

NORTH WALSHAM - PF/19/0965 - Erection of dwelling (for manager of waste site) with new access to Kidas Way; Land near Boundary Pit Recycling Site, Kidas Way, North Walsham, NR28 9FN for Carl Bird Ltd

Minor Development

- Target Date: 16 August 2019

Case Officer: Natalie Levett

Full Planning Permission

RELEVANT SITE CONSTRAINTS

Landscape Character Area

Mineral Waste and Wastewater Safeguard Sites

LDF - Countryside

LDF Tourism Asset Zone

SFRA - Areas Susceptible to Groundwater Flooding

HO 9 - Rural Residential Conversion Area

Unclassified Road

RELEVANT PLANNING HISTORY

BX/19/0452 BX

Boundary Pit, Off Sandy Hills, Old Yarmouth Road, North Walsham, NR28 9NA

Norfolk County Council application C/1/2019/1002: Variation of conditions 1 and 3 of permission reference C/1/2018/1008 to replace approved surface water management plan with alternative drainage proposals

Raise No Objection 03/04/2019

BX/17/0964 BX

Waste Processing Site, Sandy Hills, Worstead

Norfolk County Council application C/1/2017/1003: Extension of waste recycling site & increase in annual throughput from 75,000 to 90,000 tonnes, to include addition area for inert storage, building extensions, picking line, perimeter bunding, vehicle parking area (part retrospective), re-excavation of eastern end of site to remove deposited inert waste & achieve final level as approved under C/1/2011/1003

Raise No Objection 11/07/2017

THE APPLICATION

The application is for full planning permission for the erection of a dwelling (for manager of the waste site) and associated works/access on land near Boundary Pit Recycling Site, Kidas Way, North Walsham.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr Seward on the grounds that:

"other material considerations outweigh the policy consideration of not building a dwelling in the countryside. They are the economic benefits that the related business brings to the local economy, the safety and thus environmental considerations of having personnel close to the relevant recycling and waste transfer site and the significant environmental improvements that will occur with the transfer of the skip hire business from a town centre to an out of town location and thus remove lorries from residential streets.

These are issues of interest to the town of North Walsham as a whole. Further I am calling in this application given the non pecuniary interest of the local member in relation to this application".

PARISH/TOWN COUNCIL

Worstead Parish Council: have no objection or comment

North Walsham Town Council: no objection.

REPRESENTATIONS

One representation received, raising the following matters:

- Who would be responsible for any damage caused now/future to the main water supply pipe that runs under the new proposed driveway?
- The location map is not accurate and does not show all the land owned by Kimberly House backing onto the pit;
- Concerns that Kidas Way will be used for HGVs and traffic in the future, as has occurred over the past 9 years with more and more using this as a cut through, and thus needs to be monitored;
- Moving the yard from Grammar School Road will create more HGV traffic, as it is further away from all major routes, resulting in concerns for children using Kidas Way and Yarmouth Road to access schools, buses etc.

CONSULTATIONS

Environmental Health: No objection, subject to condition relating to noise protection measures.

Landscape Officer: The landscaping could be improved to include trees on the eastern (and other) boundary.

County Council (Highway): Objected to the new access but applicant's agent has been in direct liaison with the Highway Authority and submitted revised plans. As a result, the Highway Authority have removed their objection subject to conditions being imposed.

County Council (Minerals & Waste): The Mineral and Waste Planning Authority does not consider that there is an essential need for a worker to live permanently on or in close proximity to a waste management site and that the proposed dwelling would not enhance security in the way suggested in the application.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

POLICIES

North Norfolk Core Strategy (Adopted September 2008):

SS 1 - Spatial Strategy for North Norfolk

SS 2 - Development in the Countryside

SS 3 - Housing

SS 4 - Environment

SS 6 - Access and Infrastructure

HO 5 - Agricultural, Forestry and Other Occupational Dwellings in the Countryside

EN 2 - Protection and Enhancement of Landscape and Settlement Character

EN 4 - Design

EN 9 - Biodiversity & Geology

EN 10 - Development and Flood Risk

EN 13 - Pollution and Hazard Prevention and Minimisation

CT 5 - The Transport Impact of New Development

CT 6 - Parking Provision

National Planning Policy Framework (NPPF):

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 5 - Delivering a sufficient supply of homes

