
Appeal Decision

Site visit made on 15 September 2015

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 October 2015

Appeal Ref: APP/R3325/W/15/3024073

Land at Camp Road, Dimmer Lane, Dimmer, Castle Cary, Somerset, BA7 7NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Hopkins - Andrew Hopkins Concrete Ltd against South Somerset District Council.
 - The application ref. 14/04582/FUL, is dated 8 October 2014.
 - The development proposed is: the erection of a concrete batching plant and associated offices, access road, aggregate storage area, parking, drainage, boundary treatment and landscaping (revised proposal of 13/01142/FUL).
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Decision

1. The appeal is dismissed and planning permission for the erection of a concrete batching plant and associated offices, access road, aggregate storage area, parking, drainage, boundary treatment and landscaping (revised proposal of 13/01142/FUL) is refused.

Preliminary Matters

2. The Council states that, had it have been in a position to do so, it would have refused planning permission for the reason that the increased traffic generated by the development would have a severe adverse impact on highway safety and the amenity of residents along the section of the B3153 through Clanville, Alford and Lovington in conflict with policies TA5 and EQ2 of the South Somerset Local Plan 2006-2028 (LP).
3. The appellant has submitted a revised site location plan (no. 14.01A) which contains a small amendment to the site boundary. The Council raises no objection to this change and I am satisfied that it does not prejudice the cases of interested parties. I have therefore taken it into account in my decision.

Main Issue

4. The main issue in this appeal is the scheme's effects on highway safety and residents' living conditions, with particular reference to the effects of the flow of heavy goods vehicles (HGVs) along the B3153.

Reasons

5. The appeal site, which is well separated from existing settlements, occupies open land in a partly rural setting. It lies within the Dimmer Industrial Area

which has a Certificate of Lawfulness for B2 General Industrial Use. The site was considered by a previous Inspector who dismissed an appeal relating to a concrete batching plant in 2014 (ref. APP/R3325/A/13/2210452). While his decision is an important material consideration, the present decision is based upon the particular nature of both the scheme that is before me and the evidence that has now been submitted. Nevertheless, I see no reason to depart from my colleague's remarks about the 'fall-back' position put forward at that time. That position was, in summary, that the potential for industrial uses and buildings to be developed on land at Dimmer could result in a considerable additional volume of HGVs using the B3153. However, as my colleague noted, the relevant certificate did not extend to any permission to erect buildings on the site and there was no evidence that significant buildings and uses were to be developed there. I therefore reach a similar view, namely that the impact that the present proposal would have in respect of the B3153 should be measured against the appeal site's current absence of buildings and uses rather than against a theoretical maximum development potential.

6. I also agree with my colleague's assessment of the characteristics of the B3153. The concerns of the Council in respect of this route, particularly in respect of the villages of Clanville, Alford and Lovington, are shared by local objectors. It is common ground that HGV traffic from the appeal site would need to travel along this route, either to the west (through Alford and Lovington) or to the east (through Clanville). I travelled along the B3153 several times by car, and also walked several village sections. I saw that these settlements, which include dwellings sited close to the road, are generally poorly provided with footways. There are several sections in all villages where pedestrians have to walk on the main road carriageway.
7. Bearing in mind that there are lengths of road where large vehicles are unable to easily pass each other, and noting that a number of accesses onto the road have limited visibility, I agree with the previous Inspector that difficult and potentially dangerous conditions exist as a result of the road's existing levels of use. His call for greater certainty in respect of assessing the previous appeal scheme's likely traffic generation, notwithstanding that the local highway authority raised no objections in principle and that the proposal would not exceed the road's theoretical capacity, is therefore understandable.
8. In the present case, accident information has been submitted by the appellant and objectors. It is clear that accidents involving HGVs (as well as other vehicles) have occurred on the B3153 during the period 2009-2014. I note the view of the appellant's transport consultants that the resulting number and type of accidents could be considered 'typical' given the nature of roads and junctions in the search area (which was wider than the B3153). However the basis for that conclusion is not fully explained. In any event, the accident information does not lead me to depart from my colleague's view about the degree of certainty needed in respect of the scheme's likely traffic generation.
9. The appellant has submitted further information aimed at providing such certainty. The nature of the scheme has also been amended, with the extent of the plant machinery (and therefore the maximum output) being halved and a single vehicle collection point being proposed instead of two. However, the average suggested number of trips per day (65) by concrete mixer trucks

arising from the site set out in the transport statement¹ does not depart significantly from the figures of 53-66 quoted in the previous appeal decision.

