

Development Control Committee

Meeting to be held on 14th October 2015

Electoral Division affected: Oswaldtwistle

Hyndburn Borough: application number LCC/2015/0077

Change of use of land to storage and distribution of raw and recycled uPVC material, siting of static caravan for site security, and 2.4m high security fencing at the former NIPA Laboratories Site, Nook Lane, Oswaldtwistle

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Executive Summary

Application – Change of use of land to storage and distribution of raw and recycled uPVC material, siting of static caravan for site security and 2.4m high security fencing at the former NIPA Laboratories Site, Nook Lane, Oswaldtwistle.

Recommendation – Summary

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

- 1 The proposed development would be inappropriate development in the Green Belt and no 'very special circumstances' exist to outweigh the potential harm to the Green Belt by reason of inappropriateness. The proposed development would therefore be contrary to Green Belt policy as set out in the National Planning Policy Framework.
- 2 The use of Nook Lane as an access to the site would give rise to unacceptable impacts on highway safety and the safety of pedestrians contrary to Policies WM2 and WM3 of the Joint Lancashire Minerals and Waste Local Plan.
- 3 The proposed development by virtue of the visual impacts arising from the open storage of plastic materials and the movement of heavy goods vehicles along Nook Lane would give rise to unacceptable loss of local amenity contrary to Policy Env7 of the Hyndburn Core Strategy.

Applicant's Proposal

Planning permission is sought for the change of use of a vacant former chemical works site to allow for the open storage and distribution of baled and bulk bagged raw and recycled uPVC material. There would be no processing or sorting and no storage of loose materials. Each bale/bulk bag would measure approximately 1m² and up to 1.8m high.

The application site, which covers just under 1 hectare of the much wider previously developed industrial site, would be secured with 2.4m high mesh security fencing coloured green. The proposal would also involve setting back the site access gates, siting of a static caravan for security staff and the refurbishment of an existing dilapidated building for additional storage.

The applicant states that the amount of waste material to be stored at any one time would vary but would generally be around 400-500 tonnes at any one time. It is predicted that 4-5 heavy goods vehicles would be unloaded and 3 containers loaded at the site each week.

Description and Location of Site

The site is a vacant former chemical works site located off Nook Lane in Oswaldtwistle that is now characterised by large areas of broken concrete hardstanding and demolished buildings. The site is known to be heavily contaminated. To the north of the application site are further areas of the former chemical works. To the east is the Brookside Industrial Estate. Nook Lane, a narrow, largely privately maintained road is to the south, beyond which is agricultural land. To the west is an area of woodland. The site is within the Green Belt.

Background

History

The site is a former chemical works. There is no relevant planning history.

Planning Policy

National Planning Policy Framework (NPPF) -

Section 9 Protecting Green Belt land.

Planning Practice Guidance accompanying the NPPF (PPG) -

Policies relating to waste

Joint Lancashire Mineral and Waste Development Framework Core Strategy DPD -
Managing our Waste and Natural Resources (JLMWDF) -

Policy CS8 Identifying Capacity for Managing our Waste

Policy CS9 Achieving Sustainable Waste Management

Joint Lancashire Minerals and Waste Local Plan (JLMWLP) -

Policy WM2 – Large Scale Built Waste Management Facilities

Policy WM3 – Local Built Waste Management Facilities

Policy DM2 – Development Management

Hyndburn Core Strategy -

Policy ENV6 – High Quality Design
Policy ENV7 – Environmental Amenity
Policy A5 – Brookside Business Centre

Hyndburn Council Local Plan-

Policy E.10 – Environmental Enhancement and Protection

Consultations

Hyndburn Borough Council – The site is in the Green Belt. Although Policy A5 of the Hyndburn Core Strategy recognises that there are circumstances when the Green Belt boundary may be changed, these circumstances have not been satisfied and the site therefore falls outside the urban boundary and remains in the Green Belt.

The use of land for the storage and distribution of waste materials / recycled products is not cited by National Policy as one that is not inappropriate in the Green Belt and the manner in which this is proposed (open storage) would have a significant impact on the openness of the Green Belt. The need for a caravan for security purposes will only serve to exacerbate this impact. These products are best managed within an appropriate industrial building on an industrial estate.

The proposed development would also result in heavy goods vehicles using an access that is clearly not designed for such use and which has a poor quality junction with New Lane. It is understood that the Highways Authority has also objected to the proposal for these reasons.

