

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **WEDNESDAY, 7 SEPTEMBER 2016**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **055280 - APPLICATION FOR THE VARIATION OF CONDITION NO. 9 FOLLOWING GRANT OF PLANNING PERMISSION 054135 TO ALLOW HOURS OF OPERATION FOR SITE PREPARATORY WORKS BETWEEN 06:00 TO 18:00 MONDAYS TO FRIDAYS AND 06:00 TO 13:00 ON SATURDAYS AT PARRY'S QUARRY, PINFOLD LANE, ALLTAMI**

**APPLICATION NUMBER:** **055280**

**APPLICANT:** **MOLD INVESTMENTS LTD**

**SITE:** **PARRY'S QUARRY, PINFOLD LANE, ALLTAMI**

**APPLICATION VALID DATE:** **13/04/2016**

**LOCAL MEMBERS:** **COUNCILLOR ELLIS**

**TOWN/COMMUNITY COUNCIL:** **BUCKLEY**

**REASON FOR COMMITTEE:** **REQUIREMENT FOR S106 AND MEMBER REQUEST**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

- 1.01 This application seeks to vary the hours of operation which are controlled by condition 9 attached to the planning consent. Parry's Quarry secured planning consent to construct and operate a solid waste landfill on appeal in 2009. The conditions were imposed by the Inspector following a public inquiry. The Applicant is in the process of constructing the development, however, no waste has been received to date.
- 1.02 The Applicant initially requested the variation to allow hours of

operation for site preparatory works to commence from 0600 Mondays to Saturdays compared to current hours of operation which are authorised to commence from 0730 Mondays to Fridays and 0800 Saturdays. Restrictions relating to the maintenance of plant and equipment and the importation of waste would not change as a result of this application and as such, no waste would be imported before 0830 Monday to Saturday. The justification provided by the Applicant for allowing the variation is to allow site construction works to be completed within the shortest possible timeframe, however, site preparatory work could continue throughout the life of the landfill.

- 1.03 There are a number of sensitive receptors located around the quarry, the closest of which are Parry's Cottages which are located approximately 15m from the site boundary and approximately 50m from the working area. The Applicant has submitted noise assessments in support of the application; however, in response to concern raised by officers regarding noise which would be generated by the site prior to 7am, the Applicant has now requested that the Local Planning Authority consider allowing the commencement of site preparatory works from 0700 Mondays to Saturdays and not 0600.
- 1.04 Noise levels arising from the site at 0700 are considered unlikely to exceed background noise levels at the nearest sensitive receptors. Planning permission 054135 includes a condition: condition 11, which restricts absolute noise levels at the site. The restrictions relate to the approved hours of operation and would therefore need to be amended to reflect the revised hours of operation, but, if imposed would ensure that noise arising from the site does not cause a nuisance to nearby sensitive receptors.
- 1.05 Other uses within the vicinity of the site which have restrictions on hours of operation include start times of 0700, for example, certain uses on the Ewloe Barns Industrial Estate. 0700 is commonly used as a start time for industrial operations, where restrictions are required since this is defined as daytime working. It is therefore recommended that condition 9 is amended to allow site preparatory works to commence from 0700 Monday to Saturday.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION  
SUBJECT TO THE FOLLOWING CONDITIONS:**

- 2.01 Supplementary S106 agreement to attach the obligations contained in the S106 agreement dated 16 December 2008 in relation to planning permission 042468 to the permission arising out of this application.

(1) Linking commencement to date of permission (as existing condition).

(2) Development to be carried out in accordance with approved plans

(3): Approved plans and documents to be kept at site office (as

existing condition).

(4) Detailed working programme to be submitted and agreed (as existing condition).

(5) Reviews of the development to be submitted and agreed (as existing condition).

(6) A landscaping scheme to be submitted and agreed (as existing condition).

(7) Topographical surveys to be submitted and agreed (as existing condition).

(8) A scheme to secure mitigation and compensation for great crested newts to be submitted and agreed (as existing condition).

(9) Hours of operation (amended, as per recommendation).

(10) Development to be carried out in accordance with approved noise scheme (as existing condition).

(11) Noise limits at nearby sensitive properties, varied to restrict noise from 0700 instead of 0730.

(12) Development to be carried out in accordance with approved dust scheme (as existing condition).