Section 8 - Promoting healthy and safe communities

Section 9 - Promoting sustainable transport

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

MAIN ISSUES FOR CONSIDERATION

- Principle of development
- Design and impact upon the surrounding area
- Effect on amenity
- Effect on the landscape
- Highway impacts
- Environmental considerations

APPRAISAL

Principle:

The applicant is seeking full planning permission for the construction of a manager's dwelling adjacent to the waste recycling site. The supporting statement advises that planning permission was granted on 18th April 2019 for the enlargement of the Boundary Pit Waste Recycling Plant, including an extension to the Waste Handling Building; this was issued by Norfolk County Council (reference C/1/2017/1003) as the Waste Planning Authority. The description of that development was "*Extension of waste recycling site and increase in annual throughput from 75,000 to 90,000 tonnes, to include additional area for inert storage, building extensions, picking line, installation of 12no. PV panels, perimeter bunding, vehicle parking area (part retrospective), re-excavation of eastern end of the site to remove deposited inert waste and achieve final level as approved under application C/1/2011/1003,*

off site highway improvements and consolidation of planning permissions". It should be noted that two subsequent variation of condition applications have been submitted to the Waste Planning Authority since this application. Application C/1/2018/1008 for Variation of conditions 2(ii) and 9 of permission ref. C/1/2017/1003 to extend timescale from 3 to 24 months to reach interim development level with a reduction in stockpile height during that period (minor material amendment) has been approved and application C/1/2019/1002 for the Variation of conditions 1 and 3 of permission reference C/1/2018/1008 to replace approved surface water management plan with alternative drainage proposals, is currently under consideration.

The submission states that the applicant has:

"serious concerns about monitoring security at the Boundary Pit site, particularly in regard to arson, vandalism or theft of equipment or fuel. It is also possible for waste to combust spontaneously. Although the site is well protected by fences, gates and a substantial earth bund which runs alongside the main A149, it is remote from residences and could be accessed on foot undetected. As with all waste facilities there is a constant threat of fire to stored waste, either by accident or design. A stray Chinese lantern caused a fire at a waste facility in the north of England and locally there have been fires at several waste sites in East Anglia.

There is no other dwelling(s) in close proximity. Mr Bird is, therefore, applying for a manager's house, to be occupied by himself and his family, in order to provide the security the site currently lacks. He has also supplied a personal statement in support of the application.

The planning gain in permanently removing his skip lorry site from Grammar School Road is a very important material consideration".

With regard to the "Grammar School Road site", the submission states that:

"The company also operates from the builder's yard on Grammar School Road in the centre of North Walsham, where the Manager, Mr Carl Bird has lived for 39 years, enabling him to monitor this site closely where he maintains 7 skip lorries and an office with 1 full time office worker and 2 maintenance staff. Following the permission to extend the Boundary Pit site, it is his intention to relocate the entire skip operation from Grammar School Road to Boundary Pit, thus removing the serious HGV traffic problem from the centre of the town and freeing the site for more appropriate development".

It should be noted that the applicant's (Carl Bird) existing site at Grammar School Road, is a base for the skip hire business and that no permission for waste management uses exists on this site, so no sorting or recycling of waste takes place at this site. All waste collected through the skip hire operation goes to the site at Boundary Pit; and has for a considerable number of years. Nothing has been put forward, such as a draft S106 Agreement, confirming that the Grammar School Road site would relocate (albeit this would not be reasonable) nor has the application demonstrated that planning permission has been granted within the Waste Management Site for the storage of skips nor have details of HGV movements in relation to this. Without this, the "intention" is purely an intention and little, if any, weight can be attached to this.

Policy SS 1 sets out where the majority of new development in the district will take place. The site is within an area designated as "Countryside" where development is restricted to particular types of development to support the rural economy, meet affordable housing needs and provide renewable energy. Policy SS 2 states that development in the Countryside will be limited to that which requires a rural location and sets out the types of development that can be acceptable.

Policy HO 5 supports dwellings in the Countryside to meet the housing needs of full-time workers in agriculture, forestry and other essential workers connected with that land, subject to set criteria including:

- that a demonstrated essential need for one or more full time works to be readily available at most times for the enterprise to function properly; and
- the functional need could not be met by another existing dwelling on the site or in the immediate vicinity; and
- the enterprise has been established for at least three years and is, and should remain, financially viable; and
- the proposal does not represent a replacement of another dwelling on the site that has been sold on the open market in the last five years; and
- the proposed dwelling is no larger than that required to meet the functional needs of the enterprise, nor would it be unduly expensive to construct in relation to the income that the enterprise could sustain in the long term.

