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THE TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

APPEAL REFERENCE: APP/G2435/A/11/2158154

APPELLANT: William Davis Ltd and Jelson Ltd

APPEAL IN RESPECT OF STEPHENSON GREEN, COALVILLE

PROOF OF EVIDENCE

[AIR QUALITY]

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1. PERSONAL INTRODUCTION

1.1.1. My name is Nigel Mann. I am currently employed as an Associate Director at the Leicester office of WYG Environment.

1.1.2. WYG is a multi-discipline consultancy providing transport planning, engineering, environmental, town planning and project management services from over 30 offices located throughout the United Kingdom and overseas.

1.1.3. I am an associate member of the Institute of Environmental Management and Assessment and a Member of the Institute of Acoustics. I hold the degree of Master of Science in Environmental Science.

1.1.4. I have thirteen years experience in air quality assessment, management and enforcement. I have been employed by WYG since January 2001. I am based in WYG's Leicester office, from where I currently manage WYG's Air Quality service for the UK and abroad. Indeed whilst working for North West Leicestershire District Council I was responsible for the Air Quality Assessment in 2000 that created the Air Quality Management Area affected by this development.

1.1.5. I have been involved with the proposed development since July 2008 and have been responsible for project managing the air quality, noise and environmental lighting aspect of the environmental assessment. I am therefore familiar with the appeal site and the surrounding area and have made myself aware of the relevant policy background and issues relating to this Inquiry. I have visited the site and its surroundings on a number of occasions, including during various times of the day and night and under different seasonal conditions.

1.1.6. The evidence which I have prepared and provide for this appeal, reference APP/G2435/A/11/2158154, in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2. SCOPE OF THE EVIDENCE

2.1.1. In my evidence I will summarise the status of air quality assessment, particularly within North West Leicestershire District Council [NWLDC] and how the assessment work carried out to support the proposed Stephenson Green development fits into this process.

2.1.2. The reason for refusal 5 states :

'Part of the western boundary of the application site abuts an Air Quality Management Area (AQMA), based on the route of the A511 and at the Stephenson Way / Broom Leys Road junction. In the absence of evidence to the contrary, the proposal will generate increased traffic levels and levels of nitrogen dioxide and therefore worsen air quality within the AQMA which is already at unacceptable levels. The proposal is therefore contrary to PPS23 - Planning and Pollution Control'.

2.1.3. I address this reason for refusal and will show that the proposal will not significantly worsen conditions within the Air Quality Management Area and is not contrary to PPS23 [CDNPP6] nor indeed contrary to other local policies such as NWLDC Local Plan Policy E3. Furthermore, the proposed mitigation as part of the development has the potential to improve air quality both in terms of general emission and at the Broom Leys Road Junction.

2.1.4. It should be noted that much of the methodology and findings of the air quality assessment are agreed within the Statement of Common Ground.

3. AIR QUALITY ASSESSMENT IN NWLDC

- 3.1.1 The Environment Act 1995 introduced legislation for local management of air quality. Part IV introduced a statutory duty for local authorities to review and assess the air quality within their districts and to identify areas where further local measures are required to achieve the air quality standards.
- 3.1.2 Where a local authority considers that the air quality standards will not be achieved it has the duty to declare the area affected as an Air Quality Management Area (AQMA). Following the declaration of an AQMA the authority then has the duty to produce an Air Quality Action Plan which demonstrates what actions the local authority will take to work towards achieving the standards.
- 3.1.3 In March 2011 the Council published their own "Air Quality Detailed Assessment of the Coalville AQMA". The report concluded that "there is no exceedence of the annual mean Air Quality Objective [AQO] for nitrogen Dioxide [NO₂] along the length of Bardon Road and the AQMA can be revoked in this area" (Executive summary). This conclusion was based on a review of monitoring data collected over several years in the AQMA which demonstrated that "an exceedence of the annual mean AQO for NO₂ has not been detected at relevant receptor locations along the length of Bardon Road" (section 5).
- 3.1.4 With regards to the Stephenson Way / Broom Leys junction the assessment recommended that "a lack of data within the majority of the area mean that new monitoring locations should be established within this area" (Section 5). The report proposed to retain the AQMA until the data from the revised monitoring locations could be analysed.
- 3.1.5 The Councils own assessments therefore demonstrate that the annual average Air Quality Objective for NO₂ is already being met in the area of Stephenson Green. In November 2011 NWLDC published an "Air Quality Detailed Assessment of the 1 Hour Mean Air Quality Standard at the Broom Leys Road Junction, Coalville". The assessment used data from a newly installed automatic air quality analyser located on the boundary fence between 44 Broom Leys Road and Stephenson Way. From the results produced at the monitoring station the assessment reported that the 1 hour Objective for NO₂ was being exceeded. The assessment recommended that the

authority extend the scope of the existing AQMA to include a declaration for an exceedence of the 1 hour AQO.

3.1.6 In my opinion the conclusions of this assessment are wrong. The assessment makes the assumption that the location of the monitor is representative of receptor exposure. This assumption is incorrect. Non statutory guidance published by Environmental Protection UK "Planning for Air Quality (2010 Update)", provides some clarification for local authorities on what locations constitutes 'receptor locations' for the purposes of determining if an AQO is being exceeded. Table 1 of the guidance advises that the one hour AQO should apply at the following locations; All locations where members of the public might be regularly exposed, building facades of residential properties, schools, hospitals, care homes etc. With regard to gardens of residential properties, a footnote to this states;

"Such locations should represent parts of the garden where relevant public exposure is likely, for example where there is seating or play areas. It is unlikely that relevant public exposure would occur at the extremities of the garden boundary, or in front gardens, although local judgement should always be applied".

