

Development Control Committee
Meeting to be held on 19 June 2019

Electoral Division affected: Preston East
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Preston City: Application number LCC/2018/0048
Amendment of condition 3 of planning permission LCC/2017/0017 to extend the hours of operation of the fragmentising plant to between 07.00 – 20.00 Mondays to Fridays (except public holidays) with no change to the working hours on Saturdays. Recycling Lives, Longridge Road, Preston.

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Executive Summary

Application - Amendment of condition 3 of planning permission LCC/2017/0017 to extend the hours of operation of the fragmentising plant to between 07.00 – 20.00 Mondays to Fridays (except public holidays) with no change to the working hours on Saturdays. Recycling Lives, Longridge Road, Preston.

Recommendation – Summary

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

The proposed extension to the hours of operation would allow the fragmentiser plant to be operated for an additional 3 hours per day, Mondays to Fridays, between 0700 to 0730 hours, and 1730 to 2000 hours. It is considered that the applicant's noise assessment has not satisfactorily demonstrated that there would be no unacceptable adverse impact by reason of noise from the proposed extended hours of operation of the fragmentiser on the amenity of residents of the nearby The Hills Estate. The risk of an unacceptable adverse impact on the public is contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policies AD1 (a) of the Preston Local Plan 2012 - 2026.

Applicant's Proposal

Planning permission is sought to amend condition 3 of planning permission LCC/2017/0017 relating to the hours of operation at an existing metal recycling site.

Condition 3 states that the fragmentising plant shall not be operated outside the hours of 0730 to 1730 hours, Mondays to Fridays, and 0830 to 1300 hours on Saturdays, with no operation at any time on Sundays or Public Holidays.

The application seeks to vary condition 3 to extend the hours of operation of the fragmentising plant to between 0700 to 2000 hours, Mondays to Fridays. It is not proposed to change the working hours on Saturdays.

Description and Location of Site

The application site is an existing metal recycling facility located off the B6243 Longridge Road, Preston, approximately 1 km south west of Grimsargh and 4km east of Preston city centre. The recycling site measures around 6 hectares in area and is separated from the north side of Longridge Road from where access is gained by a landscaped strip. Along the north-east boundary of the site are a number of industrial units including car dismantlers and scrapyards within the Rough Hey Road Industrial Estate. Running along the south western boundary is the Guild Wheel cycle path beyond which is the distribution warehouse and central offices belonging to EH Booths Ltd. Along the north-west boundary is the former Preston – Longridge railway line that is a public right of way beyond which is the distribution warehouse belonging to James Hall Ltd.

The application site itself is comprised of a large industrial building measuring 120 metres by 120 metres which is used for the processing of non-ferrous metals and recycling of electronic equipment. To the rear (the north side of the site) is a yard area which is used for the depollution and breaking of end of life vehicles and processing of metals, plus the sorting of ferrous metals. The yard area is enclosed on its external boundaries by a 6 metre high concrete retaining wall. The northern end of the yard area includes large processing plant, in the form of a pre-shredder and fragmentiser that are used to shred and fragment metals.

A number of dwellings are located to the north east of the site on Peacock Hill Close and Jeffrey Hill Close on the Hills Estate, off Longridge Road, Grimsargh. The nearest residential properties are located 340 metres away on Peacock Hill Close. There are also a number of dwellings along Longridge Road with the nearest dwelling located approximately 430 metres from the fragmentising plant.

Background

The proposal relates to an established metal recycling facility with a number of permissions, as follows:

Planning permission for the change of use of land and buildings from storage and distribution centre to a waste recycling centre for the recycling and storage of ferrous and non-ferrous metals, waste electronic and electrical equipment, and end of life vehicles, was granted in June 2010 (ref. 06/10/0169).

Planning permission for the erection of concrete panel screen walls to part of the site boundary, was granted in March 2013 (ref. 06/12/0964).

Planning permission for the variation of condition 3 of permission 06/10/0169 to vary the hours of operation of the shredder to 07.30 to 17.30 Monday to Friday (except bank holidays) to 7.30 to 13.00 on Saturdays with no metal processing operations to be undertaken by the shredder recycling plant at any time on Sundays and Public Holidays was granted in July 2016 (ref. LCC/2015/0070).

A lawful development certificate for an existing development of a pre shredder was issued in October 2016 (ref. CRT/2016/0042).

Planning permission for the variation of condition 1 to substitute drawings and condition 2 to modify the hours of working of the pre shredder to 07.00 - 21.30 Mondays to Fridays 08.00 - 18.30 Saturdays and 09.00 - 17.00 Sundays and bank holidays of permission LCC/2015/0070 was granted in June 2017 (ref. LCC/2017/0017).

