

Item No. 8

APPLICATION NUMBER	CB/13/02595/MW
LOCATION	The Hangar, Tempsford Road, Everton, Sandy, SG19 2JW
PROPOSAL	Retrospective application for the variation of conditions 1 18 and 23 of permission 34/2008 to permit temporary operational changes to existing in-vessel compositing site.
PARISH	Tempsford
WARD	Potton
WARD COUNCILLORS	Cllr Gurney & Cllr Zerny
CASE OFFICER	Natalie Chillcott
DATE REGISTERED	19 September 2013
EXPIRY DATE	19 December 2013
APPLICANT	The Countess of Erroll
AGENT	JMJ Planning Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Ward Councillors
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The Hangar, Tempsford Road, Everton, Sandy, SG19 2JW

The Application:

The current proposal seeks to make a temporary variation to condition 18 and a permanent variation to conditions 1 and 23 of the 34/2008 permission.

Variation of condition 1

The application seeks permission for the permanent variation of condition 1 to replace BC/CM/2008/14-1 with BC/CM/2008/14-2 and to permanently remove the reference to the letter dated 2nd October 2008, which states:

“if the application is approved, composting will not commence until the new building has been constructed

It also seeks permission to allow the retention of the existing 2.1m high chainlink fencing and gates which follow the southern, northern and eastern boundaries of the site, as well as the 2.4m high palisade fencing which surrounds the small compound area (south of the building) for a period of 18 months.

Variation of condition 18

The application seeks permission to continue to store and screen fully composted and semi-composted material, (referred to as sanitised material, soil improver and oversize) outside of the existing building for a period of 18 months. The operator suggests that this period of time is necessary to carry out a thorough review of current operations. Over this 18 month period the operator would review outside

operations and find a definitive solution. One solution would be to construct the second building as permitted under 34/2008, but the company has expressed an intention to consider other options.

Variation of condition 23

Condition 23 requires all contaminates to be stored in a container within the building. The application seeks to vary condition 23 by allowing the container storing contaminates to be stored outside, and provides clarification pertaining to the process by which wheelie bins accidentally brought onto the site are disposed of.

Site Location:

The application site is situated in the open countryside, 1.8km north-east of Sandy and 2.3km north-west of Everton. The nearest residential properties lie 850m south-east of the site. The site covers 0.9 hectares and is surrounded by agricultural fields also owned by the applicant. The East coast train line runs 150m to the west, while a 500m access road links the site to the highway network (Tempsford road). The Biggin Wood medieval moat Scheduled Ancient monument is situated 70m north of the site. No rights of way cross or run close to the site; the nearest right-of-way is over 500m from the site.

Background:

In November 2008 planning permission (34/2008) was granted for the “change of use of existing building and construction of new building for the purpose of recycling and in-vessel composting”. This application detail stated that composting operations would not commence until such a time as the new building has been constructed. However, composting operations commenced in the existing building in 2009, prior to the construction of the maturation building. Initially both pasteurisation and maturation phases took place inside the existing building, however, since that time maturation and screening operations have increasingly been carried out outside. All waste and compost stored and screened outside have been confined to an area of hard standing, within the application redline boundary. The initial composting phase (pasteurisation) continues to take place within the existing building, thereby meeting the Animal Bi-Products regulations.

A separate planning permission for the construction of a pond and ditch, (necessary for the control of surface water drainage associated with the construction of the new building) was granted in 2009, but has now lapsed. This means that a new planning permission for the control of surface water would be required before construction of the second building could commence. The company operating the site changed in November 2012.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

PPS10

Relevant policies from the Minerals and Waste Local Plan (2005) (MWLP) include:

W1	Key Principles
W11	Composting
GE1	Matters to be addressing in planning applications
GE9	Landscape protection and Landscaping

GE15	Statutorily designated Historic Buildings and Sites
GE17	Pollution Control
GE18	Disturbance
GE19	Flooding
GE20	Water resources

Relevant policies from the Minerals and Waste Local Plan: Strategic Sites and Policies (MWLP:SSP) document include:

MWSP1	Presumption in Favour of Sustainable development
MWSP3	The determination of planning applications
WSP1	The provision of Recovery and Disposal Capacity
WSP7	Composting

Relevant policies from the Central Bedfordshire (North) Core Strategy and Development Management Policies (2009) document.

