

Development Control Committee
Meeting to be held on 17 January 2024

Electoral Division affected:
Burscough and Rufford

West Lancashire Borough: application number LCC/2023/0033
Change of use from agriculture to waste management including the sorting, storage and distribution of non-hazardous waste, and two containers at Bank Farm, 40 Martin Lane, Burscough

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Brief Summary

Application – Change of use from agriculture to waste management including the sorting, storage and distribution of non-hazardous waste, and two containers at Bank Farm, 40 Martin Lane, Burscough.

Recommendation

That planning permission be **refused** for the following reasons:

- (i) The development is inappropriate development in the Green Belt for which no very special circumstances by way of a quantitative or market need for the development at this location have been demonstrated sufficient to outweigh the harm to Green Belt by reason of inappropriateness. The development is contrary to the National Planning Policy Framework and National Planning Policy for Waste regarding protection of the Green Belt, and Policy GN1 of the West Lancashire Local Plan.
- (ii) The waste management operations would be likely to have an unacceptable adverse impact on the amenity of surrounding residents and land users by virtue of noise, dust and general disturbance contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policy G3 of the West Lancashire Local Plan.
- (iii) The development involves the loss of Grade 1 agricultural land contrary to Policy EC2 of the West Lancashire Local Plan.

Applicant's Proposal

This application seeks permission for a change of use of agricultural land to a use for the management of non-hazardous construction, demolition and excavation waste including the provision of two containers for storage and as an office measuring 6m x



2.5m x 2.6m high and 12m x 2.5m x 2.6m high respectively. The site provides specific areas in which to sort soil, hardcore and aggregate, which is brought to the site in 32-tonne grab wagons. Materials are separated and the soil, aggregate and hardcore are stored in small stockpiles on site, not exceeding 3m in height. The aggregate is crushed to form smaller components using a 21-tonne Volvo excavator with crushing bucket and screening bucket attachments. The separated products are subsequently sold and exported off-site to appropriate users. The applicant states that there would be a maximum annual throughput of 30,000 tonnes of waste.

The applicant proposes working hours to be Monday to Friday 07:00 to 17:30 and Saturday 08:00 to 14:00.

Description and Location of Site

The application site is on open agricultural land and the waste management activities are already operational. The original farmhouse buildings are located to the north and the application site is bordered by agricultural land to the south and east. Martin Lane and Merscar Lane are located to the west. These roads include a number of residential properties, a disused public house, a timber mill and other agricultural enterprises. The nearest residential properties are approximately 35m from the application site. The site is in the Green Belt.

Access to the site is along an unmetalled track from Gorst Lane some 300m to the south. Gorst Lane has a 7.5-tonne weight limit except for access/loading.

The Wildfowl and Wetlands Trust (WWT) Martin Mere Site of Special Scientific Interest (SSSI) is located approximately 1km to the north-east. Langley's Brook is approximately 450m to the east and Merscar Brook is approximately 180m to the west. The site is not in Flood Zone 2 or 3.

Another waste management company is sorting, processing and storing non-hazardous waste materials in a building to the east of this application site. Objections have also been made regarding this operation. This operation is the subject of planning application LCC/2023/0026 and is reported elsewhere on this agenda.

The application site is on Grade 1 agricultural land.

Background

A number of permissions have previously been granted by West Lancashire Borough Council for agricultural buildings and associated development at this farm site. The application site was grassland in 2018 but by 2020 appears to have been stripped and then used for trailer storage and more recently waste management operations.

Planning Policy

National Planning Policy Framework (December 2023)

National Planning Policy Framework Planning Practice Guidance



Waste Management Plan for England (December 2013)

National Planning Policy for Waste (October 2014)

Our Waste, Our Resources: A Strategy for England (December 2018)

Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document (DPD)

Policy CS7	Managing our Waste as a Resource
Policy CS8	Identifying Capacity for Managing our Waste
Policy CS9	Achieving Sustainable Waste Management

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One

Policy NPPF1	Presumption in Favour of Sustainable Development
Policy DM1	Management of Waste and Extraction of Minerals
Policy DM2	Development Management

West Lancashire Local Plan

Policy EC2	The Rural Economy
Policy SP1	A Sustainable Development Framework for West Lancashire
Policy GN1	Settlement Boundaries
Policy GN3	Criteria for Sustainable Development

Burscough Parish Neighbourhood Plan

Consultations

West Lancashire Borough Council – object for the following reasons:

