

DR/46/12

committee DEVELOPMENT & REGULATION

date 23 November 2012

INFORMATION ITEM - APPEAL DECISION

Proposal: **Construction of a 'wet' anaerobic digestion plant including combined heat and power plant with ancillary equipment**

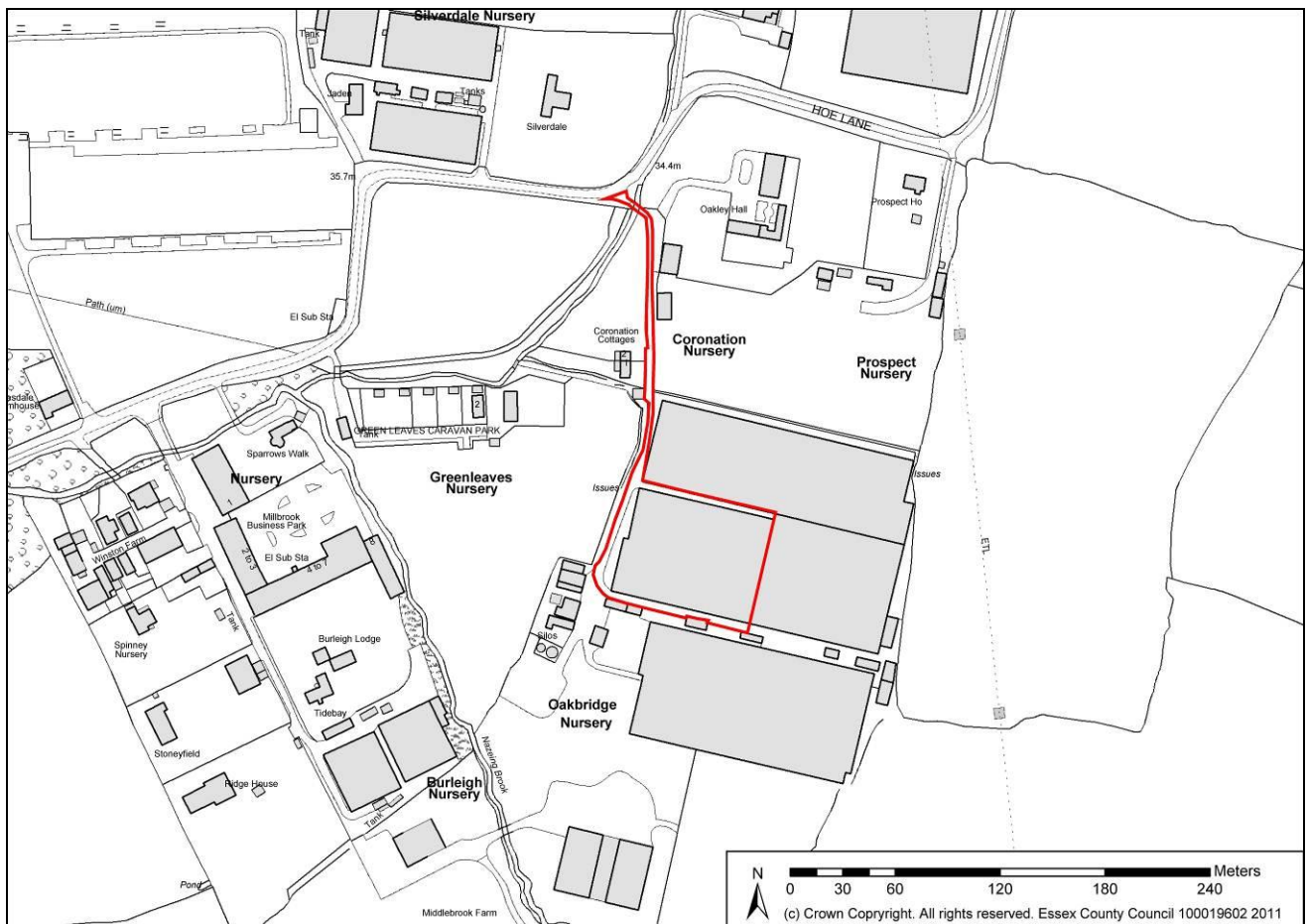
Location: **Coronation Nursery, Hoe Lane, Nazeing, Essex, EN9 2RN**

ECC Reference: **ESS/26/11/EPF**

Planning Inspectorate Reference: **APP/Z1585/A/12/2173919**

Report by Head of Environmental Planning

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1. BACKGROUND AND SITE

Coronation Nursery is an existing glasshouse Nursery, specialising in growing cucumbers and peppers. An application was made to Essex County Council, as Waste Planning Authority, in June 2011 for a wet anaerobic digestion (AD) plant including combined heat and power with a justification largely revolving around a need to increase business viability.

