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Planning and Trading Standards Department
West Berkshire Council,
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For the attention of Matthew Meldrum

21 June 2011

Dear Sirs

Application 11/00778/FUL
A4 Metal Recycling Limited

As the planning authority in respect of this application you have by letter dated 6 June 2011 issued a screening opinion to the effect that the potential impacts of the development are not considered to be of significance. You have disclosed the checklist which informed the opinion. Having considered the letter of 6 June and the checklist we have come to the conclusion that the screening opinion is incorrect for the following reasons:

1. The analysis set out in the checklist is factually incorrect in a considerable number of respects. Attached to this letter is a detailed commentary on the checklist. The checklist having been completed inaccurately it cannot be used to support the opinion.
2. The letter makes no appropriate differentiation between those aspects of the development which are retrospective and those which are not. The result is that in assessing impacts the authority gives credit for aspects of the development which are in the future (eg the proposed building and the proposed resurfacing of the bridleway) so as to minimise those aspects which are already in place and already create significant adverse impacts.
3. The letter is incorrect in stating that the proposed building will have the effect of "reducing the generation of amenity impacts and shielding these impacts from view". The most significant noise and visual impacts will not be reduced to any material degree by the proposed building. The conclusion from this that the impacts will not be significant within the AONB cannot be supported.
4. The authority supports its opinion by reference to the statement in paragraph A38 of Circular 02/99 that "EIA is more likely to be required where it is proposed to store scrap on an area of 10

hectares or more” . The Circular makes it clear (para 44) that developments falling below this threshold may still have a significant impact “especially where the development is in an environmentally sensitive area”. In any event this development does not relate primarily to the storage of scrap but to its transport and processing; and it is the transport and processing of the scrap in this case which causes the impacts.

5. It is clear that the authority has not considered the development in accordance with the Baker case and subsequent guidance from the Department for Communities and Local Government dealing with developments which modify an existing development. The Circular dated 18 November 2009 requires that “when determining whether EIA is required, planning authorities must look at the effect of the development, as modified, and not just the modification alone”. The fact that a certificate of lawfulness was issued in 2005 in respect of certain of the applicant’s operations does not mean that those operations and their effects are to be ignored in the screening process. The reverse is the case. In considering the current application it is the duty of the planning authority to consider all the impacts of the operations as modified by the proposed development, not just the modifications themselves. That the authority has taken the latter, incorrect, approach is clear from the section of the letter under the heading Characteristics of the Development which clearly draws a distinction for the purposes of the screening exercise between the operations for which there is a certificate of lawfulness and those for which there is not. That distinction is not one that the authority can lawfully make.

Conclusion

The screening opinion is incorrect and should be withdrawn.

This is an application for retrospective consent in respect of development which has already taken place. There is therefore no uncertainty as to the existence of significant environmental impacts because these are already evident. The planning authority is or should be well aware of these impacts from contact with the parish council and local residents over a period of years.

Against the various headings in the checklist and based upon the very limited information provided by the applicant combined with additional information which the local community have provided there is clear evidence that there are significant impacts from the applicant’s existing operations, which are the subject of the development to which the application relates. These impact a nationally important landscape and at least 20 residential and other properties. Against a background of the applicant showing a complete disregard for gaining the necessary approvals to operate the site it is necessary to use the legal process of the EIA regulations to gain a proper, full and transparent understanding of the actual impacts which this operation is having and how these can be mitigated.

For the purposes of the Environmental Impact Assessment Regulations 1999 this is an EIA application for planning permission for EIA development, ie it is a Schedule 2 development “likely to have significant effects on its environment by virtue of factors such as its nature, size or location”.

Under regulation 3(2) “the planning authority or the Secretary of State shall not grant planning permission pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration”. The regulation applies to this development.

Accordingly the planning authority may not grant permission in this case in the absence of an Environmental Impact Assessment.

Yours faithfully

Dick Russell

Chairman, Beenham Parish Council