With regard to Kerbsite sites (e.g. pavements of busy shopping streets).

"Those parts of car parks, bus stations and railway stations etc. which are not fully enclosed, where the public might reasonably be expected to spend one hour or more. Any outdoor locations at which the public may be expected to spend one hour or longer."

3.1.7 The location of the monitor does not meet any of these descriptions and the results of the monitoring station should not therefore be used on their own to determine whether the 1 hour Air Quality Objective is being exceeded.

4. RESPONSE TO THE REASON FOR REFUSAL No.5

4.1.1 Planning Policy Statement 23 [CDNPP6] Annex 1 Appendix 1G provides advice to LPAs on how air quality should be considered as a material consideration within planning decisions. Paragraph 1G.2 states that;

"It is not the case that all planning applications for developments inside or adjacent to AQMAs should be refused if the developments would result in a deterioration of local air quality. Such an approach could sterilise development."

4.1.2 It goes on to state that:

"LPAs, transport authorities and pollution control authorities should work together to ensure development has a beneficial impact on the environment, for example by exploring the possibility of securing mitigation measures that would allow the proposal to proceed".

4.1.3 None of the air quality assessment outcomes have been challenged by the LPA and the LPA has not produced its own evidence to contradict that of the assessments. The LPA have not proposed any mitigation measures nor have they sought from the applicant any exploration of potential mitigation measures with regard to air quality. I do not therefore consider that the LPA have followed the statutory the guidance in PPS23.

4.1.4 Similarly, North West Leicestershire Local Plan policy E3 states that;

"Development will not be permitted which, by reason of its scale, height, mass, design, oppressiveness, proximity, noise, vibration, smell, fumes, smoke, soot, ash, dust, grit or excessive traffic generation, would be significantly detrimental to the amenities enjoyed by the occupiers of existing nearby dwellings. Residential development will not be permitted where any of the likely effects emanating from an existing nearby land use would be significantly detrimental to the amenities enjoyed by its occupants."

4.1.5 The air quality assessments submitted to support the development have demonstrated that the Air Quality Objectives for both the annual average and 1 hour Objectives for NO₂ will be met at all local receptor locations in the opening year of the development.

The development will not therefore result in any air quality conditions which will have any detrimental impact on human health. The development cannot therefore be deemed to be significantly detrimental to the amenity of existing nearby dwellings.

4.1.6 The Councils own Air Quality Assessments conclude that there will not be any predicted exceedences of the annual average air quality objective. Moreover, the applicant does not seek to claim that the development will not increase air quality exposure at some existing receptor locations. However the applicant has demonstrated that there will be no exceedences of the annual average or 1 hour AQO in the opening year of the development. The air quality effects of the development will therefore not have any health implications and cannot be deemed to be significant.

5. MITIGATION AND IMPROVEMENT

5.1.1 The development by reason of its proximity to the Coalville Town Centre and amenities has the potential to comparatively reduce car journeys and thus overall air pollutant emissions. Another measure included with the development is the commitment to develop a Green Travel Plan. Similarly road speeds within the development are to be restricted to 20 mph. Whilst it is not possible to quantify the potential benefits of these measures, one of the key deliverables of a travel plan is the encouragement of travel to work by public transport or the use of car sharing. If as a result of the plan even a small proportion of occupiers of the development car share or use public transport or non-motorised vehicles then there will be a net reduction in existing predicted emissions and the air quality effects will be less than those predicted in the air quality assessments submitted emissions from travel.

5.1.2 The development will include improvements to the Stephenson Road / Broom Leys Road junction which is shown in the traffic assessment to provide enough flow that there will be no net increase in congestion and therefore localised traffic emissions as a result. There are no published data which quantifies the reduction in emissions which occurs following these type of improvement works, however such measures are a frequent element of Air Quality Action Plans published by local authorities as part of their strategies to improve air quality.

5.1.3 The November 2011 Air Quality Assessment produced by NWLDC states the intention to *"amend the air quality action plan to include measures to combat exceedences of the 1-hour mean air quality standard for NO₂".* It is my opinion that the highway improvements at the Stephenson Way / Broom Leys Road junction could form a deliverable of the revision of the Action Plan.

6. CONCLUSIONS

- 6.1.1 In conclusion, the WYG air quality assessments and my evidence has demonstrated that the proposed development will not result in any exceedences of either the annual average or short term AQO at any of the receptor locations in the opening year. The assessments have assumed a worst case scenario both in terms of no future reductions in background air quality levels and no future improvements in engine emissions.
- 6.1.2 Furthermore, the development, by means of it's sustainable location, green travel plan and improvements to the Broom Leys Road / Stephenson Way junction, has the potential to not just mitigate emissions associated with the development but on a wider scale contribute to overall comparative reduction in congestion and vehicle trips with its associated reduction in air pollutant emissions. Similarly the improvement to the Broom Leys Road / Stephenson Way junction development could be included as being contributory to the NWLDC Air Quality Action Plan.
- 6.1.3 I therefore respectfully suggest that the planning application should be granted.

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