



## Appeal Decision

Site visit made on 15 January 2018

by **David Richards BSocSci DipTP MRTPI**

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 7 February 2018

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**Appeal Ref: APP/G1440/W/17/3181404**

**James Waste Ltd, Unit 3, Cradle Hill Industrial Estate, Seaford, BN25 3JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by James Waste Management against the decision of East Sussex County Council.
  - The application Ref LW/786/CM, dated 22 December 2016, was refused by notice dated 8 March 2017.
  - The development proposed is demolition and replacement of existing waste transfer station building to enable continued use of site as a waste transfer station.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition and replacement of existing waste transfer station building to enable continued use of site as a waste transfer station at James Waste Ltd, Unit 3, Cradle Hill Industrial Estate, Seaford, BN25 3JE in accordance with the terms of the application, Ref LW/786/CM, dated 22 December 2016, subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues in this appeal are the effects on the character and appearance of the surrounding area, and on the amenity and living conditions of neighbouring occupiers.

### Reasons

3. The appeal site lies in the southern part of Cradle Hill Industrial Estate, an established industrial estate on the north-eastern outskirts of Seaford and within the development boundary. The boundary of the South Downs National Park (SDNP) is about 220 metres to the north and east of the site. The site is currently occupied by an existing waste transfer station (WTS), which operates from an industrial unit with associated vehicular parking and access space.
4. The WTS building is accessed from the northern part of the premises and there is an access driveway and vehicle waiting area adjoining the north side of the building, and pedestrians can access the building from this side. A further area of hardstanding lies to the south of the building which is not permitted to be used as part of the WTS.
5. Further industrial units are located to the north and north-east of the site. Seaford Town Cemetery is situated to the south and east and there are

- residential properties to the south-east and south-west. The closest dwelling is 17 Kammond Avenue, which is about 30 metres east of the application site, although the distance from the western corner of its garden to the site is about 8 metres.
6. A previous application (LW/754/CM) was refused by the Council. Although the current proposal is materially the same as the refused scheme, the Appellant has amended certain aspects of the design in an attempt to address the reasons for refusal. The Appellant proposes to demolish the existing building and replace it with a new building designed to facilitate easier and safer access, maximise internal space for more effective working and create a safer working environment. The new building would be steel framed and would cover most of the site. It would be sunk into the ground to a depth of 1.5 m and its height to the ridge 10.01 m above the existing ground level, with an eaves height of 8.03 m. This compares to the highest part of the existing building (at the rear) being some 7.5 m, and some 6.1 m at the front of the building.
  7. The internal layout would include the installation of storage bays, a sorting area and a weighbridge, although these are not shown in the application drawings. Access by vehicles would be via a roller shutter door on the south-west elevation of the building. Pedestrian access would also be from the south-west, as well as from the south-east and north-east elevations. The total floor area of the new building would be some 1200 m<sup>2</sup>, compared to 900 m<sup>2</sup> for the existing building, increasing the floor area by about a third. A new retaining wall would be constructed along the north-east boundary and a six metre high screen fence would be erected on this side of the building. Tree planting is proposed on the north-east side of the site, which would extend along the south-eastern boundary with the Town Cemetery.
  8. The WTS operation would retain the current management of waste primarily from the Appellant's skip-hire operation, although some materials would continue to arrive from external sources, such as building contractors and local waste removal companies. Waste materials are delivered to the site, typically by skip trucks, roll-on roll-off trucks and tipper trucks. Each incoming delivery vehicle would be weighed and all accepted loads would be stockpiled in the sorting area. A telehandler and digger would sort the waste, which would then be stored in bays. Up to 75,000 tonnes of waste per annum (tpa) is proposed to be handled at the site, compared to the existing 20,000 tpa. Parking would be retained at the front and side roads to the WTS, while allowing access to the estate road through the roller shutter door. It is anticipated that lorries would park in the building overnight. The number of employees is expected to increase from 13 to 20.
  9. The development plan includes the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 (WMP), the Lewes District Joint Core Strategy Document 2016 (CS) and the saved Policies of the Lewes District Local Plan 2003 (LP).
  10. The County Council committee report considered the use of the site as a WTS to be acceptable in principle. Paragraph 6.2 states that the application site is currently used as a WTS and is within an area of focus. As such it is safeguarded in the Waste and Minerals Plan under Policy WMP6 and accords with Policy WMP7a. The site is also identified ... for waste management

purposes and Cradle Hill Industrial Estate is also identified in the Waste and Minerals Plan Schedule of Suitable Industrial Estates for waste uses.'