(13) A scheme to secure details of hard surfacing of internal site access roadways, parking, vehicle manoeuvring and plant storage areas to be submitted and agreed (as existing condition).

(14) Restriction of site access to existing approved and new approved only (as existing condition).

(15) A scheme to prevent the deposition of mud, dust, debris and litter onto the public highway to be submitted and agreed (as existing condition).

(16) Sheeting of vehicles (as existing condition).

(17) No drainage from the site shall be connected to or allowed to discharge onto the highway, unless otherwise agreed in writing by the Local Planning Authority (as existing condition).

(18) Require the submission and implementation of highway improvement works prior to the receipt of waste (as existing condition).

(19) Implementation of odour neutralisation around site periphery (as existing condition).

(20) External lighting (as existing condition).

(21) Development to be carried out in accordance with approved

scheme for the control of litter (as existing condition).

(22) Location of the storage of plant, skips or any other item (as existing condition).

(23) Restriction of temporary stockpiles of waste outside of the transfer station (as existing condition).

(24) Development to be in accordance with approved scheme for the management of surface water and ground water (as existing condition).

(25) Storage of oils, fuels and liquid chemicals (as existing condition).

(26) Development to be in accordance with the approved scheme for facilities to deal with leachate and gas (as existing condition).

(27) Restriction of levels within the site (as existing condition).

(28) A scheme detailing progressive restoration to be submitted and agreed (as existing condition).

(29) An aftercare scheme to be submitted and agreed (as existing condition).

(30) Cessation of the deposition of waste no later than 20 years from the notified date of commencement and restoration in accordance with approved schemes (as existing condition).

(31) Implementation of approved liaison committee scheme (as existing condition).

(32) A traffic management plan to be submitted and agreed (as existing condition).

### **3.00 CONSULTATIONS**

3.01 Local Member:  
Request Committee determination.

Neighbouring Ward Member Councillor Mackie:

In the absence of further information, oppose the application due to the impact on A55 business and local residents. Reconsulted on revised start time: No comments received at time of writing report.

Town/Community Council:

Concerned about the number of changes which have been and are being sought. Consider that a full application is required. Detailed comments provided regarding regulation. Reconsulted on revised start time: No comments received at time of writing report.

Hawarden Community Council

Believes that the conditions must be retained. Reconsulted on revised

start time: No comments received at time of writing report.

Head of Public Protection:

On the basis of the information provided, it is likely that the site operations will often breach the lower limits set out in MTAN 1 if the application is granted approval to vary the working time permanently to operate during night time hours starting at 06.00am. Given that there may also be penalties to apply for particular noise characteristics such as tones, bangs and clangs or impulsive noise then it is very likely that noise limits will be breached on a regular basis.

Following the submission of further information and the requested change to the hours so that site preparation works commence from 0700 and not 0600 confirm that a 0700 would have a rating level below the background level at Parry's Cottages which indicates that noise from the site would have a minimal impact on nearby residential properties.

Natural Resources Wales:

Do not wish to comment on the application.

**4.00 PUBLICITY**

**4.01 Press Notice, Site Notice, Neighbour Notification**

One objection related to the new site entrance and is therefore not relevant to this application.

The second objection stated that the proposal is unacceptable and unnecessary and raised concern regarding the Applicant's past performance in terms of complying with planning conditions.

**5.00 SITE HISTORY**

**5.01 The proposal site was previously worked under a mineral permission which is subject to an undetermined ROMP.**

038425: Waste transfer station including weighbridge, highway protection, lorry parking and raising of levels to create a hardstanding. Approved by Planning Committee, date of decision 21/04/2005

042468: Construction and operation of a solid waste landfill with associated infrastructure and enhanced site access. Granted on appeal, reference APP/A6835/A/08/2068136.

054135 Variation of conditions 2, 14 and 18 attached to planning permission 042468.

Other permissions including a new access and transfer station,

reference numbers 054050 and 054201 respectively.

