

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: PLANNING & DEVELOPMENT CONTROL COMMITTEE
DATE : 22 JULY 2009
REPORT BY: HEAD OF PLANNING
SUBJECT : METAL RECYCLING AND RECOVERY PLANT FOR END OF LIFE VEHICLES, FERROUS AND NON FERROUS METALS, REDUNDANT AND SCRAP CARAVANS AND ROOF WALL PANELS AT POINT OF AYR, FFYNNONGROYW

1.00 APPLICATION NUMBER

1.01 045069

2.00 APPLICANT

2.01 Delyn Metals Ltd

3.00 SITE

3.01 Delyn Metals Ltd,
Point Of Ayr,
Ffynnongroyw,
Holywell,
CH8 9JJ

4.00 APPLICATION VALID DATE

4.01 19/05/2008

5.00 INTRODUCTION

5.01 This application is for a metal recycling operation on land which had been used as a waste oil processing facility, of which some of the infrastructure remains. Prior to that, the site was the location of an experimental oil coal project as a part of the former Point of Ayr colliery.

5.02 The site lies at a point midway between the settlements of Talacre, Gwespyr and Ffynnongryw adjacent to the Dee Estuary. The Gronant Dunes and Talacre Warren SSSI lies to the north west of the site, the Dee Estuary is itself a RAMSAR site, that is an area of international importance for wading birds, a Special Protection Area (SPA) and Special Area of Conservation (SAC). Given the sensitive location of the site the application includes a full Environmental Assessment.

- 5.03 The application is partially retrospective, the applicant had started to recycle caravans and some metal products but this is in abeyance until this application has been processed although stored material remains on site.

6.00 CONSULTATIONS

6.01 Local Member

Councillor E.G. Cooke

Agrees to matter being dealt with under delegated powers. Would like to see any extant planning permissions for the site removed.

Llanasa Community Council

No objection.

Head of Highways and Transportation

Has no objection to the proposal and makes no recommendations on highway grounds.

Chief Public Protection Officer

No adverse comments.

County Council Ecologist

Has carried out an Appropriate Assessment under the terms of The Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and has concluded that the proposal is unlikely to have a significant effect 'alone or in combination' on a European site providing mitigation provisions as agreed by the applicant are undertaken through conditions and/or an appropriate legal agreement.

Welsh Water

If granted a planning permission should include conditions to cover surface water discharge from the site.

RSPB

Objects to the proposal as the development risks harming the internationally important and protected teal and redshank populations in the vicinity, lack of suitable bird surveys and inadequate mitigation proposals.

Environment Agency

Planning permission should only be granted if conditions are included to cover the risks associated with contamination, including a remediation strategy. No objection in terms of flood risk.

Countryside Council for Wales

Expresses concern about the suitability of the access road, about the control of use of the access road and any work that may be necessary by virtue of the adjacent SSSI.

Concerned about the failure of the environmental impact assessment to address the issue of alternatives both in terms of sites and waste treatment.

Suggests that the habitat survey could be extended.

Concerned about cumulative impact as a result of air pollution.

Concerned about the suitability of the site given its exposed coastal location.

Has no objection in principle to the proposal on a temporary basis.

Network Rail

Objects to the proposal on the basis of the low bridge on the access road and the safety implications of potential strikes unless conditions are imposed and complied with; the provision of barriers on the approach to the bridge to prevent vehicles of excessive height passing under the bridge and appropriate signage to warn vehicles of the height restriction.

BHP Billiton Petroleum

Does not object in principle providing the integrity of the Dee Estuary SSSI is not compromised and that concerns over the use of the access road can be resolved. It confirms that it is prepared to allow the passage of vehicles across land within the terminal curtilage for emergency use only and defines what constitutes an emergency vehicle.

7.00 PUBLICITY

7.01 Site Notice

Placed on site on 9th June 2008, notice was placed in "The Chronicle" on 13th June 2008.

8.00 SITE HISTORY

8.01 The site is a part of the former Point of Ayr colliery which, in 1980, was given permission for the development of an experimental coal liquefaction plant, this development was carried out and continued to operate until the late 1980's when, in anticipation of the closure of the colliery, the site was passed to Evergreen and a temporary planning permission was granted to convert the existing plant to a facility for the reprocessing of waste oil, the planning permission was varied in 2003 to allow the use to continue until 2016. The waste oil process ceased in December 2003, between 2000 and 2006 some of the plant was removed although the site was not completely restored and much of the infrastructure remains some of which will be used by this development such as the hard standing, bunded bays and surface water drainage system and interceptors. The site was acquired by the current applicant in May 2004 with the intention of utilizing the site for metal recycling and recovery, this application seeks to regularize that use. Access to the site

would utilize the former colliery access road from the A548 at a point midway between Ffynnongroyw and Gwespyr.