Policy CS15	Heritage
Policy DM3	High Quality Development

Planning History

BC/CM/2008/14 Change of use of existing building and construction of new building for the purposes of recycling and in-vessel composting, The Hanger, Everton Road, Tempsford.

(Planning permission 34/2008).

BC/09/06339/MW Application for the construction of a pond and ditch for the control of surface water drainage in conjunction with the permitted in-vessel composting facility.

(Planning permission CB/09/06339/MW).

**Representations
Neighbours**

4 letters of objection. A number of local residents highlight their concern with the proposal and suggest that they have experienced offensive odours from the site in the past, and wish for no composting material to be allowed to be stored outside.

Consultations

**Tempsford Parish
Council**

Objection. The Parish suggest that odour has been released from the facility in the past and fear that this would continue into the future, unless the compost is stored undercover.

Everton Parish Council

Objection. The Parish ask for applications to be withheld until the amount of noxious smells has been dealt with.

English Heritage

Raised concern about the potential visual and odour impact of the proposed development on the setting of the Biggin Wood moated site, which is located less than 100m from the site. The overlarge mounds were considered a particular concern which may lead to visual and odour impact on the scheduled monument.

English Heritage do not consider the potential harm on the monument would be substantial, but would support conditions to restrict the size and height of the heaps and designed to maintain or improve on-site screening. The organisation would also support any proposed monitoring for pollution or odour.

Archaeology

Wished to make no objection to the application, but note the site's close proximity to the Biggin Wood moat (medieval moated site). The moat is a Scheduled Monument (SM 11544) and, therefore, a designated heritage asset of the highest importance as defined by the *National Planning Policy Framework (NPPF)*. There is an area of uncharacterised cropmarks to the west of the site (HER 13619).

The proposed variations to the conditions will not affect the physical remains of the medieval moated site, however, the site is within the setting of the designated heritage asset. The setting of a heritage asset forms part of its significance and an impact on the setting of an asset can result in harm to the asset's significance. Impacts to the setting of a designated asset are not restricted to visual impacts, other issues such as odour can affect the setting of an asset and how it is experienced and understood.

In this case the size of the of the piles of material and potential odours from inadequately composted material could both affect the setting of the designated medieval moated site, resulting in harm to the significance of the designated heritage asset with archaeological interest. However, the archaeologist does not believe that any harm that does occur will be substantial (see Paragraphs 132 - 134 of the NPPF) and so have no objection to this application. The officer expressed concern that the size and scale of the piles of material that will be stored outside the building. The size of the stockpiles stored outside should be restricted so they do not come to dominate the Scheduled Monument. The officer assumes that if only sanitised material is stored outside the building (Condition 18) and contaminants are stored in covered containers outside the building (Condition 23) odours should be minimised.

Bedfordshire and River Ivel Internal Drainage Board

No comment received

Environment Agency

No objection. The applicant should discuss any changes relevant to their Environmental Permit with the EA permitting team.

Landscape	No objection.
Environmental Health	<p>No objection to the proposed wording of Condition 23, but have reservations with the proposed amendment to Condition 18 (and by association to Condition 1 as the two conditions are linked).</p> <p>Environmental Health received two complaints over the summer, from residents in Sandy and Everton. The officer is not convinced that material that is not fully composted and left outside to reach maturation would not give rise to odours. Sanitised material, which may meet the requirements of the Animal By Products Regulations, still requires further time, from 10 to 14 weeks, to ensure stabilisation and achieve the earthy smell associated with compost. If the sanitised is store and screened outdoors the Environmental Health officer would expect to receive complaints in the future.</p>

Determining Issues

The main considerations of the application are;

1. The principle of the development
2. Odour
3. Landscape and heritage assets
4. Flooding and pollution
5. Economic considerations

Main issues arising

The Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The relevant Development Plan documents consists of the Core Strategy and Development Management Policies (2009)DPD, the Bedfordshire and Luton Minerals and Waste Local Plan (2005) and the emerging Minerals and Waste Local Plan: Strategic Sites and Policies document (MWLP:SSP). The MWLP:SSP document has yet to be formally adopted, but has been found sound by the Planning Inspector and as such the relevant policies contained in the Plan will be considered in this report as they now carry some degree of weight.