*Effect on character and appearance*

11. The application was accompanied by a Landscape and Visual Impact Assessment (LVIA). This identified a series of representative viewpoints taken within the study area, ranging from a distance of 0 to 2.2km from the centre of the site. The elevation of viewpoints ranges from 33 to 89 metres above ordnance datum (AOD), in comparison to the site centre at 44 metres. Photographs were taken in May 2015, representing vegetation density typical of spring/summer. I have assessed what I consider to be the most important visual effects.
12. In the view from Cradle Hill Road – Main Estate Entrance (Viewpoint 1) there would be a change on the form and scale of the buildings, with the existing building cluster being replaced by a larger building. It will be taller than the existing. To my mind the increased building height would not appear unacceptable from this direction. The existing buildings are typical of an industrial estate, but present an undermaintained and somewhat incoherent appearance. The development would mostly be perceived by users of the premises and neighbouring businesses. I consider that a new purpose-built building would represent an overall improvement in this view, notwithstanding the increase in height.
13. Viewpoint 3 is taken from within Seaford Town Cemetery looking north towards the site buildings and including the Fire Station tower to the left. There will be an immediate change in the form and height of the building which will break higher into the skyline. The LVIA assesses the sensitivity of this location to be high, and the impact of the new building to be moderate/substantial. However it is suggested that over time tree planting to the south of the site will age and filter the views of the building. The proposed screen on the west side of the building will not be greatly evident from this location. Having regard to the proximity of the Cemetery to the existing buildings on the industrial estate, including the Fire Tower and the appeal premises, it is my view that the visual impact of the change would be moderate rather than substantial.
14. Viewpoint 9 is taken from within the Cemetery looking west towards the rear of the site buildings, which are currently visible in the view beyond the memorial wall. The sensitivity of this location is assessed as high, and the impact moderate. Again, the new building will appear taller and break higher in the skyline. The existing valleys between ridges will be replaced by a single-span building with a higher central ridge and higher eaves, giving an impression of greater bulk. Mitigation is proposed in the form of a proposed planted screen, which would have an immediate impact, with columnar trees increasing screening over time.
15. A number of other views from within the urban area are assessed as experiencing slight or moderate impacts as a result of the development. In general I agree with the assessments of impact set out in the LVIA.
16. With regard to more distant views, Viewpoint 10 is an elevated view from the South Downs National Park, from which the general extent of the urban area of Seaford is evident. The existing buildings cannot be seen, though the Fire Tower marks the general location. It is unlikely that any visual change at the

site will be discernible, having regard to distance (approximately 1km) and intervening buildings and trees which obscure the site. To my mind the any impact on this high sensitivity location would be at most slight. Similarly with Viewpoint 12 – Bridleway to the north-east. In this view the roofs of the site buildings are just discernible in the middle distance. While the change in height and mass may just be discernible in the view, it would not break the skyline and would be visible against existing development in the built up area of Seaford, impact being assessed as slight.