The policy relates to housing required in relation to an agricultural/forestry or other essential workers in relation to the agricultural/forestry business. In any event, a demonstrated need has not been provided and waste management sites can, and do, operate without a dwelling for the business to function, as has been demonstrated with this and other sites in the District, County and nationally. The Planning and Access Statement states that there are no other suitable dwellings in close proximity to Boundary Pit. However, Norfolk County Council, as Mineral and Waste Planning Authority, undertook a search using the "OS Addressbaseplus", and advised that there are over 1,200 dwellings within 1 mile of the site. However, this does not detail if they are for sale. There are no dwellings on site, although, at the time of writing, there were 62 houses for sale on the Rightmove website, within 1 mile of the application site, primarily 3-4 bedrooms, over a wide price range and it has not been demonstrated why these would not be suitable. The waste management business has been in operation for more than three years, although no information has been submitted demonstrating that it would remain financially viable. The dwelling is not a replacement of another dwelling on the site. The proposed dwelling is larger than would be expected for a manager's dwelling, even for a family home; no details have been provided as to the build costs in relation to the income to demonstrate that the business could be sustained in the long term as required by Policy HO 5.

Since the publication of the Core Strategy in September 2008, the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) have been published both of which are material planning considerations. The NPPF (revised February 2019) sets out the Government's planning policies and how these are expected to be applied whilst the NPPG sets out Government guidance in relation to planning related issues.

Paragraph 78 of the NPPF states that in order to promote sustainable development in rural locations, housing should be sited where it enhances or maintains the vitality of rural communities. Paragraph 79 requires development to avoid isolated homes in the countryside. The Court of Appeal, upholding the decision of the High Court, has clarified in the Braintree judgement that 'isolated' means "*a dwelling that is physically separate or remote from a settlement*"; it is not related to 'access to services' but proximity to other dwellings. It also confirmed that access to services by sustainable means is to be taken in the context of other policy considerations such as supporting the rural economy.

With regard to the consideration of the physical isolation of the application site, the site would be physically separate from other dwellings and a settlement, although it is acknowledged that there are two dwellings that would be in the vicinity. As such, paragraph 79 of the Framework applies.

In consideration of whether the application site is remote from services, the site is remote from day-to-day services and facilities. A touring caravan park and public house with B&B accommodation are located within the surrounding area as is a nursery (plants) and a tearoom, but the dwelling would not be justified in this respect. The centre of North Walsham, a Principal Settlement, is located approximately 1.5 miles from the site. The site is not within safe walking distance to North Walsham. Whilst short car journeys are acceptable in rural areas, as supported by appeal decisions, the site is isolated and remote from any immediate services or facilities and, as such, the site's location is not considered to be sustainable.

Paragraph 79 of the NPPF states that planning decisions should avoid the development of isolated homes in the countryside unless, amongst others, the following circumstance applies:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

The applicant considers that paragraph 79(a) is applicable to this case. The National Planning Policy Guidance (NPPG), sets out how the need for isolated homes in the countryside for essential rural workers can be assessed when considering proposals against paragraph 79(a). The considerations can include:

- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);
- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;
- whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

The site is adjacent to an operational waste management site, which this policy is not aimed at. The proximity of the proposed residential dwelling to the waste management site would result in future residents being subject to amenity impacts. If the residents were not connected to the management/ownership of the waste management site these impacts would be likely to give rise to complaints, which could prejudice the site's future operation. Despite this, allowing a dwelling subject to known adverse amenity impacts whether or not the applicant is agreeable is not acceptable. It may be that future managers may object to the amenity impacts. The planning process has to consider all potential future occupiers. Whilst a condition, if approved, could be imposed ensuring that the dwelling is occupied by

the manager of the business, such a condition would not prevent complaints being made, although it is accepted that it is unlikely that the manager occupier of the dwelling would raise complaints about their own business.

The NPPG also provides guidance on the interpretation of this part of the policy, *"evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products)"*.

The Mineral and Waste Planning Authority's advice is that there is not an essential need for a worker to live permanently on or in close proximity to a waste management site and has confirmed that there is not generally an essential need for a worker to live permanently at their place of work for waste management sites, and for the vast majority of waste management sites in Norfolk there is no on-site dwelling, the only exceptions being where a waste management use has developed within the curtilage of an existing dwelling. They also advise that the proposed dwelling would not enhance security in the way suggested in the application due to its orientation and existing bunding surrounding the site. Methods, such as CCTV, could provide security if required, as at other commercial premises.