The council objects for the reasons set out above.

LCC Developer Support (Highways) – The adopted section of Nook Lane is narrow in nature, being in the region of 3.2m wide for the majority of the 90m of which it is adopted highway (from its junction with New Lane). The privately maintained section is however wider in the region of 6.5m wide, albeit without a footway provision.

The Lane is a popular spot for walking. Due to the limited road width, the adopted section of Nook Lane is unsuitable for two cars to pass side by side. Should two vehicles need to pass, one would by necessity need to either mount the pedestrian footway or reverse along the road.

Sight lines to the west beyond the adopted road section are very poor due to a left hand bend in the road and an existing structure which blocks the view. In addition the unadopted section of Nook Lane has no footway provision.

Reversing along the adopted section of Nook Lane towards the wider unadopted section would potentially be perilous. Reversing onto New Lane, which is a classified Road (B6231) would also be unacceptable.

The adopted section of Nook Lane would require widening to 4.5m to allow two way vehicle (car) flows as detailed in 'Manual for Streets'. Given the nature of articulated vehicles likely to be accessing the site it is suggested that 5.5m would be required as a minimum to provide safe two way access as illustrated in 'manual for streets'.

If land bordering the adopted section of Nook Lane is available to the applicant in order to undertake localised road carriageway widening works, the County Council would require the applicant to enter into a section 278 Highways Agreement to deliver a road widening scheme.

In addition, a specific footway provision of a minimum width of 1.5m would be required along the unadopted section of Nook Lane in order to safely facilitate pedestrian movements and avoid conflict with articulated delivery vehicles. Again, a section 278 Highways Agreement would be required to deliver these works.

Should the issues identified above be addressed then the County Council in its role as highway authority would also require details of the proposed new entrance to ensure adequate access and sightlines of a minimum distance of 2.4m x 43m are achievable.

As the proposal stands objections are raised on highway safety grounds due to the access arrangements being unsuitable for the proposal as detailed above.

Environment Agency – no objection in principle but make the following comments:

The site was identified as a potential special site under Part 2A of the Environmental Protection Act 1990 by Hyndburn Borough Council. The Environment Agency (EA) and the former owner of the site (Clariant UK) undertook an intrusive investigation of the site to assess whether significant contaminant linkages were present, which would indicate that the site met the legal definition of a contaminated land site and subsequently a special site. The investigations, identified contamination at the site. However, taking into account statutory guidance issued by Defra the site did not meet the strict criteria of contaminated land.

Although the site does not meet the strict criteria of contaminated land the site is impacting Lottice Brook and the EA would like to see some improvement in water quality achieved via the planning regime. Consequently, conditions are recommended.

The EA is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing. The Local Planning Authority must decide whether to obtain such information prior to determining the application or as a recommended condition of the permission.

Lead Local Flood Authority – No comments to make.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. 3 representations have been received objecting on the following grounds:

- Contrary to development plan policy
- Historical contamination issues
- Previous unauthorised tipping on site including fly infestations.
- Inappropriate use of the site on the rural fringe.

Concerns are also raised by County Councillor Britcliffe on similar grounds.

Advice

The application site is a former chemical works site that falls within Green Belt land. Paragraph 89 of the NPPF sets out exceptions to the general principles of inappropriate development in Green Belt and provides for the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces, extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, and redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Paragraph 87 advises that inappropriate development is, by definition, harmful to Green Belt and should not be approved except in very special circumstances.

Paragraph 88 of the NPPF advises that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Policy A5 of the Hyndburn Core Strategy stipulates that the development of a sustainable construction centre and country park would be supported on the application site provided that its development is guided by a supplementary planning document that has been developed in consultation with the local community and statutory consultees. The policy continues by adding that only on this basis alone could the site be removed from the Green Belt.

The proposal would include the storage of baled and bagged plastic materials in the open air over a large previously developed site. 2.4m high mesh security fencing would also be erected around the site and a static caravan would be sited. Given that little remains of the former chemical works it is considered that the proposal would have a significant and detrimental impact on the openness of the Green Belt and the purposes of including land within Green Belt and would therefore be inappropriate. The requirements of Policy A5 of the Hyndburn Core Strategy have not been met and it is considered that no very special circumstances exist that would outweigh the harm to the Green Belt.

Policy DM2 of the JLMWLP 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.