- The development site is within the Green Belt within the West Lancashire Local Plan. In relation to the provision of waste management facilities these are considered to be inappropriate in the Green Belt. Paragraph 149 of the National Planning Policy Framework provides a range of exceptions to the construction of new buildings within the Green Belt. The proposed buildings associated with this use would not fall in the exception categories and are therefore considered to be inappropriate development.
- Paragraph 150 of the National Planning Policy Framework allows for other forms of development including changes in the use of land. Changes of use referred to as examples are outdoor recreation or cemeteries or burial grounds. Again, it is not considered that the development of a waste management facility would fall within any of these categories. It is considered that the proposal, through the introduction of stockpiles of up to 3m in height along with the provision of two portacabins in association with the development would fail to preserve the openness of the Green Belt. Furthermore, the National Planning Policy for Waste document states in Paragraph 6 that 'waste management facilities that, if located within the Green Belt, would be inappropriate development'. The proposed retention of the development is therefore considered to be unacceptable in



principle as it harms the Green Belt and no very special circumstances have been demonstrated.

[note – West Lancashire Brough Council comments are based on the September 2023 edition of the National Planning Policy Framework. Paragraph numbers have changed in the December 2023 version, but the Policy requirements remain the same].

- The National Planning Policy for Waste states that when determining a planning application for a waste use, the Council should expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan. When making their assessment Councils should consider the extent to which the capacity of existing facilities would satisfy the need. The application is not supported by an assessment of need or any evidence which shows that there is no capacity for the waste elsewhere. The proposed development is therefore contrary to the National Planning Policy for Waste.
- Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan requires decision makers to be certain that all impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. In assessing the harm, the policy requires the decision maker to take account of the setting of the application site, the baseline environmental conditions and neighbouring land uses which this application fails to do.
- Policy GN3 of the West Lancashire Local Plan states that new development should minimise the risk from all types of pollution and contamination. There are a number of residential properties within the vicinity of the works. There are no details of the crusher on site or any details of measures to be taken in relation to dust suppression, noise, odours etc. It is considered that the lack of information in this regard fails to demonstrate that amenity can be appropriately protected. The proposal is therefore considered to fail in this regard.
- The planning application has been submitted with no information in relation to highways. It is clear that the scheme will generate an increasing number of heavy goods vehicle (HGV) movements entering and exiting the site. No details of the anticipated heavy goods vehicle (HGV) trips during operation have been provided. Lancashire County Council Highways who have responded to the consultation request confirm that they require details of the access route, levels of traffic anticipated from the site and details of parking and operational requirements. A decision should not be made in advance of this information being received.
- West Lancashire Borough Council object to the retention of this use within the Green Belt. It is considered that no very special circumstances to overcome the harm to the Green Belt have been established and the application has not been supported by information to demonstrate that there is a need for the development and that there would be no adverse impacts to residential amenity and highway matters. The development is considered to be contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan, Policy GN1 and GN3 of the West Lancashire Local Plan and the National Planning Policy for Waste.

Burscough Parish Council – No comments received.



Environment Agency – No objection but note that the development requires an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016.

Lancashire County Council Highways Development Control – No objection following the submission of revised information clarifying access via Gorst Lane only, provision of a swept path analysis, expected traffic generation, staffing levels and details of parking.

Lancashire County Council Lead Local Flood Authority – No comments to make as the development has minimal surface water implications.

Representations – The application has been advertised in the local newspaper and by site notice, and neighbouring residents have been informed by individual letter. 40 individual representations and a petition with 303 signatories have been received objecting to the application for the following summarised reasons:

- Noise from ongoing crushing machinery on site, and from traffic.
- Disturbance to wildlife.
- Close to residential properties.
- Impact on local amenity including health impacts.
- The development should be on an industrial estate.
- Inappropriate in the Green Belt and in a rural agricultural area.
- Gorst Lane has a weight limit of only 7.5-tonnes for trucks.
- Increase in heavy domestic, commercial and industrial traffic will have an adverse effect on the character of the immediate vicinity and area.
- Impact on highway safety on local road network. There is no footpath on Gorst Lane and the size and speed of the vehicles is of concern for pedestrians, as well as cyclists and other road users.
- It will detract visitors to the area including Martin Mere Wildfowl Trust.
- Possible increase in vermin.
- How is drainage going to be dealt with?
- The development is already taking place and there is now litter in the area and hardcore and brick stockpiles.
- There is a current noise source with an extremely low-pitched rumble during the day due to a stone crusher processing an enormous pile of hardcore and soil on site.
- Heavy goods vehicles (HGVs) currently using an unauthorised unsafe access on Martin Lane.
- Potential water pollution to local watercourses.
- 30,000 tonnes per year is concerning, which does not equate to a small-scale operation.
- Site hidden behind wooden boxes.
- Why is there no noise assessment?
- What is the difference between sui generis and waste activity development?
- The Gorst Lane access track to the site is unsuitable.
- Proposed working hours are unacceptable in the residential area.
- New houses are due to be built on the site of the disused pub on Martin Lane.