17. With regard to landscape effects, the development involves the continuation of an existing use within a building which, though larger and taller, would not involve significant change in the context of the wider landscape. I accept the LVIA conclusion that the impact of the proposal would be negligible on a landscape scale and with reference to the national and county landscape character assessments.
18. As part of my site visit I visited No 17 Kammond Avenue, a bungalow and the closest residential property to the appeal site. I saw that the principal windows in the rear elevation do not face directly towards the proposed building, so that the new building would not have any significant impact on the outlook from habitable rooms. It would however be readily visible from the rear garden, which is only separated from the appeal site by a section of roadway linking the two parts of the Cemetery. Nevertheless I do not consider that the increase in height and bulk of the building would result in serious harm to the living conditions of No 17. The separation distance would be enough to ensure that the scale and bulk would not dominate or cause any overshadowing or loss of daylight and sunlight to the garden.
19. In summary, I acknowledge that the development would have an adverse visual impact when viewed from the Cemetery, and from gardens/dwellings on Kammond Avenue. From other locations within the urban area, including from within the Estate, the impacts would be slight to moderate. In the wider landscape, the impacts would be negligible. Set against these impacts there would be some improvement to character and appearance of the estate from a modern purpose-built building in replacement for the existing poorly maintained buildings. The visual impact would be moderated by the neutral colouring to the exterior, and the proposed planting and screening would help to assimilate the building into its surroundings. On balance I conclude that the effect on the character and appearance of the locality after mitigation would be acceptable, and accordingly would not involve material conflict with Policies WMP23a and WMP27a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013, saved Policy ST3(a), (c) & (d) of the Lewes District Local Plan 2003 or Core Policy 11 of the Lewes Core Strategy 2016 (CS).
20. In reaching this conclusion I have taken into account the status of the Cemetery as a non-designated heritage asset. For reasons given above, I consider that there would be some adverse impact on the character and appearance of the Cemetery, though in my view it would be moderate rather than substantial. In the context of the advice in Paragraphs 134 and 135 of the National Planning Policy Framework, I consider that the harm would be less than substantial, and therefore a balanced judgement is required having regard to the scale of any harm or loss.

21. The Council raised concerns that the scope for landscape mitigation was severely limited, and identified potential problems in establishing and maintaining the proposed landscaping. To my mind, these concerns are overstated. The Appellant submitted an amendment to the landscaping plan with the Appeal (Revision D) which demonstrates in principle how landscaping could be implemented successfully. While it would not fully mitigate the effect of the enlarged building, it would assist considerably in assimilating the building into its surroundings. A condition requiring submission of further details and a landscape management plan would be appropriate to address these concerns.

*Effect on living conditions*

22. While acknowledging that the development is acceptable in principle in this location, the Council is concerned that a potential increase in HGV movements to and from the site associated with an increase in throughput from 20000 tpa to 75000 tpa will result in continuing noise and dust emissions. The Council acknowledges that the new building might be expected to contain such emissions which are generated within the building. I agree that a new purpose-built building is likely to perform significantly better in this regard than the existing buildings which have been adapted from a previous use. I do not consider there is any convincing evidence which demonstrates that the appeal development would be harmful to the Cemetery and its use by people seeking peace and reflection, in comparison with the current operation in the building as it stands.

23. With regard to HGVs and other vehicles, the site lies within an existing industrial estate, where movement of commercial vehicles, including commercial vehicles, is to be expected. While I acknowledge the potential for increased vehicle movements, the highways consultee has not objected to the development on grounds of traffic or safety impact. I accept that increased number of vehicles on the local road network will not be welcomed. However, the appeal site is one where the WMP encourages development of this type to serve the needs of the community and business, in accordance with national policy which seeks to maximise reclamation and recovery of waste materials. This scheme would contribute to that objective. In my judgement it is unlikely that the traffic generation associated with a development of this scale, would have a significant impact on noise and dust levels experienced on the local road network or in the vicinity of the site. With regard to dust, it is generally required that vehicles should be sheeted, to minimise the potential for dust emissions. I consider that potential issues of noise and dust arising at the site itself or from vehicles visiting the site are capable of being addressed through the attachment of appropriate conditions.

24. The Council and others also consider that the loss of areas of hardstanding, which currently accommodate waiting and parked vehicles, would result in insufficient parking to accommodate the site workers' vehicles, and that waste vehicles would have to queue regularly outside the building on the road, as happens now, causing congestion and loss of amenity to neighbouring occupiers, particularly the adjoining funeral directors.