10. This suggested trip generation figure derives from an assessment of existing movements at the appellant's site in Evercreech. I have no reason to doubt the data that have been supplied in respect of that facility, which operates below its maximum potential output. However, the submitted figures show that there is some variation in the volume of output – implying variation in the number of resulting traffic movements. For example, production in each of April and May 2014 was markedly higher than in March 2014², which was the representative month for which detailed traffic data were obtained. While I accept that assessments based upon the theoretical maximum outputs of the Dimmer proposal or the Evercreech facility would be unrealistic, it is also clear that an average figure does not represent a likely 'worst case' scenario.
11. The appellant states that the present proposal would replace the existing facility at Evercreech. Notwithstanding the reduction in plant size (Evercreech has a maximum output of 60m³ per hour, compared to the 40m³ per hour that is proposed at Dimmer), it is intended that the existing operation would be transferred from Evercreech to Dimmer. The distribution of suppliers and customers would be unaffected. It is stated that some of the existing movements arising from Evercreech already use the B3153: the distance that concrete can be transported is limited and, as such, the appellant expects that the existing and proposed customer bases would be largely unchanged.
12. The appellant's transport consultants carried out a traffic survey near Alford in June/July 2014. This showed that 10.1% of traffic on the B3153 at that point was classified as an HGV: some 6,296 vehicles out of a total of 62,503 vehicles over a four week period (0700-1900, Monday-Friday). Notwithstanding my comments below, I have no reason to dispute these figures. Indeed, Somerset County Council (SCC), the local highway authority, considers them typical.
13. The appellant's transport statement concludes that 'currently approximately 10.1% of traffic travelling along the B3153 within the vicinity of Alford is from HGVs. This includes traffic generated by the Evercreech plant and so it is anticipated that this would remain the same should the reduced sized plant be constructed at Dimmer. However, should the Dimmer plant operate at full capacity the proportion of HGVs would increase to 11.7%. Conversely should the Evercreech plant operate at full capacity the proportion of HGVs would increase to 12.8%.'³
14. Significantly, this assessment assumes that the Dimmer facility would replace that at Evercreech. However, while the Evercreech site is the subject of planning permissions for class B1 light industrial use, no mechanism has been put forward within the framework of planning legislation that would ensure that the Evercreech facility would cease operating in its present form if the Dimmer plant were to be brought into use. If the appellant were to relocate to Dimmer, there is no planning restriction that would prevent the use at Evercreech from being taken forward by another operator. In such a scenario, movements in respect of Dimmer would represent additions rather than replacements.

¹ Hydrock Transport Statement (October 2014) table 6.3.

² Data from Hydrock Transport Statement (October 2014) table 6.2: output figures for March, April and May 2014 of 2,346m³, 3,363 m³ and 3,269 m³ respectively.

³ Hydrock Transport Statement (October 2014) para 7.2.1.

15. The appellant's transport appeal statement says that 'given the location, and the fact that the Evercreech plant has historically not approached its permitted capacity, it seems unlikely that a competitor company would seek to move into the existing plant'⁴. However, the Evercreech site lies closer to the A371 than Dimmer is to the B3153: I have seen no substantive evidence that the Evercreech location is in itself disadvantageous. As already noted, the appellant expects that output at Dimmer will, as at Evercreech, be below the site's maximum permitted capacity. It seems therefore unlikely that these reasons would be sufficient in themselves to rule out a continuation of the existing use at Evercreech. But in any event, even if a new light industrial use were to be established at the Evercreech site it is likely that this would generate HGV movements, although the scale of such movements has not been quantified. To my mind, it is not therefore realistic to assume that the Evercreech movements can be 'offset', as is maintained by the appellant.
16. Irrespective of whether the Evercreech traffic is (or is not) 'offset', the appellant considers that the development would lead to local traffic increases which would be neither material nor severe⁵. This conclusion is based in particular on calculations of traffic impact derived from the Alford survey data. As already noted, I consider that traffic figures based on the theoretical maximum output of the site represent an unrealistic estimate of the 'worst case' scenario. A more reasonable assessment could be, for example, to present a range of traffic movements based upon the likely range of monthly outputs. Clearly, such an exercise would be unnecessary if it could be demonstrated that traffic increases arising from a plant operating at a theoretical maximum capacity would be not material. However, I share the Council's view that the submitted data do not do this.
17. The appellant's transport statement suggests that the number of HGV deliveries (i.e. excluding staff trips and miscellaneous deliveries) associated with the Dimmer plant operating at a theoretical maximum capacity would be 247 trips per day or 22 trips per hour⁶ (assuming an 11 hour day) – i.e. one trip every 2-3 minutes. In itself, this seems to me to amount to a substantial amount of traffic.
18. I accept that it is reasonable to consider any such increase in the context of existing movements on the B3153. As already noted, movements associated with the site would be split between those sections of the B3153 lying to the east and west of the Dimmer Lane junction. However, base traffic movements have only been surveyed on the section to the west (near Alford): those on the road to the east (passing through Clanville) have not been quantified. While it is possible that this part of the B3153 already experiences higher numbers of HGV movements (as the Council alleges), it appears from the appellant's breakdown of likely routeing (on which I comment below) that it would also be used by a greater proportion of appeal site traffic than the section to the west. However, in the absence of survey data firm conclusions cannot be drawn.
19. While a comparative assessment has been attempted at Alford, the manner in which the calculations of traffic impact have been presented is unclear. The stated figure for the overall traffic increase arising from the site at its theoretical maximum output at Alford is 1.9% (1179 trips Monday-Friday,

⁴ Hydrock Appeal Statement (April 2015) para 4.5.16.