In 2012 the government published a new national planning policy document- the National Planning Policy Framework (NPPF). This document replaced a number of planning policy statements, guidance documents and other planning documents. It does not however replace the adopted Planning Policy Statement 10: Planning for Sustainable Waste Management (2011). The government intends to produce a National Waste Management Plan for England, a consultation draft of which was published in July 2013. This application will therefore be considered in the context of the NPPF and the emerging national waste planning documents.

1. **The principle of the development**

European (2008 Waste Framework Directive), National (PPS10 and draft National Waste Management Plan) and Local policy (MWLP and MWLP:SSP) promote waste minimisation and encourage the diversion of waste away from landfill, promoting the use of waste as a resource. The facility at Tempsford Composting site supports these goals. Last year 18,000 tonnes of food and green waste was sent to the facility and converted into compost and digestate to be used locally to fertilise nearby fields. Policy MWSP3 (MWLP:SSP) requires applications for waste management development to be considered against the relevant MWLP:SSP policies and the saved policies contained within the MWLP.

Policy MWSP1 of the MWLP:SSP requires the Council to work with applicants to find solutions which mean that proposals can be approved wherever possible, and secure developments that improve the economic, social and environmental conditions of the Plan area. It is possible that the proposal would offer economic benefit for the applicant but this benefit must be considered against its potential to cause disturbance.

2. **Odour**

Composting processes have the potential to create odour. The potential for disturbance caused by odour can be minimised by confining composting to buildings and siting them in isolated locations. The 34/2008 permission requires composting operations to be carried out inside the pasteurisation and maturation buildings. However, the site has been operational since 2009, though the second building has yet to be built. As noted earlier the maturation and screening processes have increasingly been carried out outside.

Complaints

Over the last four years the Council have received a number of odour-related complaints concerning Tempsford Composting site. Two complaints have been received since the current operator took over the management of the site in 2012. In response to the complaints which were made in the summer the Local Authority undertook a site visit and found that only a limited amount of odour was being generated from the site at the time of the visit.

Whilst it can be difficult to ascertain the source of an offensive odour when a complaint is made, it is possible that there is a direct correlation between the amount and type of material stored outside, the degree to which the material is disturbed outside (e.g through screening) and the degree to which odour is generated. Tempsford Parish Council and a number of local residents objected to the application on grounds that the facility has in the past caused odour disturbance and fear that odour may continue to be released if permission is granted. The Environmental Health Officer also noted the odour complaints received and suggests that material which has not fully gone through the compost process may give rise to odour and therefore may result in further complaints being made.

Odour assessment

The odour assessment which accompanies the application concludes that the granting of a temporary variation to planning condition 18 of permission 34/2008, to allow on site external storage of screened soil improver, oversize

and the screener stockpile, should not give rise to justified complaints concerning odour from the nearest residential properties. However, the assessment did not use any on site odour measurements, nor did it consider the potential for odour to be generated from the screening of material. It also indicated that the screened soil improver, the oversize material and the screener stockpile would each generate the same degree of odour. This is questionable as the soil improver stockpile has completed the composting process, while the sanitised material has not. The LPA would expect to find lower odour emissions associated with the soil improver stockpile.

The assessment suggests that winds mainly blow from a westerly direction, with significant contributions from a north-easterly direction. This suggests that properties south and east of the site may be more affected than those north and/or west of the site. The applicant proposes to check the stockpiles stored outside daily for odour and if a stockpile becomes odorous it will be removed and placed into the building.