The facility was proposed to be constructed over part of the existing glasshouses, to the west of the Nursery as a whole. It was proposed that the facility would accept up to 15,000 tonnes of waste per annum; predominantly commercial food waste, source separated kitchen waste and organic waste from the Nursery itself. It was suggested that as this 'waste' decomposed, as part of the AD process, the methane gas produced would be fed into a gas engine to produce electricity and heat for use on site and for export. In addition the carbon dioxide and fertiliser by-product would be utilised on site and/or in respect of the fertiliser exported to nearby agricultural/horticultural industries as available and necessary.

The application was refused, under delegated powers, in October 2011 for five reasons; inappropriate development in the Green Belt; loss of glasshouse development; landscape impact; inadequate information to demonstrate no ecology impact; and inadequate information to demonstrate no unacceptable impacts on health and amenity.

2. CURRENT POSITION

An appeal was lodged against the refusal and the case was determined by way of a hearing held on 26 July 2012. The Planning Inspector's decision, which was subsequently issued on 26 October 2012, is attached at Appendix 1.

The Inspector in determination of the appeal considered the main issues in this case were:

- i. *"The nature and scale of the benefit accruing from the proposed development, for the Nursery business itself and generally.*
- ii. *The adverse effects of the proposed facility.*
- iii. *Whether the harm to the Green Belt through inappropriate development and any other harm is clearly outweighed by other considerations and, if so, whether very special circumstances exist that justify inappropriate development in the Green Belt."*

In context of the above the Inspector notes *"there are clear synergies between the main activity at Coronation Nursery...and the proposed recycling facility"*. That being said the Inspector, at paragraph 13, goes on to state that the *"benefits need to be considered in light of the fact that...Coronation Nursery itself generates only around 300 tonnes of organic per annum (tpa). But the capacity of the proposed facility would be 15,000 tpa and the assessments of power/heat production and consumption seem to be on, the basis of it operating at that level. Thus almost all*

of the waste would be imported from external sources yet to be confirmed. Evidence for the appellant also indicated that some 15% of the compost produced would be used on-site, with the remaining 85% being exported.” Concluding that on balance, in relation to point (i), the proposal would “bring only limited benefits in terms of public interest.”

Further to the above the Inspector goes on, in respect of point (ii), at paragraph 29, that the “*proposed facility would be harmful and contrary to policy in a number of respects*”. Concluding that the proposed facility “*would not meet the criteria in WLP policies W7C and W8C... (and) fail to meet the requirement of LP policy CP2 (Protecting the Quality of the Rural and Urban Landscape), especially in respect of conserving countryside character, in particular its landscape, and protecting countryside for its own sake.*”

In relation to the Green Belt, and point (iii), the Inspector, at paragraph 30, considers that in this case that the benefits to the proposal “*are not sufficient to outweigh the harm through inappropriateness and in other respects*” and as such concludes that “*very special circumstances...do not exist in this case*”.

Accordingly, in view of the above, the appeal was dismissed.

LOCAL MEMBER NOTIFICATION

EPPING FOREST – North Weald and Nazeing
HARLOW – Harlow West

APPENDIX 1



Appeal Decision

Hearing and site visit held on 26 July 2012

by Alan Boyland BEng(Hons) DipTP CEng MICE MCIHT MRTPI

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

Decision date: 26 October 2012

Appeal Ref: APP/Z1585/A/12/2173919

Coronation Nursery, Hoe Lane, Nazeing, Waltham Abbey, EN9 2RN

- 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 Mr Franco Pullara against the decision of Essex County Council.
 - The application Ref ESS/26/11/EPF, dated 18 May 2011, was refused by notice dated 17 October 2011.
 - The development proposed is establishment of an organic recycling facility involving the development of a 'wet' anaerobic digestion facility with ancillary equipment.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) The nature and scale of the benefits accruing from the proposed development, for the nursery business itself and generally.
 - (ii) The adverse effects of the proposed facility.
 - (iii) Whether the harm to the Green Belt through inappropriate development and any other harm is clearly outweighed by other considerations and, if so, whether very special circumstances exist that justify inappropriate development in the Green Belt.