9.00 PLANNING POLICIES

9.01 Clwyd Structure Plan First Alteration

Policy H3 – Protection of the Countryside.

Policy H9 – Nature Conservation.

Policy H11 - Control of Pollution.

Policy H12 – Quality of Water.

Policy H19 – Flooding and Ground Stability.

Structure Plan Second Alteration: Flintshire Edition

Policy GEN 1 – New Development.

Policy GEN 2 – New Development.

Policy CONS 5 – Open Countryside.

Policy CONS 8 – Ramsar Sites, Special Protection Areas and Sites of Special Scientific Interest.

Policy CONS 9 – Sites of Special Scientific Interest.

Policy CONS 14 – Control of Pollution.

Policy CONS 16 – Waste Disposal.

Policy CONS 17 – Development in Flood Risk Areas.

Delyn Local Plan

Policy 15 – Development Control. Coastal Management.

Policy 1 – Landscape. Sites of Special Scientific Interest.

Policy 9 – Landscape. Management Agreements.

Policy 3 – Community Facilities. Waste Disposal Sites.

Emerging Flintshire Unitary Development Plan

Policy STR 1 – New Development.

Policy STR 7 – Natural Environment.

Policy STR 10 – Resources.

Policy GEN 1 – General requirements for development.

Policy GEN 3 – Development outside Settlement Boundaries.

Policy GEN 6 – Environmental Assessment.

Policy L6 – The Coast.

Policy WB2 – Site of International Importance.

Policy WB 3 – Statutory Sites of National Importance.

Policy EWP 6 – Areas of search for new waste management facilities.

Policy EWP 7 – Managing Waste Sustainably.

Policy EWP 8 - Control of waste management sites.

Policy EWP 12 – Pollution.

Policy EWP 13 – Nuisance.

Policy EWP 14 – Derelict and Contaminated Land.

Policy EWP 16 – Water Resources.

Policy EWP 17 – Flood Risk.

National And Regional Policy

TAN15 – Flood Risk.

TAN21 – Waste.

North Wales Regional Waste Plan 2003.

North Wales Regional Waste Plan 2008.

Wise About Waste; National waste Strategy.

10.00 PLANNING APPRAISAL

- 10.01 This proposal is for a metal recycling and recovery plant which will consist of the following four operations;(i) receipt, de-polluting, dismantling, segregation and storage of end of life vehicles and associated wastes prior to further treatment on site or removal off site; (ii) receipt, segregation and bulking of ferrous and non-ferrous metals for treatment on site or for dispatching; (iii) dismantling of redundant and scrap caravans and sorting into recyclable and non-recyclable material; (iv) recycling of roof and wall panels into recyclable and non recyclable materials. In this regard the proposal meets with the relevant waste management policies, particularly those contained in the EFUDP namely STR 10 and EWP 7. The proposal is also in accordance with the aims of national policy and the objectives of the regional waste plan as a sustainable waste management operation.
- 10.02 The development will use the existing site infrastructure such as concrete hard standing, contained bays, drainage system and oil interceptors. The access will be the road which served the former Point of Ayr colliery. Given the nature of the operation and its location relative to residential properties and other businesses it is considered that there will be no significant loss of amenity as a result of this proposal. No objection has been received from the Public Protection department nor has the local community council objected. No objection has been received from the Highways department regarding the access and the applicant has agreed to undertake the appropriate protection works required by Network Rail, to safeguard the bridge carrying the main London to Holyhead railway line over the access road. The EAW does not object provided condition are include to address any possible contamination of the site and does not object to the proposal in terms of flood risk. The EAW also confirms that the site already has the benefit of a Waste Management Licence . It is considered, therefore that the proposal meets with the relevant policies most notably those contained in EFUDP, namely STR 1, GEN2, EWP8, EWP12, EWP13, EWP 14, EWP16 and EWP17.
- 10.03 The site lies adjacent to the Dee Estuary which is of major importance as an environmental site requiring protection as is recognized by its designation as a Ramsar site under the Convention on Wetlands of International Importance, a Site of Special Scientific Interest, Special Protection Area and possible Special Area of Conservation. The access road also runs adjacent to a SSSI which is designated for its importance for wintering wader populations. The area immediately adjacent to the site to the north known as the flushing lagoons is particularly important and supports important wildfowl