Environment Agency

The Environment Agency is the relevant agency responsible for controlling odour emissions from the site. The Environment Agency wished to make no comment on the application, though noted that the applicant should discuss any changes relevant to their Environmental Permit with the EA permitting team. The current EA permit associated with the site allows the physical treatment of compost and maturation of waste outside on an impermeable surface with sealed drainage. This suggests that from an Environment Agency perspective the proposal is acceptable.

MWLP Policy

Policy GE18 requires proposals which are likely to generate disturbance from odour to only be permitted if the impact of any anticipated disturbance is reduced as far as practicable and is outweighed by other planning benefits. It is not clear whether the proposal would adequately reduce the impact of anticipated disturbance. The Local Planning Authority recognise that the proposal may generate odour. However, based on the comments received from the Environment Agency and the results of the odour investigations which the Local Planning Authority undertook in August 2013, the outside storage and screening of material may be considered acceptable for a limited period of time. However, in the absence that of unequivocal evidence indicating that the proposal will not cause disturbance via odour, the Local Planning Authority suggest that outside storage and screening should be limited to 1 year.

3. Landscape and Heritage assets

The site is located in an isolated location, a considerable distance from any public rights of way. The Central Bedfordshire Landcape officer raised no objection to the proposal in respect of landscaping, therefore the proposal and the style of the fencing, is not considered to be unacceptable on Landscaping grounds.

The Central Bedfordshire Archaeologist and English Heritage raised some concern that the proposed development may impact on the near-by Biggin Wood moat. The Biggin Wood Scheduled Monument (HER 800) is a designated heritage asset of the highest importance defined by the NPPF and its setting must therefore be adequately protected.

The CBC Archaeologist and English Heritage note that odour and visual impacts can harm heritage assets. However, both felt that the potential for harm would not be considered as substantial and therefore chose not to object to the application. However, both recommend limiting the size of the stockpiles to minimise the potential for odour which could harm the setting of the medieval site. English Heritage also recommends monitoring the generation of pollution and odour.

Policy GE15 states that planning permission for waste development which would have an adverse impact on ancient monuments and/or settings will be refused unless an over-riding need can be demonstrated which outweighs the projected impact. Therefore the proposal, if considered suitably justified can be considered to be in conformity with Policy GE15 and paragraphs 132-134 of the NPPF.

4. **Risk from Flooding and Pollution**

As the proposal does not seek to increase the area of hard standing and any material stored and processed outside is confined to an impermeable surface with a sealed drainage system, it is unlikely that the proposal will lead to an increased risk of flooding or pollution.

In addition the cleaning of the wheelie bins inside the building and the covering of the container (if stored outside) will ensure that contaminants will not pose a risk to pollution. The proposal is therefore considered to be in conformity with Policies GE19 and GE20 (MWLP).

5. **Economic consideration**

The Council recognise that current operations enable the operator to process more waste into compost than would be the case if composting operations were restricted to the existing building. Should the second building be built, operational capacity of the facility may increase considerably. The construction of the second building would minimise odour nuisances whilst increasing the potential operational capacity of the site.

It also understands that investment and time would be needed to submit the necessary planning application for ancillary works, to construct the pond and ditch and to build the second building and that some further time may be justified to allow this to happen.

1. **Human Rights Issues**

It is considered that no human rights implications arise from this proposal and the recommendation to grant permission.

2. **Equality Act 2010**

The Equality Act 2010 came into force on 1st October 2010 and has the effect of making it unlawful to discriminate against people who are disabled or associated with a disabled person. The Act sets out the Equality Duty which public bodies must fulfil when carrying out their functions. It is considered that determination of this application has no impact on equalities

Conclusion

The isolated location of the site means that the risk of disturbance caused by odour may be reduced. However the quantity of composting and composted waste stored and screened outside has increased considerably since 2009, thereby increasing the risk of disturbance. The current operator has operated at the site for a year and limited progress has been made towards moving operations inside during this time.

This application was first submitted in July 2013. It is therefore considered that permitting the application, but limiting the time period composting operations may be allowed to continue for not more than 12 months from the date of the permission is issued would be considered a fair compromise.

