APPLICATION NO  PA/2013/1329

APPLICANT  Stoneledge Southbank Ltd

DEVELOPMENT  Planning permission to use land for the crushing and screening of materials and for the open storage of hardcore, plant and equipment without complying with conditions 4, 5 and 6 of planning permission PA/2010/0231 dated 02/06/2010

LOCATION  Stoneledge Southbank Ltd, Middlegate Lane, Elsham

PARISH  ELSHAM

WARD  Brigg and Wolds

CASE OFFICER  Nicholas Lawrence

SUMMARY  Refuse permission

REASONS FOR REFERENCE TO COMMITTEE  Officer discretion

POLICIES

National Planning Policy Framework: Achieving Sustainable Development and Section 1 – Building a strong competitive economy (paragraph 19).

North Lincolnshire Local Plan: Policy M2 (Secondary Aggregates and Recycled Materials) support proposals that involve the use of secondary and recycled materials. Sites for the processing of such materials should not be located adjacent to residential or other sensitive areas, should be well screened and have good access to the transport network.

Policy RD2 (Development in the Open Countryside) states that planning permission will only be granted for development which is employment-related development appropriate to the open countryside provided that the development would not be detrimental to the character or appearance of the open countryside and to residential amenity or highway safety.

Policy DS1 (General Requirements) states that the design and layout should respect and, where possible, retain and/or enhance the existing landform of the site. The development should not result in unacceptable loss of amenity to neighbouring land uses in terms of noise, smell, fumes, dust or other nuisance.

North Lincolnshire Core Strategy: Policy CS20 (Sustainable Waste Management) in part promotes sustainable waste management by seeking to minimise social, environmental and economic impacts that are likely to arise.

CONSULTATIONS

Highways: Recommends refusal for following reasons:
• It is the responsibility of the operator to ensure that they have adequate measures in place to prevent the deposition of mud and detritus onto the highway as part of their works. The removal of the condition would remove any compulsion to do this and it is felt this would lead to a hazard to road users.

• The visibility for vehicles emerging from the access on Wold Road is severely limited as a result of the presence of a large hedge that abuts the highway. Regular turning movements made by the HGVs associated with this use represent a hazard to road safety.

**Environment Agency:** Does not wish to make comments on this application.

**Environmental Health:** This department is of the opinion that there is the potential for mud to accumulate on the highway.

**PARISH COUNCIL**

Object to the application on the following grounds:

• can be seen from the road – visual pollution

• light and noise pollution

• The Wold Road access should not be used but the designated A15 site entrance. The parish council is extremely concerned about the access onto Wold Road being used.

• concern about lack of conditions if this application is granted.

**PUBLICITY**

Neighbouring properties have been notified and a site notice posted. Two letters have been received – one in support and one against the application.

**Objection:**

• activities not complying with existing extant planning permission

• hours of operation

• the activity will be seen from the road

• noise from current operations

• crushing of waste will cause dust pollution

• Wold Road is used by HGVs, not in emergencies as described by the applicants

• the access onto Wold Road is extremely dangerous

**Support (Director of applicant company):**

• The exit onto Wold Road is perfectly safe – there is also a viewing mirror to assist your access.
• Stoneledge have seven lights and Anglian Water have over 50 lights facing Mr Dunn’s property, I would suggest any light ‘pollution’ would be minimal.

**ASSESSMENT**

**The application site**

The application site forms part of the former Elsham Airfield which is sited adjacent to the A15 opposite the Elsham Wold Industrial Estate. There are three vehicular accesses into the site: one from Halifax Approach to the east, one from Middlegate Lane to the south and a further access from the road to the west of the site which runs to the north of the water treatment works. The nearest residential properties are located at Granary Cottages some 280 metres to the north of the site.

**The basis of the application**

Planning application PA/2004/0871 permitted the crushing and screening of materials and the storage of hardcore, plant and equipment for a temporary period of three years. This period was extended for a further three years until 2010 (PA/2007/0394). In June 2010 (PA/2010/0231) planning permission was granted to allow the site to be permanently used for the same use as previously approved by way of removing condition 6.

