

For: PLANNING AND REGULATION COMMITTEE – 13 JANUARY 2014

By: Deputy Director (Strategy and Infrastructure Planning)

Development Proposed:

Details Pursuant to Condition 31 (external lighting scheme) of Planning Permission 08/02472/CM (MW.0044/08)

Division Affected: Ploughley

Contact Officer: Mary Thompson **Tel:** Oxford 815901

Location: Ardley Energy from Waste Site

Application No: MW.0067/13

District Council Area: Cherwell

Applicant: Viridor

Date Received: 29 April 2013

Consultation Period: 30 May 2013 – 20 June 2013
11 December 2013 – 3 January 2014

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Recommendation

The report recommends that the application be **approved**

• **Part 1 – Facts and Background**

Location (see site plan Annex 1)

1. Ardley landfill site lies to the east of the B430 between the villages of Ardley and Middleton Stoney. The Energy from Waste (EfW) facility is under construction in the south east of the site.

Site and Setting (see site plan Annex 1)

2. This site is bounded to the west by the B430, a railway to the north and open countryside to the south and east. The Energy from Waste facility is accessed by a separate new road off the B430.
3. The nearest properties are at Ashgrove Cottages on the west side of the B430 immediately opposite a restored part of the landfill.

Background and Details of Development

4. Permission for an EfW plant (08/02472/CM) was granted by the Secretary of State on appeal in 2011. This consent covers both the landfill and the EfW and contains a number of conditions which required the submission of further details to the Waste Planning Authority.
5. Condition 31 of permission 08/02472/CM states: *Details of the location, height, design, sensors, hours of operation and luminance of external lighting for the energy from waste plant (which shall be designed to minimise the potential nuisance of light spillage on adjoining properties and highways), shall be submitted to and approved in writing by the waste planning authority before any external lighting is used on site. Any scheme that is approved shall be implemented for the life of the site.*
6. The condition was recommended by the Planning Inspector and his report included the following reason: *to ensure that light spillage beyond the boundary of the site is minimised in the interests of the residents in the locality.*
7. The applicant has provided a scheme showing the details of the external lighting for the plant as required by this condition. The proposed scheme is available to view on the e-planning website.
8. It is proposed to install external lighting to illuminate the site access and internal roads during the hours of darkness to allow safe working and pedestrian and vehicle movements and to allow the use of CCTV for security.
9. The light scheme comprises the following:
 - 16no 250w wall mounted floodlights at 7.5m
 - 51no 150w column mounted road lanterns at 8m
 - 15no 100w column mounted road lanterns at 8m

- 6no 250w building mounted floodlights at 8m
 - 2no twin degree 2x150w column mounted floodlights at 8m
 - 2no twin degree 2x250w column mounted floodlights at 8m
 - 2no 70w bollard lights
10. The application states that the external lighting scheme has been designed to keep lighting to the minimum necessary to minimise the effect of light in the surrounding landscape. The landform and landscaping will also help to screen direct light sources.
11. The lighting design includes the phased switch off of some of the lights as they become unnecessary. All of the lighting would be on during hours of darkness where there are also waste vehicle movements. However it is proposed to turn off 1 out of 3 lights on the roadways at 20.30. This would allow 30 minutes for staff vehicles to leave the site following the final waste deliveries of the day. Waste is permitted to be accepted at the site until 20.00. Lighting around the offices and visitors centre would be reduced after 23.00, 2 out of 3 lights would be off after that time. Staff shift patterns are not yet fixed, but there is likely to be a staff change at 22.00, so lights would be required until 23.00 to allow for safe staff movement. Lights around the car park will remain on until 23.00. Only the lights necessary for security would remain on until 05.00, when 2 out of 3 lights would be switched on. Full lighting would resume at 07.00 to prepare to receive waste import HGVs. Lights around the bottom ash storage area would come on at dusk and switch off at 19.30. Therefore, although operations within the EfW building would take place for 24 hours a day, these hours for the lighting would ensure sufficient lighting at the times when it is needed for movements outside the building.