This decision is considered reasonable given the absence of adequate evidence to indicate outside composting operations will cease within 18 months. Limiting the period of time in which composting operations may be allowed to continue as well as limiting the size of the stockpiles will limit the potential for disturbance caused by odour.

The LPA consider the proposed fencing and the process by which wheelie bins and contaminates are stored to be considered acceptable.

Recommendation

That Planning Permission be Grant permission subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 Planning permission shall extend to the area edged with a thick black line on the attached plan no. BC/CM/2008/14-2. The development shall be carried out in accordance with the planning application dated May 2008 with supporting flood risk assessment, odour impact assessment, and design and access statement and as amended by letter dated 1st September 2008 (with supporting documentation), and further amended by the S73 planning application dated September 2013, except for minor amendments which may be agreed in writing by the Local Planning Authority.

(Reason: To define the permission and allow for minor amendments)

- 2 The landscaping works to the west of the access shall be carried out in accordance with details dated 20th June 2007. Once the vegetation has been cut back it shall be maintained as such at all times

(Reason: To maintain the required visibility in the interests of highway safety)(Policy GE23 of the MWLP).

- 3 Landscaping works shall take place in accordance with scheme no. BC/CS/2009/19 and agreed by formal letter dated 13th May 2009. The scheme shall be implemented in full.

(Reason: To improve roadside amenity)(Policy GE9 of the MWLP)

- 4 Prior to the construction of the new building and associated works temporary fencing shall be constructed in accordance scheme CB/09/06221/MWS as approved by formal letter dated 29th October 2009

(Reason: To provide protection to Biggin Wood)(Policy GE10 of the MWLP)

- 5 No HGV's exiting the site access onto the public highway shall turn left out of the site.

(Reason: To ensure that HGV's do not travel through the village of Everton in the interests of highway safety)(Policy GE23 of the MWLP)

- 6 The sign implemented under scheme BC/CS/2009/16 and agreed by formal letter of approval dated 16th March 2009, which instructs all drivers of heavy goods vehicles to turn right out of the site shall be maintained for the duration of the use of access for the purposes hereby permitted and removed thereafter.

(Reason: To ensure that HGV's do not travel through the village of Everton in the interests of highway safety)(Policy GE23 of the MWLP)

- 7 Unless otherwise approved in writing by the Local Planning Authority, no operations authorised or required under this permission other than plant maintenance shall take place on site except between 07:00 hours and 18:00 hours, Monday to Friday and 07:30 hours to 13:00 hours on Saturdays, Sundays and Public Holidays.

(Reason: To protect the amenities of nearby properties)(Policy GE18 of the MWLP).

- 8 Unless otherwise approved in writing by the Local Planning Authority, there shall be not more than 78 HGV movements entering and exiting the site in any one working day (pro-rata for part days).

(Reason: To restrict throughput capacity at the site and in the interests of highway safety)(Policy GE23 of the MWLP)

- 9 A record of daily HGV movements shall be maintained at all times and sent to the Local Planning Authority every three months for the duration of the permitted use. The record shall be made available for inspection by the Local Planning Authority within 7 working days of a written request.

(Reason: To allow the monitoring of condition 8).

- 10 No vehicles shall leave the site without first passing through an efficient wheel cleaning system as detailed under the approved scheme BC/CS/2009/17 and approved by formal letter dated 23rd March 2009.

(Reason: To minimise any nuisance by reason of dust or mud on the highway)(Policy GE18 of the MWLP).

- 11 No composting of waste shall take place, unless carried out in accordance with scheme BC/CS/2009/13 as approved by letter dated 15th April 2009, except as approved under condition 17.

(Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area)(Policy GE9 and GE18 of the MWLP).

- 12 The external colour of the new building shall be painted one of the colours listed in scheme BC/CS/2009/14 as approved by formal letter dated 12th June 2009

(Reason: To safeguard the visual amenities of the surrounding area)(Policy GE9 of the MWLP).