The applicant's agent provided a detailed response and, in connection with the above, stated:

"Although the dwelling will have a good view of the existing waste handling building, direct views of the site are not a central requirement. A purpose designed comprehensive and sophisticated CCTV system and also an integrated fire alarm system will be installed on the site but, however effective the systems, the key factor is always the actual response time. The physical presence of the manager on site will therefore enable immediate investigation, attention and response to any situations arising as speed of response is invariably a key factor in containing the spread of a fire. Likewise, possible intrusion leading to vandalism or theft can be quickly investigated and the authorities immediately alerted if necessary. Any false fire or intruder alarms can also be attended to quickly and thus minimise any local nuisance or abortive call outs".

No details have been submitted demonstrating that issues have occurred on site and thus a need for a dwelling within the site, rather than in close proximity. The site has been operating in excess of 26 years without significant problems, albeit retrospective applications have had to be submitted to regularise matters most of which were successful according to Norfolk County Council's planning application history for the site on their website. In addition, the Environment Agency and other bodies have issued advice, guidance and best practice management of waste management sites to prevent/reduce the risk of harm to such sites.

As a result, whilst the intention of relocation of the skip hire business outside of North Walsham is understandable, the applicant does not have any planning permission for waste management uses on that site, so no sorting or recycling of waste takes place and all waste collected through the skip hire operation goes to the site at Boundary Pit; and has for a considerable number of years. Nothing has been put forward, such as a draft S106 Agreement, confirming that the Grammar School Road site would relocate (albeit this would not be reasonable because this is not a viable option at present because there is no planning permission in place for the relocation) nor has the application demonstrated that planning permission has been granted within the Waste Management Site for the storage of skips nor have details of HGV movements in relation to this been submitted nor have the estimated reduction in vehicle movements within North Walsham been provided. Without

this, the "intention" is purely an intention and the relocation of the skip hire business cannot be given any significant weight

Both local and national planning policies do not support this type of development and dwellings on waste management sites are rare and only occur where a waste management business has grown from operating a business on a site that had an existing dwelling. There are no material considerations that would outweigh this. As a result, the principle of development is unacceptable and contrary to Policies SS 1, SS 2, HO 5 and the NPPF (in particular Paragraph 79).

Design:

Policy EN 4 seeks high standards of design.

The design, including the scale and external appearance, of the dwelling is acceptable and would not have any harmful effects on the character and appearance of the surrounding area.

The submitted Planning and Access Statement states that the dwelling's location has been carefully chosen to give a full view of the waste recycling site. The waste site is, however, surrounded by a bund several metres high, and the orientation of the proposed dwelling means that no windows face the site at either ground or first floor levels. As referred to above, the applicant has explained why they consider direct views of the site are not a central requirement.

The proposed design complies with Policy EN 4 of the North Norfolk Core Strategy, although it is questionable whether or not the justification for the dwelling could be achieved. The acceptable design of the dwelling is not an overriding reason to approve the proposal.

Amenity:

Policy EN 4 seeks to ensure that there is no adverse amenity impact on neighbouring properties.

Given the location, its degree of separation and revised access arrangements, the dwelling would have only very limited amenity impacts on the nearby dwellings.

As a result, the proposal would comply with Policy EN4 of the North Norfolk Core Strategy.

Landscape:

Policy EN 2 seeks to protect and enhance the District's landscape and settlement character.

The Landscape Team advised that the landscape impact could be improved with the inclusion of trees, particularly to the eastern boundary. This could be conditioned to comply with Policy EN 2.

Highways:

Policy CT 5 seeks to ensure highway safety and Policy CT 6 sets out the car parking standards.

The Highway Authority initially objected to the proposal due to the creation of a new access. However, a revised proposal utilising the existing access within the waste management site was submitted. The Highway Authority raised no objection subject to conditions.

As a result, with the conditions suggested by the Highway Authority, the proposal would accord with Policies CT 5 and CT 6.

Environmental Considerations:

Policy EN 13 seeks to protect the District from pollution and hazards.

The Environmental Protection Team raised no objection subject to a condition that the construction work does not begin until a scheme for protecting the proposed residential building from noise from the nearby neighbouring industrial units/farm and recycling centre has been submitted to and approved by the Local Planning Authority. Given that the site is in the countryside, the measures could potentially have a detrimental visual impact (i.e. noise acoustic barriers) thus could not be dealt with via a "pre-commencement" condition. However, given that the principle of the development is unacceptable, this information has not been formally requested.