Planning Policy

National Planning Policy Framework

Paragraphs 7 - 12, 38, 47, 54 - 55, 80, 82, 127, 130, 170, 180 and 183 are relevant with regard to the following: Achieving sustainable development - the presumption in favour of sustainable development; Decision making - determining applications and planning conditions and obligations; Building a strong, competitive economy; Achieving well-designed places; and Conserving and enhancing the natural environment – habitats and biodiversity, and ground conditions and pollution.

National Planning Policy for Waste - Section 7 is relevant in relation to the determination of planning applications.

National Planning Practice Guidance

Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document

Policy CS7	Managing 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 NPPF 1	Presumption in favour of sustainable development
Policy DM2	Development Management

Preston Local Plan 2012 - 2026

Policy V1	Model Policy
Policy AD1 (a)	Development within (or in close proximity to) the Existing Residential Area
Policy EP2	Protection of Existing Employment Areas

Consultations

Preston City Council - No objection.

Grimsargh Parish Council - Object to any extension of hours of use of the fragmentising plant as it is an extremely noisy piece of equipment and already impacts on residents of The Hills Estate. Although some mitigation measures have

been put in place there are still continual problems caused by noise to local residents and the extension of hours, even for a short period of time, would be detrimental to the residents of The Hills Estate.

Environment Agency – The Environment Agency express a number of concerns as to the adequacy of the submitted noise assessment: The concerns relate to the following issues:-

- Location of acoustic measurements at receptor.
- Residual sound measurements.
- Acoustic measurements data.
- Absence of the meteorological data.
- Noise source character and material processed description.
- Calculations of the specific sound level at the nearest residential property

LCC Highways Development Control - No objection.

Representations – The application has been advertised by site and press notice and neighbours have been notified by letter. Two representations have been received on the grounds of noise and lighting and the disturbance that this will create, particularly in the evening.

It is also commented that the existing hours of operation are more than adequate and should be retained in their current form. A reduction in operating hours back to the hours that were agreed when the plant first opened would be an improved proposal. The noise levels, especially in the summer when the windows are open, can be very disturbing. At times, the smell and the dust from the plant are also unpleasant.

The residents also comment that the litter and plastic waste deposited in the vicinity of the plant, on the Guild Wheel and footpath behind the plant, is an eyesore. Any increase in operating hours would only make these matters worse and impact on the short period of quiet time that is left in the week.

Advice

The application site is a major metal recycling site located on the east side of Preston and incorporates a number of large scale pieces of plant that are used to shred and fragment scrap metal so that it can be separated into different metal types for the purposes of recycling and reuse.

The extant planning permission for the application site ref. LCC/2017/0017 was granted in June 2017. Condition 3 to the permission states that the fragmentising plant shall not be operated outside the hours of 0730 to 1730 hours, Mondays to Fridays, and 0830 to 1300 hours on Saturdays, with no operation at any time on Sundays or Public Holidays.

Planning permission is sought to vary condition 3 to extend the hours of operation of the fragmentising plant to between 0700 to 2000 hours, Mondays to Fridays. It is not proposed to change the working hours on Saturdays.

The fragmentising plant is the main metal shredding and processing equipment at the site. Before being processed in the fragmentiser, crushed cars and other scrap metal are slowly separated and broken down in the pre-shredder, and then passed to the fragmentiser for further processing. The use of the pre-shredder reduces the size of the feed and so puts less strain on the fragmentiser. Consequently, the fragmentiser can operate more quickly and with lower power consumption, less noise and reduced wear and tear on the components of the machinery. It also reduces the flame and explosive events from gas bottles entering the fragmentiser.

The fragmentiser plant is located along the north-east boundary of Recycling Lives. The plant consists of several interconnected and ancillary processes that allow for the processing of scrap metals. The plant is sited adjacent to a 6m high concrete retaining wall along the north-east boundary of the site, with the conveyor part of the plant being partially behind the wall as it runs from ground level to the hammer mill section of the plant. The feedstock material is loaded onto a conveyor and then processed through the hammer mill which shreds the feedstock into smaller fragments which are allowed to pass through vibrating grates on to conveyor belts and on to additional separation operations designed to maximise the recycling of the feedstock. A magnetic separator picks out all ferrous metals which are then passed through a manual picking shed that removes any residual or high value waste. The remaining ferrous waste is stockpiled ready for loading into containers for re-use as feedstock in steel manufacturing. The non-ferrous material is conveyed into the processing building and sorted into various sizes by a trommel screen. This material is then further processed in the building.

The proposal would allow the fragmentiser to operate for an additional 3 hours per day, Mondays to Fridays and hence would increase the amount of metal that the fragmentiser could shred and process. The additional 3 hours operation per day would consist of the periods 0700 to 0730 hours, and 1730 to 2000 hours.