Reasons

Inappropriateness in the Green Belt

3. It is undisputed that the site lies within the Green Belt. Buildings for waste developments do not fall within the exceptions to the policy principle that the construction of new buildings in the Green Belt should be regarded as inappropriate, as set out in policy GB2A (*Development in the Green Belt*) of the Epping Forest Combined Local Plan and Local Plan Alterations (LP) and the National Planning Policy Framework (NPPF).
4. I recognise, however, that the enterprise here is horticultural. This falls within the accepted ambit of agriculture, which is one of the excepted purposes. Nevertheless, it seems to me that the proposed recycling facility would not be integral to the horticultural activity. Much of the material to be recycled would come from non-horticultural/agricultural sources, and it seems to me that to the extent that it would relate functionally to the existing business the

relationship would be ancillary rather than direct. I address this in more detail below.

5. The appellant, the County Council (CC) and Epping Forest District Council (DC) all agree that the proposed development should be considered as inappropriate in the Green Belt, and I concur with this. As the NPPF makes clear, such development is by definition harmful.

Issue (i) : Benefits of the proposed development

6. There are clear synergies between the main activity at Coronation Nursery – the growing mainly of salad crops such as cucumbers and peppers under 2.5 hectares of glass – and the proposed recycling facility. The nursery process produces some 300 tonnes of organic waste annually. Currently this is disposed of off-site by commercial contractors at a cost to the business. The appellant was unable to confirm the method(s) of disposal as this is a matter for the contractors, but suggested that much of it is composted at a site some 50km away though some may go to landfill.
7. The proposed facility would enable treatment of this waste on-site, with direct savings in cost and travel. It would produce compost to replace the current growing medium required on this site, which is imported to the UK. Further benefits would accrue from the production of liquid organic fertiliser which would replace the man-made fertiliser currently bought in, and reducing the amount of water extracted from the on-site borehole.
8. Most electrical power and all heating for the glasshouses is currently produced on-site by a combined heat and power (CHP) plant, with a separate boiler providing additional heat only. These are powered by natural gas, the cost of which has increased significantly in recent years and seems likely to continue doing so. Carbon dioxide is recovered from the exhausts and fed into the glasshouses to enhance plant growth. When the CHP plant is running, surplus electricity is fed back into the national grid; at other times power is imported from the grid.
9. The proposed facility would include an additional CHP unit powered by bio-gas from the digester. The heat produced would meet around about two thirds of the annual requirement for the nursery, but there are considerable seasonal variations in this. In the warmest months the new CHP plant would meet the full demand, but at other times the balance would be met by the existing CHP plant, supplemented in the very coldest months by the boiler. This would reduce the consumption and hence costs of natural gas and, it appears, increase the net export of electricity to the grid. It would also enable greater use of the glasshouses in the depths of winter, making year-round growing possible (which is not currently the case).
10. The reduction in natural gas consumption and net reduction in electricity imported from the grid would bring sustainability benefits through reduced use of fossil fuels. There would also be economic benefits to the business through reduced costs of energy, growing medium and fertiliser. However the adverse financial effect of the reduction in the area of glasshouses would be only partially offset by increased income from the extended growing season. On figures presented by the appellant orally at the Hearing, there would be a modest overall financial gain.