Wildfowl and Wetlands Trust (WWT) Martin Mere – object as the development has already started, it is in flood zone 3, the developer is tipping waste materials adjacent to a watercourse that could put Martin Mere at risk of pollution, and Natural England should be consulted.

Advice

This application is for the change of use of the land from agriculture to a waste management/skip recycling use including the sorting, storage and distribution of non-hazardous construction, demolition and excavation waste, and for two containers for storage and office use.

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework sets out the Government's planning policies and is a material consideration in planning decisions.

The National Planning Policy for Waste sets out the national planning policies for waste development and should be read in conjunction with the National Planning Policy Framework. It sets out the Government's continuing ambition to work towards a more sustainable and efficient approach to resource use and management including by driving waste up the hierarchy and minimising waste. This includes helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment and recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal.

The National Planning Policy for Waste advises that when determining waste planning applications, waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need. There is also a requirement to consider the likely impact on the local environment and on amenity, and to ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.

Policy SP1 of the West Lancashire Local Plan refers to a sustainable development framework for West Lancashire. It advises that when considering development proposals there should be a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Furthermore, applicants should be worked with proactively to find solutions, which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy GN1 of the West Lancashire Local Plan refers to development and settlement boundaries and states that development proposals within the Green Belt will be assessed against national policy and any relevant local plan policies.



Policy GN3 concerns general criteria for sustainable development and states, among other things, that development should minimise the risk from all types of pollution and contamination.

Green Belt

The site is located in the Green Belt. Paragraph 142 of the National Planning Policy Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

Paragraph 143 of the National Planning Policy Framework explains that the purposes of including land in Green Belt includes checking the unrestricted sprawl of large built-up areas, preventing towns merging into one another, assisting in safeguarding the countryside from encroachment, preserving the setting and special character of historic towns, and assisting in urban regeneration.

Paragraph 152 of the National Planning Policy Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 153 of the National Planning Policy Framework advises that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the National Planning Policy Framework advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt with a number of exceptions that are not relevant in this case.

Paragraph 155 of the National Planning Policy Framework advises that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes, of relevance, material changes in the use of land.

The application is for a change of use of agricultural land for waste management operations and the siting of two small ancillary demountable containers for office and toilet use. The change of use of the land has already taken place and involves the sorting, processing and storage of waste materials, which would negatively impact on the openness of the green belt and would also conflict with the purposes of including land in green belt particularly in terms of encroachment in the countryside. On this basis the change of use is inappropriate development. Further, the proposed containers would also be representing inappropriate development on open land. The applicant has not demonstrated a quantitative or market need for the development at this location and the National Planning Policy for Waste advises that inappropriate waste management development in the Green Belt should be guided to locations outside the Green Belt. It is considered that there are no very special circumstances



to outweigh the harm to green belt to be able to support the development in this respect.

Agricultural Land

Policy EC2 of the West Lancashire Local Plan regarding the rural economy states that the irreversible development of open, agricultural land will not be permitted where it would result in the loss of the best and most versatile agricultural land, except where absolutely necessary to deliver development allocated within the Local Plan or strategic infrastructure, or development associated with the agricultural use of the land. The application site is Grade 1 agricultural land. Notwithstanding that the area is small, the application is for the change of use to a permanent waste management facility that would result in the loss of agricultural land, it is not allocated in the local plan for such use, and it is not for agricultural use. The application is therefore contrary to this policy.

Traffic

Paragraph 115 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The application site sits within an agricultural unit that is served by an existing access track to Gorst Lane. The track will have historically been used for agricultural and horticultural vehicles, but this use has declined. The applicant states that on average there are three small vans at the site each day (morning and evening). Additionally, a 32-tonne grab wagon makes 4-5 trips each day to the site.

Following the submission of swept path analysis to demonstrate the access would still be suitable for the safe passage of heavy goods vehicles and subject to access improvements, Lancashire County Council Highways Development Control raise no objection. If approved, conditions could be imposed for the sheeting and containment of vehicle waste loads and for a requirement to keep the highway free from debris and mud. It should be made clear at this point that there is no authorised access at Martin Lane/Merscar Lane, and the current site operator has been advised that this access cannot be used. This application for planning permission is fixed on access from Gorst Lane only.