• **Part 2 – Other Viewpoints**

Consultations

12. There is no statutory requirement to consult on details provided pursuant to conditions. However in this case two consultation periods were held. Specialist lighting advice was also sought from Atkins.
13. The responses below are summarised; full documents are available on the e-planning website:
<http://myeplanning.oxfordshire.gov.uk/swiftlg/apas/run/wchvarylogin.display>
14. Following comments during the first round of consultation, the lighting submission was revised and resubmitted in August 2013. Following the continued concerns of local residents, a meeting was held to include the applicant, Parish Councils and Atkins in October 2013. As agreed at that meeting, the applicant produced photomontages to show the effect of the proposed lighting and these were submitted as part of the details pursuant application in December 2013. A further consultation period was then held.

15. Ardley Parish Council – The submission is very technical and it makes it difficult to comprehend what the effect would be. A proportionate amount of lighting will be needed to meet health and safety requirements and therefore in principle no objection is raised. However it is requested that a number of points are taken into consideration:
 - The proposed scheme is excessive given the rural location
 - The incinerator is larger than it was portrayed in planning and it will take a long time for screening to become established.
 - It is difficult to tell how much energy it would take to power the scheme
 - Request that Viridor are required to review the scheme and mitigate unnecessary spillage within 6 months
 - Current aircraft warning lights seem basic and obtrusive
16. Bucknell Parish Council - The plant appears larger on the ground than local residents imagined it would. The planned lighting would add to this visual intrusion in a rural landscape and adversely affect residents and drivers on the M40. The scheme would use a lot of energy and there is not enough use of sensors or landscaping to mask the light.
17. Middleton Stoney Parish Council – Aware that lighting is required to meet health and safety requirements. The minimum lighting required for these reasons should be agreed. The proposed level of lighting appears excessive given the rural location and likely impact on the surroundings. It will be some years before the green screening is of a sufficient size to effectively screen the lighting. Request that a clause be introduced requiring the applicant to review and mitigate unnecessary light spillage within 6 months of the commencement of the operation.

Following the receipt of further information – Broadly sceptical of Photomontages as a true representation of what will be the case. The Photomontages were provided in the past and have proved almost worthless. The important issue is the light pollution experienced in local villages, why is the view from the M40 considered relevant? Lighting proposed appears excessive. Acknowledge that it meets British Standards but do these offer a minimum as well as a maximum level of light? If so officers should ensure that it is only the minimum level of lighting which is allowed at the development.

18. Cherwell District Council Planning – No objections.
19. Cherwell District Council Environmental Health – No comment, would defer to the advice given by the lighting consultant.
20. Neighbours – two letters were received from the occupants of neighbouring properties. These state the following concerns:
 - Urbanising effect on area
 - Impact on amenity – direct view from properties on St Mary's Walk to the plant

- Insufficient justification, it is not clear why vehicles need this level of lighting on the site when they will have driven along unlit roads to reach it
- Lighting working on sensors would be a better deterrent to intruders
- Insufficient assessment of impact of lighting – where will it be visible from, how will it be screened, are there alternatives?
- Not clear why the car park should be lit until 23.00
- View of stars will be disrupted
- Not clear why lighting is required for as long as it is, for example why is lighting required until 11pm for a shift change at 10pm?
- There should be less lighting, on less of the time, more focus on reduction of light pollution
- The wording relating to the bottom ash storage area states that the turn off time is 'currently envisaged' to be 19.30 daily, This should be changed to more precise wording otherwise it allows the lights to run at discretion

21. Atkins – First response – The proposal appears to be in the spirit of the recommendations set out in Building Regulations, British Standards and security and sustainability standards. However, some further information should be provided to demonstrate full compliance.

Following the receipt of further information – Most of the recommendations appear to have been addressed, no further comment.

However, the recommended risk assessment to consider the impact of 1/3 and 2/3 level switching has not been provided. We do not need to see or comment on this but would still recommend that it is produced. It is noted that the recommended uniformity levels are not achieved for the gatehouse and bottom ash facility [this relates to the difference in brightness between the brightest areas and the darkest areas illuminated by the proposed lighting in this area, failure to achieve the recommended uniformity levels could result in the area being difficult to see across, it is not an issue in terms of light spillage or nuisance]. This is at the applicant's risk, no further comments. Have no comments on aircraft warning lighting as this is not considered to form part of the external lighting planning application.