25. The Appellant points out that if the appeal is dismissed, the existing building will continue to be used as a WTS, perpetuating what the Council considers to be existing problems of congestion and circulation. One of the purposes of a

new building is to make better use of the site as a WTS and create space for the more effective handling of materials within the building and transport of materials to and from the site. To my mind, the enlargement of the building offers the opportunity to create a more flexible and efficient internal layout and throughput of vehicles which would counteract the potential increase in number and size of vehicles visiting the site.

26. With regard to parking, the site is on the edge of the urban area, and there are opportunities for workers to travel to and from the site by means other than the private car. The Appellant states that there is scope for parking to be provided within the site, and I consider that this is a matter which is capable of being addressed by condition. While I understand the Council's concerns, which reflect those of residents of the locality and neighbouring businesses, I do not consider that the Council has convincingly demonstrated unacceptable environmental harm arising from the proposal, or material conflict with Policies WMP25a and WMP26d of the WMP, and Saved Policy ST3(a), (c) and (d) of LP.

*The planning balance and conclusion*

27. The Council accepts that the continued use of the site as a WTS and the erection of a replacement building is supported in principle by policies in the WMP, and that there would be benefits in terms of the management of waste and the creation of further employment opportunities.
28. I acknowledge that the building would be larger and bulkier than the one it is intended to replace, and that this will have some limited adverse visual impact, particularly when viewed from the Cemetery and Kammond Avenue. The planting and screening proposals offer some worthwhile mitigation and will help to integrate the new building into its surroundings. With regard to the status of the Cemetery as a non-designated heritage asset, the extent of harm would be in the category 'less than substantial'.
29. With regard to other environmental impacts, such as noise and dust, I consider that there is some scope for improvement on present conditions through the erection of a modern purpose built building, which offers the potential for more efficient working and better containment of noise and dust emissions. Any potential adverse impacts can be mitigated by the attachment of appropriate conditions.
30. Policies of the WMP are supportive of the development in principle. With regard to other development plan policies addressing visual impact, emissions, traffic impact and living conditions the Council has not demonstrated that the limited harm identified would be unacceptable, and therefore I find that there would be no material conflict with the relevant policies of the development plan. There are no material considerations of sufficient weight to indicate that the appeal should be decided otherwise than in accordance with the development plan. For these reasons I conclude that the appeal should be allowed.
31. In addition to the time limit, a condition listing the approved plans is necessary to define the permission and in the interests of proper planning. Conditions securing the preparation of a construction management plan, a dust mitigation scheme, hours of operation, limitations on noise emissions, an external lighting plan and limitations on the outside storage of waste are necessary to protect the living conditions of neighbouring occupiers, and the amenity of the area. Conditions addressing materials and landscaping are necessary to secure a

satisfactory appearance to the development. Conditions requiring details of surface water drainage and car parking to be approved and implemented are necessary to secure satisfactory provision on site in respect of these important matters. Conditions relating to the submission of a remediation strategy in connection with site contamination are necessary to address the risk of harmful emissions to the environment. A condition requiring details of piling and foundation work to be submitted for approval is necessary to avoid contamination of groundwater/aquifers.