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
Flintshire Unitary Development Plan  
GEN 1: General requirements for development  
GEN 3: Development outside development boundaries  
D3: Landscaping  
D4: Outdoor lighting  
WB1: Species protection  
WB2: Sites of International Importance  
WB3: Statutory Sites of National Importance  
AC13: Access and Traffic Impact  
EM5: Expansion of existing concerns  
EM7: Bad Neighbour Industry  
EWP6: Areas of Search for Waste Management  
EWP7: Managing Waste Sustainably  
EWP8: Control of Waste Development  
EWP11: Development on or adjacent to landfill sites  
EWP13: Nuisance

Planning Policy Wales Edition 8  
Technical Advice Note 11: Noise  
Technical Advice Note 21: Waste  
Minerals Technical Advice Note 1: Aggregates

## **7.00 PLANNING APPRAISAL**

- 7.01 Introduction  
The proposal is a Section 73 application to vary condition 9 attached to planning permission 054135, to allow hours of operation for site preparatory works to be undertaken from 0600 Monday to Saturday instead of 0730 Monday to Friday and 0800 Saturdays. Site preparatory works may include the construction of cells, laying of liners, construction of bunds and so on, but would not include the importation or management of waste which would continue to be restricted to from 0830 Monday to Saturdays. The proposal site is a former quarry which secured planning permission on appeal for the construction and operation of a solid waste landfill. The permission is in the process of being implemented.
- 7.02 The existing wording of condition 9 is:  
*The hours of operation, including site preparatory work and maintenance of plant and equipment shall be restricted to:*
- 0730 to 1800 Mondays to Fridays
  - 0800 to 1300 Saturdays
- The importation of waste shall be limited to:*
- 0830 to 1700 Mondays to Fridays
  - 0830 to 1200 on Saturdays

*Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.*

*The following operations are exempted from the above working hours limitations:*

- The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- Any other activities as are agreed beforehand with the local planning authority.*
- Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.03 The proposed wording of condition 9 was originally:

*The hours of operation for site preparatory work shall be restricted to:*

- 0600 to 1800 Mondays to Fridays.*
- 0600 to 1300 on Saturdays.*

*The maintenance of plant and equipment shall be restricted to:*

- 0730 to 1800 Mondays to Fridays.*
- 0800 to 1300 on Saturdays.*

*The importation of waste shall be limited to:*

- 0830 to 1700 Mondays to Fridays*
- 0830 to 1200 on Saturdays*

*Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.*

*The following operations are exempted from the above working hours limitations:*

- The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- Any other activities as are agreed beforehand with the local planning authority.*
- Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.04 The site is located within the Buckley Mountain Ward and abuts the Ewloe Ward. The site is surrounded by a number of industrial units and residential properties, the closest of which include Parry's Cottages, which abut the proposal site and are approximately 15m from the quarry boundary and 50m from the edge of the working area.

- 7.05 The proposal is supported by a noise assessment based upon the requirements of Minerals Technical Advice Note (MTAN) 1. MTAN 1 states that noise limits should relate to the background noise levels subject to a maximum of 55dB(A) where background noise levels exceed 45dB(A) and that night-time working limits should not exceed 42dB(A) at noise sensitive properties. Night-time is defined as 1900 – 0700 hours. The assessment concludes that emitted from the site would exceed the limits included on condition 11 but would be substantially below ambient noise levels between 0600 and 0730.
- 7.06 A BS4142 noise assessment was also undertaken and submitted in support of the application. The BS4142 assessment assessed background noise levels at nearby sensitive receptors and modelled the predicted noise rating from the activities which would be undertaken at the site. Background noise levels at the nearest sensitive receptors, Parry's Cottages, were identified to range from 47dBLAeq to 52dBLAeq between 0600 and 0700. Between 0700 and 0800 background noise levels were 56dBLAeq. The assessment considered noise from equipment which would be used to prepare the site including a hydraulic excavator, articulated dump truck, bulldozer and sheepfoot roller (compactor). The assessment identified that the specific noise from the activities would be 48dBLAeq at Parry's Cottages, with a correction of 3dB applied to allow for impulsive or intermittent sound of 3dBLAeq, resulting in a rating level of 51dBLAeq.
- 7.07 Main planning consideration:
- Noise
- 7.08 Noise: Activities within the site  
Policies EWP 8 and EWP13 seek to ensure that proposals do not have an unacceptable impact on nearby sensitive uses through increase in noise. The restriction on hours of operation have been imposed at the site due to the potential for the development to impact on sensitive receptors by virtue of noise. The Applicant submitted a noise assessment in support of the planning application which demonstrates that background noise levels in this location are particularly high, predominantly due to noise from the A55 and A494. The assessment concludes that noise emitted from the site is substantially below existing ambient noise levels at sensitive receptors between 0600 and 0730. The report relies upon an assessment which was carried out in 2013 and which measured actual noise arising from the site. However, due to the methodology used and the way in which it has been reported in the submitted assessment it was not possible to confirm that a similar conclusion could be drawn for any construction activities undertaken within the site. The Environmental Health Officer raised concern regarding the proposal and recommended refusal on the basis of the information supplied.
- 7.09 To address the concerns raised by the Environmental Health Officer the Applicant undertook and submitted a BS4142 assessment, using



