

Committee: Sustainable Communities Overview & Scrutiny Panel

Date: 30 April 2019

Wards: Wimbledon Park

Subject: Cappagh Environmental Permit

Lead officer: Alastair Brown, Interim Residential & Pollution Manager

Lead member: Councillor Nick Draper, Cabinet Member for Community & Culture

Project sponsor: Chris Lee, Director of Environment & Regeneration

Contact officer: Jason Andrews, Air Quality & Contaminated Land Manager

Recommendations:

Panel Members are asked to discuss the Environmental Permit issued under the Environmental Permitting (England and Wales) Regulations 2016 for 8 Waterside Way, Wimbledon and offer comments to the Delegated Officer responsible under the Scheme of Delegation on whether there are grounds to review the Permit.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report was approved for submission by the Chair of Panel, Councillor Laxmi Attawar, following a request from the Vice Chair, Councillor Daniel Holden in order that the Environmental Permit (PPC74/19/V1) issued to Cappagh Public Works Ltd covering the activity of unloading bulk cement from a road tanker into a silo located at 8 Waterside Way can be reviewed. Panel Members are able to question and query all aspects of this Permit. Following this discussion, the Delegated Officer is able to review the said Permit and has the power to maintain, vary or revoke the Permit whilst being mindful of its environmental implications and the terms of the statute under which the Permit was issued.

2 BACKGROUND

- 2.1 The London Borough of Merton received an application dated 03 August 2018 to operate an installation which under the Environmental Permitting (England and Wales) Regulations 2016 at 8 Waterside Way, Wimbledon, requires a Permit to be issued by the Regulator. Depending on the type of process activity, the Regulator is either the Environment Agency or the Local Authority. Local Authorities typically deal with the lessor polluting activities that this application falls within and, therefore, it is the responsibility of Merton Council to determine the application.
- 2.2 The scope of the installation and activity is the unloading of bulk cement from a road tanker into a silo located at 8 Waterside Way. It is a horizontal silo having a capacity of 15m³ which holds up to 26 tonnes.

- 2.3 As part of the application process, a public consultation was undertaken. The application documentation was published on the Council's website and an advert placed in the public notices section in the Wimbledon Times on the 09 November 2018 allowing an extended time-period for representations or comments up to 20 December 2018 to be received.
- 2.4 A total of 36 responses were received during the public consultation. All raised objections. Many of these were based on a lack of confidence in the management of the site and some referred to previous incidents or examples that were felt to support this view. Many objectors raised the possibility of pollution, particularly the potential to impact adversely on local air quality.
- 2.5 The need for a Permit for the use of the horizontal silo at 8 Waterside Way was identified by an officer of the Air Quality Team at Merton Council visiting the site in June 2018 and noting the presence of the silo that appeared to be in use but did not have the necessary Permit.
- 2.6 The officer's visit was in response to a complaint received by the Council after a video was placed on social media. The video had captured a cloud of dust emanating from the Cappagh site in early June 2018. The visit was part of the investigation undertaken by the Council into this incident.
- 2.7 The investigation was inconclusive as to the cause of the dust cloud. However, following discussion with Cappagh, it was considered likely that the cloud was due to a contractor attaching, in error, a road tanker to a vertical silo no longer in use.
- 2.8 For clarity, this vertical silo is not covered by the Permit which is the subject of this Report. The Permit refers only to a horizontal silo located in Unit 8 on the Cappagh site and is in use. The Council understands that the vertical silo, which is in Unit 12, remains unused and, therefore, no Permit is required for this plant in terms of the Regulations.
- 2.9 The Council has recently written to Cappagh regarding the dust incident and advising that the Council, as Regulator, will continue to monitor the site for future incidents and consider enforcement in relation to future incidents as appropriate. Future monitoring will include an inspection regime for compliance with the conditions of the Permit now issued for the horizontal silo and in response to any further complaints from members of the public.
- 2.10 The site had operated a horizontal silo without a Permit. The Regulators Code issued by the Department for Business Innovation and Skills in 2014 advises that regulators provide advice and information to those that they regulate to support their compliance. Cappagh rectified their failure to operate the horizontal silo with a suitable Permit when notified by the Council as Regulator. The legislation provides sufficient safeguards to prevent on-going pollution.

3 MATTERS CONSIDERED DURING THE PERMIT APPLICATION PROCESS

- 3.1 The Part B Permit Application was for one horizontal silo with a 26 tonne capacity which was described in the application documentation and located within Unit 8. Any Permit issued is based only on the operation of this plant and

location and not for any other part of the site. This was the first such application for a Permit for this plant.

