

# APPENDIX ONE

**Sue Atkinson**

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**From:** Planning Department <planning@aldenham-pc.gov.uk>  
**Sent:** 25 August 2017 13:53  
**To:** Spatial Planning  
**Subject:** Blackbirds Farm PL/0854/17 and PL/0855/17  
**Attachments:** Objection\_to\_Condition\_Variation\_Notices\_-\_Condition\_2 LETTER CONTENTS ONLY.docx; Objection\_to\_Condition\_Variation\_Notices\_-\_Condition\_6-7 LETTER CONTENTS ONLY.docx

REF: Planning Application at Blackbirds Farm  
Vary condition 2 of permission 0/1097-09 and  
Vary condition 6 & 7 of permission 0/1097-09

Aldenham Parish Council met on 21<sup>st</sup> August 2017 to discuss the above planning applications and it's comments were as follows:-

'b) The Herts County Council Consultation on the planning application for a 'Variation of Condition 2 on permission 0/1097-09 to change hours for delivery and operation at Blackbirds Farm, Blackbirds Lane, Aldenham, Hertfordshire WD25 8BS.'

Members object to this application. Members support the letter of objection written by a neighbour of the site and support all the points made in the letter as attached:-

C:\Users\Planning\Desktop\Objection\_to\_Condition\_Variation\_Notices\_-\_Condition\_2 LETTER CONTENTS ONLY.docx

c) The Herts County Council Consultation on the planning application for a 'Variation of Conditions 6 & 7 on permission 0/1097-09 to only include HGV Vehicles within these conditions at Blackbirds Farm, Blackbirds Lane, Aldenham, Hertfordshire WD25 8BS.'

Members object to this application. Members support the letter of objection written by a neighbour of the site and support all the points made in the letter as attached:-

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Please would it be possible to acknowledge these comments?

Kind regards

Paula Paley

Planning Officer

Aldenham Parish Council



**The Application Should Be Refused And No Application Relating To the Compost Business At Blackbirds Farm Should Be Considered Until The Current Enforcement Notices and Condition Breach Notices Have Been Complied With, Any Appeals Have Been Determined, And A Complete New Business Application Has Been Submitted**

As you will be aware, the compost operations at Blackbirds Farm have been the subject of extensive correspondence and enforcement proceedings involving residents and the County. In December 2016, following an extensive investigation, and the consideration of a legal opinion by an experienced planning law barrister, the County issued a letter to Blackbirds Farm setting out the County position that there was no planning permission for maturation sites being used for compost; that the restrictions on vehicle movements in the 2009 Permission included all vehicles, not simply green waste HGVs; and that the compost was not permitted to be used at Garston (the **December 2016 Letter**). In June 2017, the County issued enforcement notices in respect of the maturation sites at School Field and Broadfield, and thereafter also issued a breach of condition notice concerning the vehicle movements and hours of operation. The applicant has ignored these notices, and has carried on his compost operations. The applicant has appealed one of the two enforcement

notices (only as to Broadfield), but has not appealed the notice as to School Field, but nevertheless continues his unlawful operations there.

In May 2017, the applicant filed a request for a Certificate of Existing Lawful Use, seeking to regularise his compost business. This was denied by the County. This has not been appealed.

In 2016, the applicant filed an application to substantially increase the amount of compost that could be processed annually, from 8,000 cubic metres to 32,000 cubic metres. This application, which prompted the County's 2016 investigation, has not been withdrawn and remains pending.

It should be obvious that no consideration of conditions to the compost business can be determined without the applicant setting out the parameters of the business he is applying for leave to operate. These parameters must include the volume of compost he is seeking to process, the location of any maturation sites he is seeking permission to use, whether and the extent to which the public highways are intended to be used for any aspect of the operations, the number of every type of vehicle (HGV, JCB/trailer, staff cars, etc.) that are proposed to be allowed as part of the business, hours of operation, extent of operations at a maturation site (including hours), extent of operations at the silage pit area, including the hours of operation, and so on.

These relevant parameters are not set out on the face of this application; nor could they be, given the present status of the record. The appeal on the Broadfield enforcement notice remains pending; the farmer has not appealed the condition breach notice but is violating the current conditions; the farmer has not withdrawn his 2016 application to increase the amount of compost he intends to process. Nor has the farmer set out any proposal as to how many vehicles he intends to operate as part of the business, how many will go up and down the road in front of our home, etc.

We are all too aware from experience over the past three years that these parameters are vital and material – under the farmer's current operations, the disruption to our use and enjoyment of our home from the Broadfield and School Field maturation sites, including smell from Broadfield and the silage pit area, noise from Broadfield and the silage pit operations, smell from the transport of uncovered compost in front of our home, noise from JCB traffic, is intolerable. Our concerns have been documented in dozens of emails in the County's possession.

We should not have to even set out our objection to this kind of piecemeal application; nor should the County even consider such an application, especially when the applicant has refused to comply with the conditions of the existing operations, as interpreted by the County. For these fundamental reasons, we respectfully submit the County should reject the application as premature and incomplete, and direct the applicant, if he intends to pursue any aspect of the compost operations, to submit a comprehensive application that addresses all of the relevant parameters he intends to form a part of the business. Only then will the County and the public be in a position to determine the extent to which any such proposal would impact on the residents.