11. It was submitted that this gain would help to sustain the business which, it was said, is struggling as are many growers in the area. I understand the economic pressures faced by the business, but the financial evidence given orally at the Hearing did not represent a full financial appraisal demonstrating that the proposed development is essential to the future of the horticultural enterprise rather than merely desirable.
12. Moreover I note that, while the appellant indicated that the profit currently generated by the business was barely sufficient to enable investment in the enterprise, the financial summary given did not include the capital cost of the proposed facility, the revenue costs thereof or any external income arising from it. I share the views of the Councils and others that there would remain the risk of the horticultural business ceasing, potentially leaving the recycling facility as a free-standing unit.
13. All the above benefits need to be considered in the light of the fact that, as the CC pointed out, Coronation Nursery itself generates only around 300 tonnes of organic waste per annum (tpa). But the capacity of the proposed facility would be 15,000 tpa and the assessments of power/heat production and consumption seem to be on, the basis of it operating at that level. Thus almost all of the waste would be imported from external sources yet to be confirmed. Evidence for the appellant also indicates that only some 15% of the compost produced would be used on-site, with the remaining 85% being exported.
14. I recognise the significance of economies of scale and that such a facility might not be technically or economically viable at the 300 tpa level. Nevertheless, most of the identified benefits would accrue from importation of waste rather than from the Nursery itself. It was suggested for the appellant that there is a general need for a facility to recycle organic waste in this locality. However, I share the view of the DC that the need, scale and appropriate location for any such provision, particularly if it were to operate independently, should be addressed initially through the development plan so that the wider implications and issues could be considered fully.
15. I have seen no indication that a need or location – within or outside the Green Belt - has been identified through that process. Certainly this is not a location identified for waste management facilities through policies W8A (*Preferred Sites*) and W8B (*Non-preferred Sites*) in the Essex and Southend Waste Local Plan (WLP). Policies W7C (*Anaerobic Digestion Facilities*) and W8C (*Small Scale Facilities*) do provide for such facilities such as this elsewhere, including rural locations. However, this is subject to criteria that, as I indicate below, would not be met in this instance.
16. I conclude on the first issue that the proposed development would, on balance, bring only limited benefits in terms of the public interest. To the extent that it would aid the viability of the horticultural enterprise, it would be consistent with the aims of LP policy E13B (*Protection of Glasshouse Areas*). I note the suggestion that loss of 20% of the area of glasshouses here would run counter to that policy, but I do not share that view as the policy is concerned with preserving the concentration of glasshouses and the viability of the industry rather than prevention of any individual loss of glasshouse coverage.
17. Loss of the whole area of glasshouses at Coronation Nursery might conflict with the aims of the policy but, while this may be a possibility, it seems that this applies irrespective of whether the development now proposed is implemented.

Issue (ii) : Adverse effects

18. While the proposed facility would bring undoubted benefits to the business, some of these could equally be gained from any economically viable development irrespective of whether it had a functional relationship with the horticultural enterprise. Moreover, many of the benefits would accrue from imported material and exported products in much the same way as a general industrial unit. I consider that these considerations further confirm that proposed development as a whole would represent inappropriate, and hence harmful, development in the Green Belt.
19. The NPPF advises that one of the essential characteristics of Green Belts is their openness. As LP policy E13B implicitly recognises, the cluster of glasshouses already reduces the openness of the Green Belt but to a lesser extent than would a more scattered disposition. The visual impact of the proposed facility would be partially offset by a reduction in the area of glasshouses, and it would have a smaller footprint, but a number of significant elements would be up to 5m higher than the glasshouses. While this is still lower than the water tower on site, that is close to trees that significantly reduce its visibility, whereas the combined elements in question would be bulkier and in a more open location. In any event, the proposed facility would be in addition to, not instead of, the water tower. There are several chimneys on site too, but these are relatively slim and have only limited visual impact.
20. The flatness of the valley floor and vegetation in the surrounding area largely screen this site from views from the north and west, but I saw that higher ground to the east and south east affords clear views from properties and public rights of way at a distance of some 500m. Some screening is afforded by trees, particularly while the deciduous specimens amongst them are in leaf, and some further screening could be secured through planning conditions, but I still consider that the development would have a significant effect on openness.
21. The countryside here is not, in current plans, subject to any landscape designation. Its character and appearance is heavily influenced by the extensive coverage by glasshouses, but remains attractive. The glasshouses are largely low, uniform and light in appearance whereas the proposed development would be significantly higher and more solid. As a result it would have a greater adverse impact on the countryside. I recognise that many agricultural buildings are of similar size and form, but these are accepted on the basis of their functional necessity for the farms on which they stand. To a large extent that would not be the case here. It seems to me that this development would therefore be contrary to LP policies LL1 (*Rural Landscape*) and, for this reason and others indicated above, LL2 (*Inappropriate Rural Development*). It would also conflict with LP policy GB7A (*Conspicuous Development in the Green Belt*).
22. The site is close to the boundary of the Nazeing and South Roydon Conservation Area, which includes a wide area of attractive countryside to the east including preserved medieval settlements and closed field patterns. I share the view of the Council that the industrial nature of the proposed development would be detrimental to the setting of the Conservation Area, contrary to LP policy HC6 (*Character, Appearance and Setting of Conservation Areas*).