- 3.2 The silo is to be used to store cement to dry fill 2/3 specialist HGV's that have a separate storage compartment for dry cement, which is then used to mix on site. As multiple visits can be made to various sites this reduces the need to return to the site for each separate cement load.
- 3.3 There were a high number of objections for a Permit application of this type. Each objection was reviewed. As stated in 2.6 above, many of these were concerning a lack of confidence in the management of the plant and/or site and the potential for pollution. No matters raised, though, would justify a refusal to grant the Permit and, indeed, the conditions that can be attached to a Permit on management controls and emissions to air are designed to address many of the concerns raised by objectors.
- 3.4 Many of the objections received relate to the use of the entire site in general. The Permit application was only for a single plant within the site, that of a horizontal silo. The Regulations under which the Council issues Environmental Permits only allows consideration of this plant and activities and operations relating or associated with it.
- 3.5 Many of the objections received discussed the potential for pollution that the granting of the Permit will create. However, there are other sites that operate similar facilities within Merton and some are within close proximity of residential premises or other sensitive areas. These other sites do not create pollution issues or complaint and may operate a greater number of vehicles specific to this activity.
- 3.6 Part B installations relate to emissions to air and any Permit may contain numerous conditions relating to air pollution control and monitoring. Such sites are subject to periodic inspections to check and assess for compliance. The Permit granted to Cappagh contains standard conditions. These cover matters including maintenance, record keeping, management and emissions to air.
- 3.7 Contravention of any of these conditions may result in the Council taking enforcement action to address such a contravention. If the Council considers there to be a risk or serious pollution from the operation covered by the Permit, then it can instruct the operation to be suspended. Failure to comply with an enforcement or suspension notice is an offence subject to fine or even imprisonment in the event of conviction.

4. ALTERNATIVE OPTIONS

None for the purposes of this report.

5 CONSULTATION UNDERTAKEN OR PROPOSED

None for the purposes of this report. The Permit application was subject to public consultation.

6 TIMETABLE

None for the purposes of this report. The Permit and compliance with conditions will be monitored and the plant subject to periodic inspection.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

None for the purposes of this report.

8 LEGAL AND STATUTORY IMPLICATIONS

A Part B Environmental Permit was granted on 06 March 2019 to Cappagh Public Works Limited in respect of 8 Waterside Way, Wimbledon, London SW17 0HB (the site) (PPC74/19/V1) to operate the loading, unloading and use of a cement silo falling within section 3.1 of Part B (b) of Schedule 1 of the Environmental Permitting (England and Wales) Regulations 2016 (the Regulations). The Council as Regulator has a power delegated to its Director of Environment / Regeneration to consider “on its own initiative” the potential for variation or even revocation. Such actions would involve strict steps to be complied with by officers in taking such action under Regulation 20 or 22 of the Regulations respectively.

The Environmental Permitting (England and Wales) Regulations 2016 set out a list of prescribed processes that have the potential to cause environmental harm. Included within those processes is loading, unloading and use of bulk cement (e.g. a batching plant). Such processes take place at the site. Under Regulation 12(1), “a person must not, except under and to the extent authorised by an environmental permit – (a) operate a regulated facility...”. Following an application, the Regulator may grant the operator an environmental permit authorising the operation of the Regulated Facility by a person authorised to operate that facility (Regulation 13).

For such Regulated Activities the operator has to have a permit from the regulator to carry out certain industrial and commercial processes that cause emissions to the air (known as Part B processes). These processes are considered to pose a potential risk to the air, although they are processes in the Part B category involving smaller industry. It is an offence to operate a Part B process without a permit. Regulations 2, 7 - 9 define the Regulated Facilities and refer to the Regulated Activity as defined in Part B in Section 3.1 in Chapter 3 of Part 1 in Schedule 1 to the Regulations as follows:

“Part B

(a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.

(b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products.”

‘Environmental Permits’ set controls and emission standards and thus minimise pollution from certain industrial activities and through tight regulation in order to minimise, and to manage, the environmental impact with inspections of premises to check compliance with conditions and other control

measures arising from the risk they pose locally and from their processes. The conditions of the permit will usually be based on the Best Available Techniques (BAT) and Guidance from the Department for Environment, Food and Rural Affairs (DEFRA).

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

None for the purposes of this report.

10 CRIME AND DISORDER IMPLICATIONS

None for the purposes of this report.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None for the purposes of this report.

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

The Permit (PPC74/19/V1) is enclosed in the appendix.

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