Policy Env6 of the Hyndburn Core Strategy seeks to ensure that the character and quality of Hyndburn's urban and rural environments are conserved and enhanced through high quality development. Saved Local Plan Policy E.10 has similar aims. In addition, Core Strategy Policy Env7 states that proposals for new development will only be permitted if there are no unacceptable adverse impacts in terms of, *inter alia*, traffic, visual impact, noise, dust, emissions, pollution, and the development can be

properly controlled. It is considered that the open air storage of plastic based materials over a large area of the former chemical works site would present a detrimental impact on local visual amenity and there could be no assurance that litter could be adequately controlled.

The site is known to be contaminated by chemicals from the former use and the Environment Agency has raised concerns in this respect. Although the application largely relates to a change of use there could be implications associated with the storage of large quantities of plastic material across the site. However, it is considered that a better understanding the status of contamination at the site, the likely interaction of the proposed development, and the need for any remedial measures could be satisfactorily addressed by way of condition should permission be granted and would not constitute a reason for refusal of the application.

The site is accessed via Nook Lane, which is a narrow, largely privately maintained road with no footways along the unadopted stretch. The applicant anticipates that 4-5 heavy goods vehicles would be unloaded and 3 containers loaded each week, which is not a particularly significant volume of traffic. However, even with low numbers of heavy goods vehicle movements, the County Council's Developer Support (Highways) has identified that Nook Lane is wholly unsuitable for HGV movements (see 'Consultations' section above) without substantial improvement works, requiring land outside the applicant's control.

In response to the comments made by the County Council's Developer Support (Highways), the applicant has noted that the suggested improvements to both the adopted and unadopted sections of Nook Lane would involve works on land that are outside of the applicant's ownership and as such they are unable to commit to any improvement works to these sections of Nook Lane. The applicant has acknowledged the concerns raised about pedestrian safety and the lack of passing places but highlights that given the historical industrial use associated with the application site, the change of use to this specific storage use would result in a considerable reduction in vehicle movements along Nook Lane compared to those levels which may have historically occurred and as such the applicant believes this can be considered as a planning / highway gain over development that could possibly be undertaken at the site without separate planning permission.

In response, the previous use has long since ceased and therefore it is argued that this development represents a new planning chapter where the highway impacts of traffic using Nook Lane which require consideration afresh.

Policies WM2 and WM3 of the JLMWLP seek to direct waste management facilities towards specific industrial estates that are recognised for their suitability. Only when opportunities for development at these sites do not become available should developers look to other vacant previously developed sites which can provide equally good or improved access to the road network. The access to the site is poor and along with the open air location within the Green Belt it is considered that the proposed development would be unsuitable for this location.

Overall, it is considered that the proposed development would be an unacceptable use of the site as it would have a detrimental impact on green belt, local visual amenity and highway amenity contrary to Policies WM2 and WM3 of the JLMWLP, Policy Env7 of the Hyndburn Core Strategy, and Green Belt policy within the

National Planning Policy Framework. Therefore it is recommended that planning permission be refused.

The proposal raises issues relating to Article 1 of the 1st Protocol of the Human Rights Act 1998. This gives every person the right to peaceful enjoyment of their property and possessions and imposes an obligation not to interfere with peaceful enjoyment of property. However there will be no breach of that right if such interference is carried out lawfully and is in the public interest.

This proposal would conflict with provisions of the development plan and the interference with the rights of the applicant is considered to be justified and proportionate in order to safeguard the public interest.

Article 6 provides that an individual is entitled to a fair and public hearing. If the application is refused the applicant has the right of appeal. It has been determined that the planning decision making process is article 6 compliant including as it does the right of review by the High Court.

Recommendation

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

1. The proposed development would be inappropriate development in the Green Belt and no 'very special circumstances' exist to outweigh the potential harm to the Green Belt by reason of inappropriateness. The proposed development would therefore be contrary to Green Belt policy as set out in the National Planning Policy Framework.
2. The use of Nook Lane as an access to the site would give rise to unacceptable impacts on highway safety and the safety of pedestrians contrary to Policies WM2 and WM3 of the Joint Lancashire Minerals and Waste Local Plan.
3. The proposed development by virtue of the visual impacts arising from the open storage of plastic materials and the movement of heavy goods vehicles along Nook Lane would give rise to unacceptable loss of local amenity contrary to Policy Env7 of the Hyndburn Core Strategy.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Ext
LCC/2015/0077	Sept 2015	R Hope/34159

Reason for Inclusion in Part II, if appropriate

N/A