Part 3 – Relevant Planning Documents

Relevant planning documents and legislation (see Policy Annex to the committee papers)

22. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
23. The relevant development plan documents are:
- Cherwell Local Plan (CLP)
 - The Oxfordshire Minerals and Waste Local Plan (OMWLP)1996
24. Other documents to be considered in determining this application are:

- Non Statutory Cherwell Local Plan (NSCLP)
 - Emerging Cherwell Local Plan (ECLP) 2006-2031 (Proposed Submission Draft)
 - National Planning Policy Framework (NPPF)
25. The Government's National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a material consideration in taking planning decisions.
26. Planning Policy Statement 10 Planning for Sustainable Waste Management remains extant and contains relevant guidance.

Relevant Policies

27. The relevant policies are:
- CLP 1996 –ENV1
 - NSCLP 2011 – EN1, EN6

Part 4 – Analysis and Conclusions

Comments of the Deputy Director (Strategy and Infrastructure Planning)

28. The key planning issue is the need to avoid light pollution and detrimental impacts on amenity. NPPF paragraph 125 states that decisions should limit the impact of light pollution from artificial light. NSCLP policy EN1 states that development which would have an unacceptable environmental impact will not be permitted. NSCLP policy EN6 states that in determining planning applications the Council will seek to avoid unnecessary light pollution, lighting schemes will need to demonstrate that the lighting scheme is the minimum proposed, that light pollution is minimised and that there are no detrimental impacts on residential amenity, the character and appearance of the landscape, nature conservation or highway safety. CLP policy ENV1 states that development which is likely to cause materially detrimental levels of environmental pollution will not normally be permitted.
29. The Energy from Waste plant is a large building in a rural setting and it is important to ensure that the levels of external lighting are appropriate and do not create adverse impacts. However, it must also be recognised that the EfW plant has planning permission and requires external lighting for safe and efficient operation. The construction and operation of this development in this location, including the provision of appropriate external lighting has already been permitted. Some of the consultation comments express concern about the principle of this large building in this rural location, or of having external lighting on the site. However, the building and the provision for external lighting already have permission. The matter to be considered now is whether the details of the proposed lighting scheme are acceptable.

30. The scheme contains the details required by the condition. Specialist advice from a lighting consultant (Atkins) has been obtained and following revisions made to the scheme by the applicants in response to their initial comments, Atkins have now advised that the level of lighting proposed has been assessed in terms of its rural location and complies with guidance on the reduction of obtrusive light. The proposed level of lighting is not excessive. Local residents have expressed concern for the potential for external lighting to impact local amenity, however having obtained specialist advice on this matter I am satisfied that the proposed scheme would minimise light spillage and not result in an unacceptable impact on neighbouring amenity.
31. The comments from Atkins contain two remaining queries relating to a risk assessment and uniformity levels in one area of the site. However, they have stated that these matters are at the applicant's risk and they have no further comment. These points do not indicate that the proposed lighting would have an unnecessary impact on local residents. The risk assessment was required due to the fact that the lighting levels proposed would at times be lower than recommended and the applicant has subsequently submitted the risk assessment.
32. Following a meeting between Parish Councils, OCC planners, the applicant and Atkins, Viridor have produced a series of montages showing how the proposed lighting would look from a number of different viewpoints at twilight and sunset. These can be viewed on the County Council's e-planning website but will also form part of the Powerpoint presentation at the committee meeting.
33. As this is a details pursuant application providing details required under condition 31 on the main consent, there is no scope to place conditions on this consent. When a scheme is approved the developer must ensure that the development carried out fully accords with the approved details.

Conclusions

34. It has been demonstrated that the proposed external lighting scheme provides the appropriate level of lighting for the permitted development whilst ensuring that light spillage beyond the boundary of the site is minimised in the interests of the residents in the locality, in accordance with the reason for the planning condition and NPPF paragraph 125, NSCLP policies EN1 and EN6 and CLP policy ENV1.

Recommendation

35. **It is RECOMMENDED that Application MW.0067/13 be approved**

MARTINTUGWELL

Deputy Director for Environment & Economy (Strategy and Infrastructure Planning)

January 2014