*David Richards*

INSPECTOR

**Appeal Ref: APP/G1440/W/17/3181404**

**Schedule of conditions:**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Except as required by any other condition attached to this permission, the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 1589/D002 Rev v.a dated 9 November 2016 (Existing Site Plan); Drawing No. 1589/D003 Rev v.a. dated 9 November 2016 (Proposed Site Plan); Drawing No. 1589/D004 Rev v.a, dated 9 November 2016 (Building Elevation Plan); Drawing No. SPP002 Rev D dated 8 February 2017 (Landscape Proposals); Drawing No. 1589/D005a Rev v.b dated 4 January 2017 (Cross Section – 1 Year).
- 3) No works including demolition shall take place at the site until a demolition and construction management plan has been submitted to the waste planning authority for approval in writing. The plan shall include matters regarding the timescales of development, hours of working, provision for parking, siting of plant and machinery and measures to protect the amenity of occupiers of adjoining units on the Estate and the Cemetery, particularly in relation to noise and dust, and the protection of the shared cemetery wall. The approved plan shall be implemented in full throughout the demolition and construction works.
- 4) Development shall not commence until the measures to manage surface water drainage have been submitted to the waste planning authority for approval in writing. The development shall be implemented in accordance with the approved details, and thereafter retained for the life of the development.
- 5) Before the occupation of the building hereby permitted a dust mitigation scheme for the operational use of the site, including dust arising from the use of vehicles, shall be submitted to the waste planning authority for approval in writing. The development shall thereafter be implemented and operated in accordance with the approved scheme for the life of the development.
- 6) Notwithstanding the information submitted with the application, the building hereby approved shall not be occupied until a landscaping scheme for the site to include a schedule and timetable for planting has been submitted to the waste planning authority for approval in writing. The scheme must demonstrate that the shared wall with the cemetery will be protected from damage during any works and that sufficient space is available to undertake planting and its subsequent management. The scheme shall thereafter be implemented and retained in accordance of with the approved details.
- 7) The building hereby permitted shall not be occupied until a landscape management plan has been submitted to the waste planning authority for approval in writing. The plan shall include measures for the management of the approved landscaping scheme the subject of condition 6 and shall include measures to provide for the on-going maintenance of the planting in relation both to its effectiveness as a visual screen and to the health of the plants during the life of the development. The development shall

thereafter be implemented and maintained in accordance with the approved management plan.

- 8) The building hereby permitted shall not be occupied until details of the parking area for employees has been submitted to the waste planning authority for approval in writing. The development shall be implemented in accordance with the approved details before the building is first occupied and the parking area shall thereafter be used for no purposes other than the parking of vehicles.
- 9) The building hereby approved shall not be constructed until details of the external materials and their colour have been approved in writing by the waste planning authority. Development shall be carried out and thereafter retained in accordance with the approved details.
- 10) The use of the waste transfer station shall not be carried on outside the hours of 0730 – 1800 on Mondays to Fridays inclusive and the hours of 1800 and 1600 on Saturdays, and at no time on Sundays, Public Holidays and Bank Holidays except for works of essential maintenance or which are in response to an emergency. Notice of the date, reason for and nature of the works shall be given in writing to the waste planning authority no later than one week after the carrying out such works.
- 11) Except for the two containers shown on Drawing Number 1589/D003 Rev v.a, dated 9 November 2016 (Proposed Site Plan), no container, skip, sorted or unsorted waste materials including recycled materials shall be stored outside the building.
- 12) There shall be no sorting, treatment, loading or unloading of waste, recyclable materials or any other materials other than within the building.
- 13) The operational noise levels emitted from the site, measured as LAeq 1hour (freefield) at the northern or western boundaries of the garden of 17 Kammond Avenue and in accordance with British Standard 4142:2014 shall be at least 5dB below the background LA<sub>90</sub> value.
- 14) The use of the waste transfer station shall not commence until an external lighting plan showing the locations and specification of the lights and any associated structures, together with the extent of light spillage from each light, has been submitted to the waste planning authority for approval in writing. The development shall be implemented and thereafter retained in accordance with the approved details.
- 15) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the waste planning authority. This strategy will include the following components:
  1. A preliminary risk assessment which has identified:
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors; and
    - potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the waste planning authority. The scheme shall be implemented as approved.

- 16) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the waste planning authority. The remediation strategy shall be implemented as approved.
- 17) Prior to any part of the permitted development being brought into use a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the waste planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.
- 18) Prior to the commencement of any work on site details of any proposed works of piling or other penetrative foundation works and measures to avoid the creation of preferential pathways to groundwater shall be submitted to the waste planning authority for approval in writing. The development shall thereafter be implemented in accordance with the approved details.