As a result, there is currently insufficient information submitted to demonstrate that the proposal would comply with Policy EN 13.

Other Matters:

With regard to the comments made in the representation received:

- *Who would be responsible for any damage caused now/future to the main water supply pipe that runs under the new proposed Driveway?*

The proposal has been amended and the access/driveway would not be from Kidas Way, thus now not an issue for consideration under this application.

- *The location map is not accurate and does not show all the land owned by Kimberly House backing onto the pit and therefore closer neighbour's*

The applicant's agent has advised that *"It is claimed that the submitted Location Plan is not accurate but this is an extract from the larger map submitted with all the recent applications for the Boundary Pit Recycling site and, the accuracy of the previous plan, Ref: W18 LAN 019, not having been previously challenged, it is now therefore a matter of record. The applicants land ownership is correctly depicted"*.

No further information was submitted to detail the land that is owned by Kimberly House.

- Concerns that Kidas Way will be used for HGVs and traffic in the future, as has occurred over the past 9 years with more and more using this as a cut through, and thus needs to be monitored;

The applicant's agent advised *"As categorically confirmed by the applicant, no HGV's or commercial traffic emanating from the Boundary Pit Recycling site ever uses Kidas Way and all employees are aware that this route is prohibited. Whilst it may indeed be the case that other vehicles ignore the cul-de-sac road signage and use the Kidas Way route, this is not a relevant planning matter in relation to the current application and is outside the control of the applicant"*.

- Moving the yard from Grammar School Road will create more HGV traffic, as it is further away from all major Routes, resulting in concerns for children using Kidas Way and

Yarmouth Road to access schools, buses etc.

The applicant's agent advised: *"Moving the yard from Grammar School Road entirely will actually create less HGV traffic in North Walsham thus removing a busy commercial enterprise from an area where this could be considered inappropriately located. The site would then potentially available for a more appropriate form of development, subject to planning consent. All commercial traffic will be consolidated at the Boundary Pit site where movements can be safely controlled and monitored. This comment does not seem directly relevant to the present application"*.

The application does not incorporate the relocation of the skip business to the waste management site, so holds little weight in the determination of the application

CONCLUSION:

No details have been submitted demonstrating that issues have occurred on site and thus a need for a dwelling within the site, rather than in close proximity. The site has been operating in excess of 26 years without significant problems, albeit retrospective applications have had to be submitted to regularise matters most of which were successful according to Norfolk County Council's planning application history for the site on their website. In addition, the Environment Agency and other bodies have issued advice, guidance and best practice management of waste management sites to prevent/reduce the risk of harm to such sites.

As a result, whilst the intention of relocation of the skip hire business outside of North Walsham is understandable, the applicant does not have any planning permission for waste management uses on that site, so no sorting or recycling of waste takes place and all waste collected through the skip hire operation goes to the site at Boundary Pit; and has for a considerable number of years. Nothing has been put forward, such as a draft S106 Agreement, confirming that the Grammar School Road site would relocate (albeit this would not be reasonable because this is not a viable option at present because there is no planning permission in place for the relocation) nor has the application demonstrated that planning permission has been granted within the Waste Management Site for the storage of skips nor have details of HGV movements in relation to this been submitted nor have the estimated reduction in vehicle movements within North Walsham been provided. Without this, the "intention" is purely an intention and the relocation of the skip hire business cannot be given any significant weight

Both local and national planning policies do not support this type of development and dwellings on waste management sites are rare and only occur where a waste management business has grown from operating a business on a site that had an existing dwelling. There are no material considerations that would outweigh this. As a result, the principle of development is unacceptable and contrary to Policies SS 1, SS 2, HO 5 and the NPPF (in particular Paragraph 79).

As a result, whilst the proposal is acceptable in terms of its design, amenity and highway safety, the principle of the development is unacceptable and there is no overriding reason to allow the proposal.

RECOMMENDATION:

Refuse planning permission on the following grounds:

- The principle of the development is unacceptable and contrary to Policies SS 1, SS2, HO 5 and Paragraph 79 of the National Planning Policy Framework (February 2019).

- Insufficient information has been submitted to demonstrate that the proposed residential building would be protected from noise from the close neighbouring industrial units/farm and recycling centre.

The precise wording to be determined by the Head of Planning.