The applicant has stated that the additional working hours of the fragmentiser would also contribute towards continued delivery of economic, social and environmental benefits arising from their overall recycling operations both locally and nationally such as the creation of additional jobs. The company provides employment opportunities for vulnerable people with many of the employees being from marginalised or disadvantaged backgrounds.

The main issue associated with the application is the potential impact upon nearby residents by noise from the use of the fragmentiser over the extended working hours.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the issues that arise from the proposed development, it is necessary to take into consideration the relevant policies of the Development Plan and the planning history of the site and all other material planning considerations. Government policy is a material consideration that should be given appropriate weight in the decision making process.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and the Preston Local Plan 2012 - 2026.

National Planning Policy encourages recycling and the re-use of waste to reduce reliance on land filling.

The NPPF seeks to ensure that the planning system helps businesses to invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Policy CS7 of the Lancashire Minerals and Waste Core Strategy DPD seeks to manage our waste as a resource and the longer operating hours would assist in maximising the recycling of waste metals. Policy CS8 of the Core Strategy DPD seeks to ensure an adequate provision of suitable waste facilities across the county to ensure that waste can be managed as a resource. The proposal would enable increased throughputs on an existing waste management site and therefore complies with the principle of National Planning Policy and with Policies CS7 and CS8 of the Core Strategy DPD in terms of maximising the recycling of waste materials.

However, these issues have to be balanced against the protection of local amenity. Policy CS9 of the Core Strategy DPD seeks to achieve sustainable waste management by, amongst other things, protecting the amenity, health, economic well-being and safety of the population. Policy DM2 of the LMWLP, and Policy AD1 (a) of the Preston Local Plan have similar criteria that includes seeking to ensure there would be no adverse impact on residential amenity, particularly by reason of noise, general disturbance and loss of privacy due to the activity under consideration, and that the proposal would not lead to an over-intensification of the use of the site.

A noise assessment has been submitted with the application to assess the impact of noise from the use of the fragmentiser at two separate receptor locations close to the site: at Rowan Scrap Metal located 120m to the east of the fragmentiser, and at a residential property on Peacock Hill Close on the Hills Estate located 340m to the north-east of the fragmentiser. The applicant states that the noise survey was undertaken in accordance with BS4142:2014 that specifies a method for the rating of industrial noise affecting mixed residential and industrial areas. BS4142 specifies that a correction (addition) factor should be made to the basic rating noise level of a plant where the noise has particular tonal or impulsive characteristics. Background noise levels in this area are influenced by traffic noise from the M6 and on the B6241 Longridge Road and by noise from the other industrial units and this issue is identified in the applicant's noise survey. However, such noise sources, particularly traffic, will generally produce a steady state of noise which is different in character from the noise impacts that are produced by the shredding and processing of scrap metal in the fragmentising plant. The background noise will also reduce into the evening period as traffic levels and activities at other industrial units reduce such that the noise from the fragmentiser plant will be more prominent.

The noise assessment concludes that the noise impact arising from the extended operational hours of the fragmentiser, as proposed, would result in a low impact in accordance with guidance in BS4142:2014. This conclusion corresponds to the Noise Policy Statement for England position of No Observed Effect Level and, as such, no additional measures are needed to control noise. The noise assessment

accordingly concludes that the proposed extension of operating hours would not detrimentally affect the amenity of existing residential receptors.

While the noise assessment has considered impacts at both a commercial and residential location, the main issues associated with the application are the impact upon the residents of The Hills Estate from disturbance associated with noise from the use of the fragmentiser.

Preston City Council's Environmental Health Department and the Environment Agency have both been consulted on the proposal. It is important to state that any issues or complaints of noise from the site are addressed by the Environment Agency as they grant and regulate the Environmental Permit for the site which contains controls in relation to noise. Both Preston City Council and the Environment Agency raised issues regarding the methodology used in the original noise assessment which was later amended in response to these concerns.

Preston City Council have not objected to the amended noise assessment and conclude that the extended hours would have a low impact on the residents of The Hills Estate. However, Preston City Council accept that the noise of the fragmentiser is "readily distinctive", not just because it can be heard, but because the noise is easily recognisable in relation to the other noisy activities arising from the industrial estate at the same time.

The Environment Agency have expressed the following concerns as to the acceptability of the amended noise assessment because of the methodology used:

Location of acoustic measurements at receptor – the assessment has only been undertaken in relation to no. 20 Peacock Hill Close and the impact on no. 46 The Hills has not been assessed. However, there is clear audibility of noise from the fragmentiser and clear visibility of the fragmentiser enclosure from both of these addresses.