23. The proposer of a care home immediately north of the site, for which planning permission has been granted, expressed concern about the visual impact of the proposed recycling facility from the proposed home. From what I saw on site, I judge that the existing glasshouses would screen the recycling facility completely from the 2-storey care home.
24. Access to the site is via Hoe Lane, a narrow and winding country lane that serves a scatter of horticultural business and homes. The lane is not suited to the passage of large vehicles, though the existing uses along it inevitably generate such traffic already. As I have discussed, most of the waste material to be treated here would come from off-site, and most of the products of the process would go off-site. Transport would inevitably be by road, adding to the number of lorry movements along the lane. At the Hearing the Council accepted the appellant's estimate that there would be 3 additional movements in and 3 out per day on average.
25. The CC suggested a condition to control the routing of HGVs entering or leaving the site, with a view particularly to precluding use of the length of the lane east of the access, which is especially narrow with sharp bends. While I understand the rationale for this, Circular 11/95: *The use of conditions in planning permissions* advises that planning conditions are not an appropriate means of controlling the right of passage over public highways. However I agree that a condition to restrict deliveries and collections to normal working hours on weekdays and Saturday mornings would be necessary in the interests of the living conditions of residents along the lane and in existing and proposed homes alongside the access to the site.
26. While adding HGV traffic to Hoe Lane is not ideal, in the circumstances and subject to such a condition I do not consider it to be unacceptably harmful.
27. Concerns about the potential direct effects of the proposed facility in terms of noise, odour, air quality, litter and vermin are understandable. However, as the appellant points out, the facility would be completely enclosed. Moreover, since the application was determined by the CC the appellant has submitted technical assessments on most of these aspects. These are mostly unchallenged, though the Council raises some specific concerns and points to some areas that have not been adequately assessed. Nevertheless, it seems to me that, subject to conditions to secure further information, monitoring and controls and to the further controls available under other powers, adverse effects in these respects could be mitigated adequately.
28. I share the consensus view that, given the current nature of the site, it is unlikely that any protected species would be found there. Appropriate mitigation in the event of any such species being found to be present could be secured through a planning condition.
29. I conclude on the second issue that the proposed facility would be harmful and contrary to policy in a number of respects. I further conclude that for the same reasons it would not meet the criteria in WLP policies W7C and W8C. It would also fail to meet the requirements of LP policy CP2 (*Protecting the Quality of the Rural and Urban Landscape*), especially in respect of conserving countryside character, in particular its landscape, and protecting countryside for its own sake.

Issue (iii) : Green Belt : Very Special Circumstances

30. The NPPF states that inappropriate development in the Green Belt should not be approved except in very special circumstances, and that these will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this instance the factors in favour of the development, having regard to the extent that it would be almost completely reliant upon importation of material for recycling and upon the exporting of a high proportion of the final products, would be modest. I consider that they are not sufficient to outweigh the harm through inappropriateness and in other respects. I therefore conclude that the very special circumstances required to justify approval do not exist in this case.

Overall conclusions

31. In the light of the above conclusions on the main issues, I conclude overall that the proposed development would on balance be harmful and contrary to policy in the WLP, LP and NPPF.
32. I share the view of the CC that given the Government's stated intention to abolish the Regional Strategies, little weight should be attached to the Revised Regional Strategy for the East of England in this instance. However, I consider that the development plan policies to which I have referred are, insofar as they bear on this proposal, broadly consistent with the NPPF.
33. For the reasons given above I conclude that the appeal should be dismissed.

Alan Boyland

Inspector

