out to the slip lanes on and off the A11 trunk road, by increasing the length of the northbound slip road from 77m to 130m and the southbound slip road from 95m to 130m, and to traffic lights being installed on the bridge over the A11. These measures have been carried out. In addition, the consent was subject to a Section 106 Agreement, which limited the number of two way movements per day to 150 and put in place a lorry routing agreement to prevent lorries using roads through nearby specified villages, as well as to a condition restricting the tonnage of grain stored on the site to 90,000. The Highways Agency has since clarified that the restriction on number of vehicle movements and tonnage of grain to be stored on the site were intended as confirmation of the applicant's figures rather than an indication of the capacity of the junction and road network. The application to extend the site by 210,000 tonnes was accompanied by a Transport Assessment (TA) that provided predictions of the volume of HGV movements of the cumulative development and stated that the existing (now modified) junctions have ample capacity to accommodate the traffic likely to be generated by the development. The principal concern raised by the Highways Agency related to the potential for platooning, namely HGV's queuing to join the A11 from a standing start, and it advised this impact could be resolved through the addition of a condition requiring all vehicles hauling grain to egress the site through a single weighbridge. Having regard to these matters, the impact of 500 two way movements per day on the road network is not considered to be significant.

The Council also notes under this heading that the combined site area of the whole development (ie as existing plus the proposed extension) is approximately 11.3 hectares which falls below the indicative site area threshold of 20 hectares for industrial estate developments above which "EIA is more likely to be required".

b) Cumulation with other development

As noted above, the proposal involves a substantial extension to an existing approved 90,000 tonne facility, and there is a need to consider the cumulative impact of the existing and proposed development. The impact of the facility as a whole on the landscape and the road network has been assessed above. The proposal involves cutting into the chalk, which would minimise the visual impact in the landscape, whilst new earthworks to create bunding and planting would be carried out on the western and eastern edges. It is considered that the extended facility, in terms of scale, nature of uses, materials and general layout, would be satisfactorily

accommodated on the site and would not have a significant effect on the environment.

c) The use of natural resources

The site was originally agricultural land, and the development seeks to take into account the natural features of the site in order to minimise its impact on the surrounding area.

The site is not of special ecological interest. A Phase 1 habitat survey and ecological risk appraisal were undertaken in 2009 and identified no ecological constraints. Additionally, the Council's Ecology Officer, in consideration of both applications, has raised no in principle objections to the development of the site, with the development offering the opportunity for biodiversity enhancements that can be secured by conditions of any planning permission.

During the consideration of the application, the Environment Agency considered the submitted FRA to be acceptable but stated that surface water drainage details would need attention as the failure of infiltration drainage or saturation of soil layers could cause problems for third party properties or the highway. Details were subsequently submitted by the applicant's agents and approved, thereby indicating that the surface water run-off implications of the development can be satisfactorily addressed.

d) Production of waste

The development would only generate commercial waste, whilst construction waste would be controlled to ensure it is kept to a minimum and disposed of appropriately.

Chalk would not be taken off the site. It would be excavated and the material used for the creation of noise and landscaping bunds. In addition, a secure construction compound would be established on site to minimise trips to and from site during the construction period.

e) Pollution and nuisance

Construction could give rise to dust, including soil stripping and haulage of construction material or spoil on site. Given the distance of the site from residential properties, this is not considered to be a significant issue.

The submitted, now quashed, application assessed the impact of the development in terms of noise to occupiers of West Wrating Valley Farmhouse, with the positioning of the equipment, fans, driers and exhausts all designed to point away from this dwelling. The Council's Environmental Health Officer advised that ten other houses located further away from the site needed to be considered. Further noise assessments were carried out to assess the impact of noise from fixed plant and from HGV movements, taking into account ambient noise levels arising from the proximity of dwellings to the nearby A11. The submitted assessment predicted minor noise level increases at night and levels that would be below WHO guidelines for community noise, whilst it stated that any construction related noise could be ameliorated by best practice. The EHO also took into account noise emissions from empty HGV's and considered the impact upon nearby residents to be acceptable.

The development requires lighting for safety and security purposes. The original scheme was subject to a condition requiring details of lighting, and this condition was subsequently discharged. The Council's EHO, in response to complaints about the

lighting installed on the site, has since visited the site at night and found the lighting to be in accordance with the approved details, and to be acceptable in terms of its impact upon nearby residents.

f) Risk of accidents

The design and layout of the development would seek to ensure that the risk of accidents is minimised. There is a requirement for vehicles to leave the site through a single weighbridge, in order to prevent vehicles leaving in platoons, whilst during the determination of the application, suitable give way markings and signs were requested by the Local Highways Authority.

Location of Development

The site was originally agricultural land, and is currently operational as a grain store. The site has no environmental designations and is not located within an environmentally sensitive area. In the assessment of the application, the County Council advised that the site is located in an area of high archaeological potential and a condition requiring investigation works was subsequently added to the consent. The required works have since been carried out and the condition satisfied. The development as a whole would have an impact on the landscape but this impact is generally localised and ameliorated by proposed landscaping.

Characteristics of Potential Impact

The main impact of the development would be in terms of its impact on the landscape, the increase in transport numbers and consequent effect upon the highway network, and the impact upon the amenities of adjoining residents in terms of noise and light pollution. These effects are not considered to be significant in the context of the nature and purpose of the Regulations. Further the effects can be adequately catered for by the imposition of conditions or other measures.

Conclusion

Taking the above criteria into account, the proposed development would not be likely to have significant effects on the environment for the purposes of the 1999 Regulations, by virtue of factors such as its nature, size and location. In reaching this opinion, the Council has assessed the development as a whole (ie as existing plus the proposed extension). The Local Planning Authority therefore considers that the proposed development is not EIA development.

10/06/2011