The application at hand seeks to carry out the approved operations without complying with planning conditions 4, 5 and 6 attached to the 2010 permission, which in essence is their removal. These conditions read:

4. **Within one month of the date of this permission details of the wheel cleaning facilities to be provided within the curtilage of the site shall be submitted to and approved in writing by the local planning authority.**
   
   **Reason** To prevent material being deposited on the highway and creating unsafe road conditions.

5. **Within one month of the wheel cleaning facilities referred to in condition 4 above being approved, they shall be provided in their entirety and thereafter retained.**
   
   **Reason** To prevent material being deposited on the highway and creating unsafe road conditions.

6. **Vehicle access and aggress from the site shall only be made from the access point stated in the agent’s email dated 26 April 2010 and thereafter retained.**
   
   **Reason** In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

This application has been submitted following requests from officers of the council as the requirements set out in the above quoted conditions have not been complied with. The applicants accede that the conditions have been breached and acknowledge that Wold Road is used to access the site. The applicants have suggested that condition 6 should be varied to provide that large commercial vehicles entering and leaving the site shall only do so via Halifax Approach. However, the applicants have only sought permission for non-compliance with the conditions and not a variation of condition 6. Therefore this suggestion shall not be taken into account.
For information, the access referenced in the email of 26 April 2010 is the entrance leading to the Elsham Wold Industrial Estate leading onto the A15.

Main issue

The main issue at question is whether the retention of the conditions is merited on the basis of highway safety and road conditions allowing for the provisions of the development plan and other material considerations.

The applicants within the Supporting Documentation and Checklist consider that the operation should proceed without complying with the above quoted conditions for a number of reasons, which can be summarised as follows:

- Policy T19 considers the matter of car parking provision and standards and this is not appropriate in this instance.
- The current operations do not cause mud to be brought onto the highway and as other vehicles are serviced by the A15 the applicants should not be subject to such a restriction.
- There is adequate visibility for vehicles emerging from the access onto Wold Road without being harmful to road safety.

Planning conditions should only be imposed where they are both necessary and reasonable, and authorities should ask themselves whether planning permission would have been refused if that condition were not imposed.

Conditions 4 and 5 have at their heart the provision and operation of wheel-cleaning facilities to service all vehicles associated with the consented development. The applicants have not installed such equipment and the issue of mud and stones being brought onto the public highway still remains; the Highways officer is of a clear view that this is a hazard to other road users.

The applicants have justified the removal of the condition on the basis that it is an offence to deposit mud on the highway and comment that since being on site in 2005 no driver has been warned or prosecuted for the depositing of mud on the highway. The offence the applicants refer to is set by section 149 of the Highways Act 1980 (ie If anything is deposited on the highway so as to constitute a nuisance/danger the highway authority can require the person who put it there to remove it forthwith. Mud can cause skidding and is therefore considered a nuisance/danger. Critically, the responsibility resides with the operator who must do everything possible to prevent mud being deposited on the road. This includes cleaning mud from vehicles, as far as is practicable, before they are taken onto the road. The fact that the cleaning of mud off vehicles is commercially inconvenient is not a defence in law.

Allowing for the comments of the applicants, coupled to the lack of wheel-cleaning facilities, it is not to say that mud or stones are not being deposited on the highway, or that unsafe highway conditions do not occur, merely that it has not been observed/reported. It is therefore considered that the applicants have not justified that planning conditions 4 and 5 should be removed and refusal of the application is therefore merited.
With regard to condition 6, the applicants are of the view that the use of the access onto Wold Road is perfectly safe. However, they have not submitted any transportation analysis to support this view. Indeed, a Director of the applicant company has stated that ‘there is also a viewing mirror to assist your access’. Clearly, if the access was perfectly safe there would be no need for a mirror.

It is therefore considered that the applicants have not justified why planning condition 6 should be removed and refusal of the application is therefore merited.

RECOMMENDATION    Refuse permission for the following reasons:

The applicants have not provided sufficient justification for not complying with conditions 4, 5 and 6 of planning permission PA/2010/0231 and it is considered that the conditions should be retained on highway safety grounds.

Informative
In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.