Residual sound measurements - the assessment includes the residual noise of moderate activities of most nearby businesses, but no such residual noise on another day or days when there are less activities in the nearby businesses, the consequence of which means it is harder to assess the true impact of the extended hours.

Acoustic measurements data – no data from the morning period (07:00-07:30) is presented in the assessment, and hence it is impossible to predict the impact of the fragmentiser during this time. Information is also missing in the assessment that makes it impossible to trace how the sound level was changing during the measurement periods. The averaging of background sound levels has been used when they should not be for noise impact assessments.

Absence of the meteorological data – means that the specific sound at the receptor cannot be accurately calculated.

Noise source character and material processed description – the lack of description of the subjective character of sound from the fragmentiser and associated processes makes it impossible to understand the acoustic corrections that have been added to the calculated specific sound level. There is no explanation or justification as to why

certain acoustic feature corrections are added to the calculated specific sound levels. The Environment Agency state that sound from the fragmentiser was clearly perceptible at both 46 The Hills and 20 Peacock Hill Close during a site visit. If the fragmentiser operates between 17:30-20:00 when the other nearby businesses have ceased, noise from the fragmentiser would be even more noticeable and disruptive to the residents and therefore a correction of at least 5dB should be applied to the specific sound level at the nearest residential properties. Moreover, it is not stated what materials were being processed by the fragmentiser during the measurements. Different materials are likely to generate significantly different sound levels and with different characteristics. This information is not detailed in the acoustic report and therefore it is unknown whether the materials being processed during the assessment period are representative of the range of materials likely to be processed during the extended operational hours.

Calculations of the specific sound level at the nearest residential property - sound levels have only been recorded at 1.5m above the ground, despite it being made clear that the nearest residential properties facing the fragmentiser have at least two storeys, and hence the sound levels should have also been recorded for the first floor that are more “visible” to the fragmentiser. Given the distance of dwellings from the fragmentiser, a correction of at least 3dB should be applied to the specific sound level at the nearest residential properties. This, combined with the above mentioned 5dB sound correction, should be applied to the specific sound level. This could greatly increase the rating level to cause a Significant Adverse Impact.

The proposal would allow the fragmentiser to be operated for an additional 3 hours per day, Mondays to Fridays, between the periods of 0700 to 0730 hours, and 1730 to 2000 hours. These are sensitive periods of the day for residents: the 0700 - 0730 time being early in the morning when people could still be in bed, while the 17:30 - 20:00 time is when most people are at home and, during summer time, when people tend to open windows and could be expected to enjoy their gardens with a reasonable standard of amenity. During the proposed extended times, most of the other activities on the Rough Hey Industrial Estate would be non-operational and, therefore, any noise created by the shredding and processing of scrap metal in the fragmentising plant would be more noticeable. In addition, the proposal in its current form does not include any additional noise attenuation measures.

It is accepted that the extended hours of use of the fragmentiser would increase the amount of metal that the fragmentiser could shred and process and hence encourages the recycling of waste metals. However, these factors have to be balanced against the possible impacts on local amenity. There are concerns as to the methodology used in the submitted noise assessment which means there is a lack of information so as to be able to conclude that there would be no unacceptable adverse impact by reason of noise from the proposed extended hours of operation of the fragmentiser on the amenity of residents of the The Hills Estate. Given this situation, the proposal poses a high risk of impact on the public. The development is therefore considered to be contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy AD1 (a) of the Preston Local Plan 2012 - 2026.

Human Rights Issues

Article 1 of the 1st Protocol concerns the enjoyment of property and provides that everybody is entitled to the peaceful enjoyment of his possessions and that no one should be deprived of the enjoyment of property except in the public interest. The refusal of planning permission has the potential to affect the applicant's rights under this Article. However, the County Council has a duty to ensure that the impacts of waste recycling development are properly assessed in order to protect the amenities of local residents as set out in the policies of the Development Plan. The proposal would conflict with these policies and the interference in the rights of the applicant is therefore considered to be justified in order to protect the public interest. It is considered that the public interest can only be safeguarded by refusal of permission and that refusal of the application would not place a disproportionate burden on the applicant.

Recommendation

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

The proposed extension to the hours of operation would allow the fragmentiser plant to be operated for an additional 3 hours per day, Mondays to Fridays, between 0700 to 0730 hours, and 1730 to 2000 hours. It is considered that the applicant's noise assessment has not satisfactorily demonstrated that there would be no unacceptable adverse impact by reason of noise from the proposed extended hours of operation of the fragmentiser on the amenity of residents of the nearby The Hills Estate. The risk of an unacceptable adverse impact on the public is contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policies AD1 (a) of the Preston Local Plan 2012 - 2026.

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

None

Reason for Inclusion in Part II, if appropriate

N/A