computer modelling to predict what noise levels would be at identified sensitive receptors, including Parry's Cottages. The assessment demonstrated that noise levels would be 4dB over background at Parry's Cottages, including a 3dB correction for impulsive/intermittent noise, and concluded that whilst this would be a moderate adverse impact because activities would move around the site, therefore noise impacts at Parry's Cottages would be short term.

7.10 Site preparation works can occur over the life of the landfill and whilst activities would move around the site the local planning authority would not be able to restrict where works can be carried out. The assessment submitted by the Applicant included a 3dB correction for impulsive/intermittent noise but did not include any correction for tonal noise. The Environmental Health Officer (EHO) raised concern about the correction applied and advised that a correction of at least 6dB should be applied in relation to Parry's Cottages.

7.11 Because background noise levels are high in this location, any increase in noise could impact on sensitive receptors. Furthermore, any increases above background levels before 0700 are a particular concern since this is a time when people are likely to be sleeping and when they are therefore likely to be more sensitive to noise. The assessment submitted in support of the application demonstrated that background noise levels would be exceeded by 4dB between 0600-06:15; 2dB between 06:15 and 06:30 and would be 1dB below background between 06:30 and 0700. Given the concerns raised by the EHO regarding the corrections applied, it is considered that noise levels prior to 0700 would be likely to impact on Parry's Cottages and cannot be adequately controlled by condition.

7.12 Noise levels between 0700 and 0800 are predicted to be 5dB below background, including a correction of 3dB for impulsive noise only. If a further correction of 3dB is applied, as recommended by the EHO, noise levels would still be 2dB below background at Parry's Cottages. It is therefore considered that site preparatory works are unlikely to have an adverse impact on nearby sensitive receptors from 0700. In response to this, and to address concerns raised by Officers, the Applicant has requested that the local planning authority consider varying the condition to allow site preparatory works to commence from 0700 Monday to Saturday.

7.13 It is recommended that condition 9 is amended to read:

*The hours of operation for site preparatory work shall be restricted to:*

- 0700 to 1800 Mondays to Fridays.
- 0700 to 1300 on Saturdays.

*The maintenance of plant and equipment shall be restricted to:*

- 0730 to 1800 Mondays to Fridays.
- 0800 to 1300 on Saturdays.

*The importation of waste shall be limited to:*

- 0830 to 1700 Mondays to Fridays
- 0830 to 1200 on Saturdays

*Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.*

*The following operations are exempted from the above working hours limitations:*

- *The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- *Any other activities as are agreed beforehand with the local planning authority.*
- *Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.14 The permission includes a condition, condition 11, which specifies an absolute noise limit. It is recommended that this is retained to prevent noise creep, to ensure that the local planning authority has adequate control over the site and minimise any impact on nearby sensitive receptors.

7.15 Other matters

The application is a Section 73 application which would result in a new planning permission being issued for the site. In order to ensure that the necessary controls are in place for the site it is recommended that the conditions attached to planning permission 054135 are attached to any consent issued under this application. The previous permission required a number of schemes to be submitted and approved by the local planning authority as well as entering into a Section 106 agreement to address matters relating to ecology and bird strike. It is considered that the requirements of the S106 should still apply to any new permission.

**8.00 CONCLUSION**

The Applicant has demonstrated that noise from site preparatory works would not be above background levels between the hours of 0700 and 0730. Allowing site preparatory works to commence from 0700 Monday to Saturday is therefore considered unlikely to have an adverse impact on nearby sensitive receptors. The inclusion of conditions to control noise arising from the site is considered necessary to ensure that noise does not harm residential amenity. Since an application under Section 73 of the Town and Country Planning Act would result in a new permission for the site it is considered necessary to replicate conditions and obligations attached to the existing permission. Subject to the inclusion of conditions and the completion of a S106, the proposal is considered in line with policies EWP 8 and EWP 13 of the adopted Flintshire Unitary

Development Plan.

#### 8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

#### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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