Porter, Karen

From: Simmons, Maxine
Sent: 04 July 2024 14:27
To: Lewis Smith
Cc: _planningadvice
Subject: H18-0528-24 - Greenworld Park
Attachments: H18 0528 24 Greenworld Park.pdf

Dear Mr Smith,

Please see attached letter.

Regards

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South Holland District Council

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4 July 2024

Dear Mr Smith,

Re: H18-0528-24 – Greenworld Park, Sutton Bridge, Spalding PE12 9RN

Erection of Mobile Asphalt Plant at Greenworld Park, Sutton Bridge, Spalding PE12 9RN

Supporting Documents: Air Quality Assessment, Odour Assessment and Sound Assessment

Thank you for your planning application submission in relation to the above submitted on the 12 June 2024.

A Screening Opinion under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ("the Regulations") has not been made. Regulation 10 of the Regulations states that:

"*(1) Where it appears to the relevant planning authority that -*

(a) an application which is before them for determination-

(i) is a subsequent application to Schedule 1 or Schedule 2 development;
(ii) has not itself been the subject of a screening opinion or screening direction; and
(iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) the application for planning permission to which the subject application relates was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the subsequent application were a request made under regulation 6(1)".

Regulation 6(1) refers to a person who is minded to carry out development may request the relevant planning authority to adopt a screening opinion.

The receipt of the planning application on 12 June 2024 therefore represents, under the Regulations, a request for a screening opinion.

National guidance in relation to Environmental Impact Assessments ("EIA") make it clear that the Regulations only apply to certain types of development. The guidance is also clear that EIA should not be a barrier to growth and will only apply to a small proportion of projects considered within the town and country planning regime. They should only apply to those projects which are likely to have a significant effect on the environment. The guidance goes on to say that local planning authorities should carefully consider if a project should be subject to EIA. If required, they should limit the scope of the assessment to those aspects of the environment that are likely to be significantly affected.

To determine whether a proposed project falls within the remit of the Regulations, and to see whether it is likely to have a significant effect on the environment, the Local Planning Authority should determine whether the project is a type listed in Schedule 1 or Schedule 2 of the 2017 Regulations. If listed in Schedule 1 an EIA is required in every case. If listed in Schedule 2, the Local Planning Authority should consider whether it is likely to have significant effects on the environment.

The advice goes on to say, if a proposed project is listed in the first column in Schedule 2 of the Regulations, and exceeds the relevant thresholds or criteria in the second column (sometimes referred to as 'exclusion thresholds and criteria) the proposal needs to be screened by the Local Planning Authority to determine whether an EIA is required. Projects listed in Schedule 2 which are located in, or partly in a sensitive area also need to be screened, even if they are below the thresholds or do not meet the criteria.

Projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not in or at least partly in a sensitive area, are not Schedule 2 development.

In determining whether a particular proposal for development is included within one of the categories of development listed in Schedule 1 or Schedule 2 of the Regulations, local planning authorities and developers should have regard to the ruling of the Court of Justice of the European Union that the Directive has a "wide scope and broad purpose" (In the Court of Justice of the European Union Case (Kraaijeveld v Holland). The fact that a particular development is not specifically

identified in one of the schedules does not necessarily mean it falls outside the scope of the Regulations. For example, the Schedule 2, 10(b) category “urban development” (which accounts for by the far the largest proportion of Environmental Impact Assessment development in England), includes residential and other development of an urban nature. It can also apply to development in non-urban areas which has an urbanising effect on the local environment, for example, an out of town shopping complex.

The proposal as described in your submission does not fall into any of the criteria in the definition of Schedule 1 development under the Regulations.

It is considered, in the light of the case law mentioned above, that, despite the fact that a mobile asphalt plant is not specifically mentioned within Part 10 (b) of Schedule 2, the development is within the settlement boundary of Sutton Bridge, thereby being located within the urban area, as opposed to the countryside. Whilst it is recognised that the proposal represents B2 development on a site with a B2 use, it is considered that the scheme can be classified as urban development and that it has an urbanising effect on the local environment. It therefore falls within the first column of Schedule 2.

However, the second column of Schedule has the following thresholds and criteria:

(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or
(ii) The development includes more than 150 houses; or
(iii) The overall area of the development exceeds 5 hectares.

The proposal consists of a developable area of 631 square metres, and the site area within the red line boundary is 0.72 of a hectare. The development does not therefore fall within criteria (i) of the second column of Schedule 2.

The development does not include housing development, so does not fall within criteria (ii) of the second column of Schedule 2.

The development does not have an overall site area that exceeds 5 hectares, so does not fall within criteria (iii) of the second column of Schedule 2.

As such, the Local Planning Authority is of the opinion that the proposal is not Schedule 2 development and a screening opinion is not necessary to determine whether significant effects on the environment are likely and whether an EIA is required.

The site is also not within a ‘sensitive area’ defined by the Regulations.

You are advised that the Local Planning Authority's opinion on the likelihood of significant environmental effects is reached only for the purpose of deciding whether or not to screen under the Regulations.

This opinion is given without prejudice to any subsequent consideration by the planning authority through the planning application process of the impacts of the proposed development and assessment of the acceptability or otherwise of the proposed development relative to development plan policy and other material considerations.

Yours faithfully

Maxine Simmons MRTPI
South Holland District Council