- 13 There shall be no increase in existing flow rates into any culvert which passes beneath the railway without the prior approval of the Local Planning Authority.

(Reason: To maintain the integrity of the existing surface water regime and prevent flooding of railway property)(Policy GE19 of the MWLP)

- 14 The second building will not be constructed until the works detailed under scheme CB/09/05347/MWS as approved by formal letter dated 14th December 2009 has been implemented in full.

(Reason: To mitigate against the risk of flooding and to maintain the integrity of the existing surface water regime and prevent flooding of railway property)(Policy GE19 of the MWLP)

- 15 There shall be no burning of wastes on site.

(Reason: To safeguard amenities)(Policy GE17 and GE18 of the MWLP)

- 16 Composting material shall not be moved from the initial treatment phase unless the oxygen level throughout the material is above 3%.

(Reason: To minimise any nuisance by reason of odour)(Policy GE18 of the MWLP).

- 17 The deposit, storage and screening of oversize material, sanitised compost material and soil improver material shall not be permitted to take place outside of a building except within the limits of the dark grey area shown on drawing 13004 01 Rev P4 and shall not exceed 4 metres in height. Sanitised material pending screening shall not exceed 3 metres in height. This temporary arrangement for only those categories of material specified shall cease upon the expiry of 12 months from the date of this permission at which point all materials shall be deposited, stored and processed within the building(s).

(Reason: To minimise any nuisance by reason of odour)(Policy GE18 of the MWLP)

18 Both the initial composting phase and the maturation phase shall operate under negative pressure with air drawn through the compost and exhausted through a biofilter, except as approved under condition 17.

(Reason: To minimise any nuisance by reason of odour)(Policy GE18 of the MWLP)

19 A negative pressure system shall be applied to the waste acceptance / screening area with exhaust air passing through the biofilter. The waste acceptance area shall be maintained so as not to cause the production of anaerobic material.

(Reason: To minimise any nuisance by reason of odour)(Policy GE18 of the MWLP)

20 The self contained lagoon built under scheme CB/09/06617/MSW and approved by formal letter dated 12 January 2010 shall be retained at all times for the purpose of surface water drainage.

(Reason: To prevent pollution of watercourses an groundwater and to maintain the integrity of the existing surface water regime and prevent flooding of railway property)(Policy 17 of the MWLP)

21 No floodlighting shall be erected unless installed in accordance with scheme CB/09/05876/MWS and approved by formal letter on 29th October 2009.
(Reason: To minimise disturbance to residential properties) (Policy GE18 of MWLP).

22 All contaminants accidentally brought onto the site during the normal course of business shall be stored in an appropriate container which itself shall be stored within a building or covered if stored outside. The container shall be removed from the site when full and immediately replaced. This condition shall not apply to cleaned wheelie bins.

(Reason: To ensure a satisfactory standard of development and safeguard amenities of the surrounding area).

23 No vehicles using reversing beepers shall be used on site to transfer material from one building to the other or from the building to the grey area permitted under condition 17.

(Reason: To minimise disturbance to surrounding properties by reason of noise)(Policy GE18 of the MWLP).

24 An Annual Environmental Monitoring Report for operations hereby permitted shall be submitted to the Local Planning Authority by 30 June each year for the preceding financial year (1 April to 31 March). The report shall contain the following;

a) Identification of any problems caused by operations and action taken to address these;

b) Identification of any future proposals, potential problems which could be caused by future operations and the action to be taken to address these;

c) Quantities of waste imports for each waste type;

(Reason: To safeguard the amenities of the surrounding area and to assist the Local Planning Authority in the forward planning process).

Notes to Applicant

1. The provisions of Section 91 of the Act (Implementation of development within a certain time) do not apply as this permission is for the retention of buildings or works, or continuance of a use that has already been carried out.

2. Where conditions include the phrase "except as may be/unless otherwise agreed in writing by the Local Planning Authority...", this is only to allow for exceptions to be approved for temporary periods for special circumstances or minor amendments to be made.

Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31
The Council acted pro-actively through early engagement with the applicant. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION

.....
.....