### **In The Event The County Considers The Application, It Should Be Denied**

Even were the County to consider the application to vary Conditions 6 and 7 to the 2009 Permission, the application should be denied.

#### **Condition 6**

As set out in the December 2016 Letter from the County, Condition 6 “applies to all vehicles associated with the composting process, including:

- tractors (JCBs) and trailers moving the material to the maturation areas and returning either empty or with finished product from those areas;
- collection lorries leaving empty to collect, and returning with, green waste
- as well as staff cars.”

The application seeks to restrict only HGV movements within the condition of the 2009 Permission, contrary to its plain language. What is not stated in the application is that the applicant seeks to have the County authorise *unlimited* numbers of vehicles other than HGVs as part of this business. These other vehicles include cars, trucks that do not qualify as HGVs, JCBs or other heavy farm equipment, and trailers filled with compost, the very vehicles the County has concluded fall within the existing condition.

The application does not explain why it is consistent with planning law to exempt all of the non-HGV vehicles from any vehicle limit restrictions, or address the obvious amenity issues the application’s proposal would present. The sole basis for the application is that the applicant contends there was an error in the wording of the original condition, and that the documents relating to the 2009 application indicate that only HGVs were intended to have been restricted in terms of their numbers. We do not accept that the County made any error in the wording of the condition in 2009. It was clearly worded to include all vehicles “including HGVs” – so it is not as though there was a typographical error as a result of which the language does not make sense.

Moreover, it is important to note that at the time of the 2009 application, the applicant did not identify where the maturation sites would be located, and represented in his application that the compost would not be transported on the public highways. Section 6.5.2 stated: “in this instance, 100% of the compost will be used on the farm meaning that none of the compost would not [sic] need to be transported off site again, thereby assisting in reducing associated vehicle movements.” The County officer’s report reflected this assumption, and in Section 4.5 in particular stated that “[a]s the compost would be utilised on the farm itself, there would be no lorry movements involved in the exporting of any of the compost.”

What we all know happened next is that the farmer submitted the four maturation sites as part of the discharge of Condition 18 of the 2009 Permission, without any right of public consultation, and this included the School Field site which required use of the public highway to transport compost off the contiguous area next to the silage pits and down not only Kemprow but also Radlett Road, the B462. He also began transporting compost to Garston, up the A41 and A412.

As the farmer's application is premised on what he claims happened in 2009, the fact that he misrepresented his proposed use should bar him from trying to rely on his understanding of what would be included in the definition of vehicle movements.

In any event, what is relevant to this application is not what was intended in 2009, but whether what is now being proposed is appropriate under existing planning law, including the impact on amenity. If only HGVs were to be included in the vehicle movement restrictions, that would mean that the farmer could have unlimited movements of other vehicles up and down the road in front of our home. Coupled with the lack of restrictions on hours, this would mean these movements could extend 24 hours a day. While the farmer has not identified in his application how many non-HGV vehicle movements his business would involve, we unfortunately know all too well from the past few years that this business has entailed as many as 60 movements of JCBs and trailers a day. These have been documented in logs and emails to the County enforcement officers. Because the farmer has chosen not to include any detail with the application as to the number and extent of the proposed vehicle movements, the County should assume the worst, and that we would have at least 60 and possibly more vehicle movements, mostly JCBs pulling uncovered trailers full of compost, back and forth within 10 metres of our home. The County officers who conducted a survey in September and October 2016 confirmed that these vehicle movements produce an odour that we have reported. The stated purpose of the condition is to protect the amenity for the residents. Under the proposed variation, the condition would be rendered meaningless, and there would be no protection for residents. The proposal must be rejected.

For similar reasons, the applicant should continue to be required to log all vehicles associated with the compost business in the register. Otherwise, there is no basis for the County planning officers to monitor the extent to which the business is causing disruption to residents from vehicle movements. As our experience has shown, the County does not have the time or resources to monitor the compost operations on a daily basis, and the vehicle register (assuming it is honestly maintained), is the only means the County has, short of having an officer posted at the farm entrance, to monitor compliance with the restrictions.

These concerns are heightened by the fact that the applicant has not submitted any details with the application outlining the overall scope of the proposed operations, as explained in the first section of this objection. We cannot possibly be in a position to determine whether a proposed condition is appropriate absent details of how many vehicles will be operating at a maturation pad, where the pad will be located, etc etc. Absent such detail, the County should assume that there will be unlimited vehicle movements, noise, and odour at a location or locations that will impact our home, and will render it impossible for us to live here. It is not for the residents to make assumptions that will conceivably limit the impact of what is being proposed. It was for the applicant to explain how what is being proposed is reasonable. He has not done so, and the application should be rejected for this reason as well.

Finally, we note that the site map submitted with this application includes only the silage pit area, and not any particular maturation pads. Given that the restrictions should govern all

aspect of the compost operations, assuming any maturation pads are to be permitted, they would need to be shown in the site map for this application in order for it to be valid. As the applicant failed to include these, the application should be rejected.

For these reasons, we urge the County to reject the application, refuse any variance to Conditions 6 and 7 of the 2009 Permission, and enforce the Condition as per the December 2016 Letter and the Breach of Condition notice served in 2017.

Kind regards,

The Neighbour