Impact on local amenity and pollution control

Paragraph 191 of the National Planning Policy Framework states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. New development should mitigate and reduce to a minimum the potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Policy 194 of the National Planning Policy Framework states that the focus of planning policies and decisions should be on whether proposed development is an



acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities. The Environment Agency has raised no objection to the proposed development but has stated that the development will require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016.

Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan supports development for minerals or waste management operations where it can be demonstrated that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. In assessing proposals, account should be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts could be controlled in accordance with current best practice and recognised standards.

Waste management operations at the site require an Environmental Permit from the Environment Agency and would be subject to further scrutiny, assessment and appropriate pollution controls as part of that process. On this basis it would be unnecessary to seek to impose specific pollution controls through the planning process. However, the nature of the operations taking place in the open in close proximity to neighbouring residents and other land users would be likely to lead to unacceptable disturbance and risk of dust pollution. Whilst controls could be imposed by planning conditions to restrict hours of operation, restrict areas and height of externally stored materials, and for the employment of dust mitigation measures for example, it is considered that such controls would not sufficiently mitigate the impacts. The applicant has not provided a noise assessment in support of the application. However, it is considered that a noise assessment would not be able to accurately predict the impact of short term intermittent and varied noise events given the nature of operations at the site and the proposal is therefore considered to be contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan

The site is relatively small, unsurfaced and distant from watercourses and there should be no reason to suggest that the site is a risk to local watercourses or Martin Mere Wetland Centre. Specific water pollution management controls would be covered under Environmental Permitting requirements and drainage and pollution control. In terms of surface water management, Lancashire County Council Lead Local Flood Authority has raised no issues given the development has minimal surface water implications.

Concerns have been raised about waste tipping on adjoining land adjacent to Langley Brook. This is not a material consideration for the assessment and determination of this application. However, the Environment Agency has investigated the site and are satisfied that the materials recently deposited for agricultural access and hardstanding pose no pollution risk.



Human Rights

The Human Rights Act 1998 requires the County Council to take into account the rights of the public under the European Convention on Human Rights and not to act in a manner incompatible with those rights. Article 1 of Protocol 1 states that an individual's peaceful enjoyment of their property shall not be interfered with except as is necessary, in accordance with the law and as is proportionate.

This application was it to be approved would be likely to generate a degree of impact on neighbouring properties, which would breach these rights. Although the applicant also has rights to use his land, it is considered that these rights are outweighed by the need to protect local amenity and the Green Belt.

Conclusion

This application is for waste management activities at an existing agricultural site that presents an opportunity for a local contribution towards policy aims of driving waste up the waste management hierarchy. However, the development is inappropriate in the Green Belt and the applicant has not demonstrated a quantitative or market need for the development at this location. It is considered that there are no very special circumstances to outweigh the harm to Green Belt and furthermore, the National Planning Policy for Waste advises that inappropriate waste management development in the Green Belt should be guided to locations outside the Green Belt.

The development involves the loss of Grade 1 agricultural land, which is contrary to Policy EC2 of the West Lancashire Local Plan.

Waste management activities at the site would be likely to have an unacceptable impact on neighbouring residents and land users in terms of noise, dust and general disturbance, contrary to the requirements of Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policy GN3 of the West Lancashire Local Plan.

Overall, the proposal is considered to be unacceptable in terms of the policies of the National Planning Policy Framework and the policies of the Development Plan.

Recommendation

That planning permission be **refused** for the following reasons:

- (i) The development is inappropriate development in the Green Belt for which no very special circumstances by way of a quantitative or market need for the development at this location have been demonstrated sufficient to outweigh the harm to Green Belt by reason of inappropriateness. The development is contrary to the National Planning Policy Framework and National Planning Policy for Waste regarding protection of the Green Belt, and Policy GN1 of the West Lancashire Local Plan.
- (ii) The waste management operations would be likely to have an unacceptable adverse impact on the amenity of surrounding residents and land users by virtue of noise, dust and general disturbance contrary to Policy DM2 of the Joint



Lancashire Minerals and Waste Local Plan and Policy G3 of the West Lancashire Local Plan.

- (iii) The development involves the loss of grade 1 agricultural land contrary to Policy EC2 of the West Lancashire Local Plan.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Ext
LCC/2023/0033	January 2024	Rob Hope Planning and Environment 01772 534159

Reason for Inclusion in Part II, if appropriate

N/A