⁵ Hydrock Appeal Statement (April 2015) para 8.1.2.

⁶ Data from Hydrock Transport Statement (October 2014) table 6.3.

expressed as a proportion of the total survey figure of 62,503 movements over the four week period)⁷. However, neither the methodology that underpins the calculation of the 1179 figure nor the detailed justification for the suggested split of movements between the sections of the B3153 to the west and east of Dimmer Lane have been made explicit. Given that the main concern relates to HGV movements, it would have been clearer if a comparison was presented between existing numbers of HGV movements and those that would likely to be generated in the relevant scenario. But, again, this is not made explicit.

20. The existing movement data at Alford shows that the road is used by some 6,296 HGVs over a four week period (Monday to Friday), equating to some 315 per day (a 20 day period was surveyed). The appellant suggests that 40-45% of movements from the site would pass through Alford⁸. Applying the lower of these percentage figures to the likely number of HGV movements arising from the appeal site's theoretical maximum output gives a total of some 99 trips per day (i.e. 40% of 247 trips per day), which would equate to almost a third of the present number of HGV movements through the village. To my mind, this would amount to a significant increase in local HGV traffic. For the reasons noted above, it has not been demonstrated that the Evercreech movements (which it is accepted could in principle be higher than the Dimmer theoretical maximum) can be 'offset' against this figure.
21. As I have already stated, the adoption of the theoretical maximum figure is an unrealistic exercise. However, the data that have been produced do not easily enable a realistic 'worst case' scenario to be assessed. This is because: first, the 'actual' movement numbers that have been presented derive from an average that does not take account of likely month-to-month changes in traffic movements; second, the full justification for the anticipated split of movements between the eastern and western sections of the B3153 has not been provided; and, third, no data have been presented in respect of existing HGV movements on the section of the B3153 to the east of Dimmer Lane.
22. Drawing all of the above matters together, I consider that there are serious deficiencies in the scheme's evidence base in respect of traffic generation.
23. The appellant has also submitted an application for a concrete batching plant within Mendip District. However, I am not aware of the details of that proposal and, as such, it can have little weight in the present appeal. Concerns have been raised about the potential for cumulative traffic impacts to arise in association with a proposal for a waste transfer station at the nearby landfill site. At the time of writing SCC is minded to grant planning permission for that scheme subject to the conclusion of a legal agreement. The supporting evidence suggests that this proposal would be likely to result in a reduction in the amount of HGV traffic to and from the landfill site, although the full details of the development are not before me. Nevertheless, the evidence presented in the present appeal does not enable me to fully consider cumulative traffic impacts. In any event, my concerns relate to the particular deficiencies in the submitted evidence base described above.
24. Paragraph 32 of the National Planning Policy Framework (the Framework) states among other matters that that development should only be prevented or refused on transport grounds where the residual cumulative impacts of

⁷ Hydrock Transport Statement (October 2014) para 6.3.3

⁸ Hydrock Transport Statement (October 2014) para 6.3.3

development are severe. However, it also requires that developments that generate significant amounts of movement should be supported by a transport statement or transport assessment. In the present case, I consider that for the reasons set out above there are serious deficiencies in the submitted evidence base in that regard. Given the view of the previous Inspector that more certainty was needed before permitting a proposal that would attract more HGV traffic onto the B3153, the lack of such clarity is a serious failing.

25. I am aware that SCC raises no in-principle objections to the proposal or to the supporting transport evidence, stating that relevant assumptions are robust. However, for the reasons set out above, my conclusion on the present scheme does not differ materially from that reached by the previous Inspector in respect of the earlier scheme – namely that it has not been shown that the traffic likely to be generated by the development could be accommodated on the B3153 without causing danger to existing users, and without an unacceptable impact on local residents. This would conflict with LP policies TA5 and EQ2. To my mind, this matter is of sufficient importance to overcome the scheme's other advantages – most notably its economic benefits. The proposal does not therefore comprise sustainable development and does not benefit from the presumption in favour of sustainable development that is set out in paragraph 14 of the Framework.
26. While I note the noise evidence that has been submitted by third parties, I am satisfied that, were the scheme otherwise acceptable, this is a matter that could be appropriately controlled by planning conditions. Similarly, I see no reason why adequate landscaping details could not be secured by condition. The Council raises no objections in respect of ecological impacts and I share the view of the previous Inspector that dust from concrete batching is capable of being controlled by other legislation. However, these factors do not overcome my conclusion on the main issue above. In the circumstances, it is not necessary for me to reach a view as to whether the submitted undertaking accords with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
27. For the reasons given above and having regard to all other matters raised, my overall conclusion is that the appeal should not succeed and that planning permission should be refused.

M J Hetherington

INSPECTOR