bird populations including redshank and teal as well as inter-tidal habitats of international importance. In recognition of the extremely sensitive nature of the site, the response by CCW expresses concern about the proposal but does not object in principle to the proposal on a temporary basis provided that the site will be eventually restored as a green open space consonant with its location adjacent to the Dee Estuary. The RSPB has objected to the proposal but in response the applicant has agreed to enter into an appropriate legal agreement to protect the designated sites and to offer mitigation measures it would also wish to see a time limited permission with restoration to appropriate coastal habitats rather than other land uses. Given the sensitive location of the site the County Council as the relevant body is required to carry out an Appropriate Assessment of the proposal under the terms of The Conservation (Natural Habitats, &c) Regulations 1994 (as amended), this process is, essentially, a means of deciding whether the development can be carried out without an unacceptable adverse impact on features of environmental importance or if not, can there be mitigation measures that would make the proposal acceptable; the County Council's ecologist has completed the Appropriate Assessment and has concluded that the proposal is unlikely to have a significant impact providing that all the mitigation proposals are implemented prior to the development recommencing.

10.04 It is concluded that the proposal is not in accordance with those policies seeking to protect both international and national designated sites contained in the relevant plans, most significantly those in the EFUDP. However, this must be balanced against a number of factors; the applicant has agreed to enter into a Legal Agreement covering, inter alia, mitigation measures to protect the designated sites, the application is partly retrospective and the site contains buildings and structures that can remain on site until 2016 by virtue of the existing planning permission, the site will need restoring and it is unlikely that this will be achieved without further investment and it would appear that, although the current and previous activities may have had an impact on the local bird population, this has not resulted in the total loss of the habitat. The site itself is not allocated in any Plan and given the Council's long term aim for the adjacent colliery site as resolved by the Planning Committee on the 25 May 1999 that it be restored to open coastal land it would seem appropriate to allow this "industrial" use to continue until 2016 by which time more definite proposals for the restoration of the entire area of Point of Ayr south of Talacre will have emerged. Finally the site already has the benefit of a Waste Management Licence issued by EAW and, although this is not in itself a planning consideration does give an indication that such a use has to date been considered acceptable.

10.05 Although the proposal for a metal recycling facility is in waste management terms an acceptable proposal both in terms of local and national policy it does present difficulties when judged against those policies designed to protect environmentally sensitive sites, in this case those associated with birds reliant on the Dee Estuary. There is no doubt that were this application to have been for a new development in this location the recommendation

would have been for refusal. However, this is not a new development, rather the variation and continuation of an existing use as a waste management facility and, although reservations have been expressed by the expert bodies about this development in this location, all are satisfied that if a permission is time limited to that already allowed by the existing permission and conditions to bring about an appropriate restoration, together with a Legal Agreement, are applied then the development would be acceptable but only until 2016 when a strategy for the future of the entire former colliery area will have evolved. It is therefore considered that the proposal is acceptable providing Legal Agreement under the terms of Wildlife and Countryside Act 1981(as amended) Section 39 to protect the wildlife and the Town and Country Planning Act 1990 (as amended) Section 106 to secure protection of the railway line bridge over the access road.

- 10.06 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention

11.00 RECOMMENDATION

- 11.01 Conditional Permission subject to the completion of a Legal Agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39, to deal with the issues of wildlife protection and management and a Legal Agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to deal with the control of the access road, protection of the railway bridge and protection of the designated wildlife sites.

Conditions

1. Commencement.
2. In accordance with submitted plans.
3. Completion date.
4. Access road controls.
5. Railway bridge protection.
6. Restriction of waste types.
7. Scheme of restoration and after care.
8. Aftercare management scheme.
9. Hours of delivery and of operation.
10. No debris on highway and cleaning.
11. Dust control.
12. Site drainage and control of surface water run-off.
13. Environmental protection to minimise disturbance to birdlife.

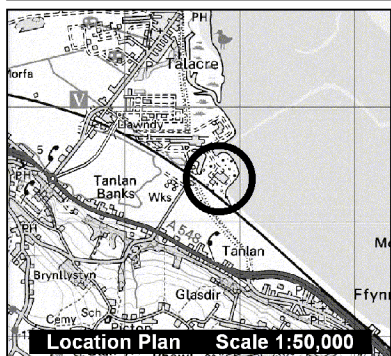
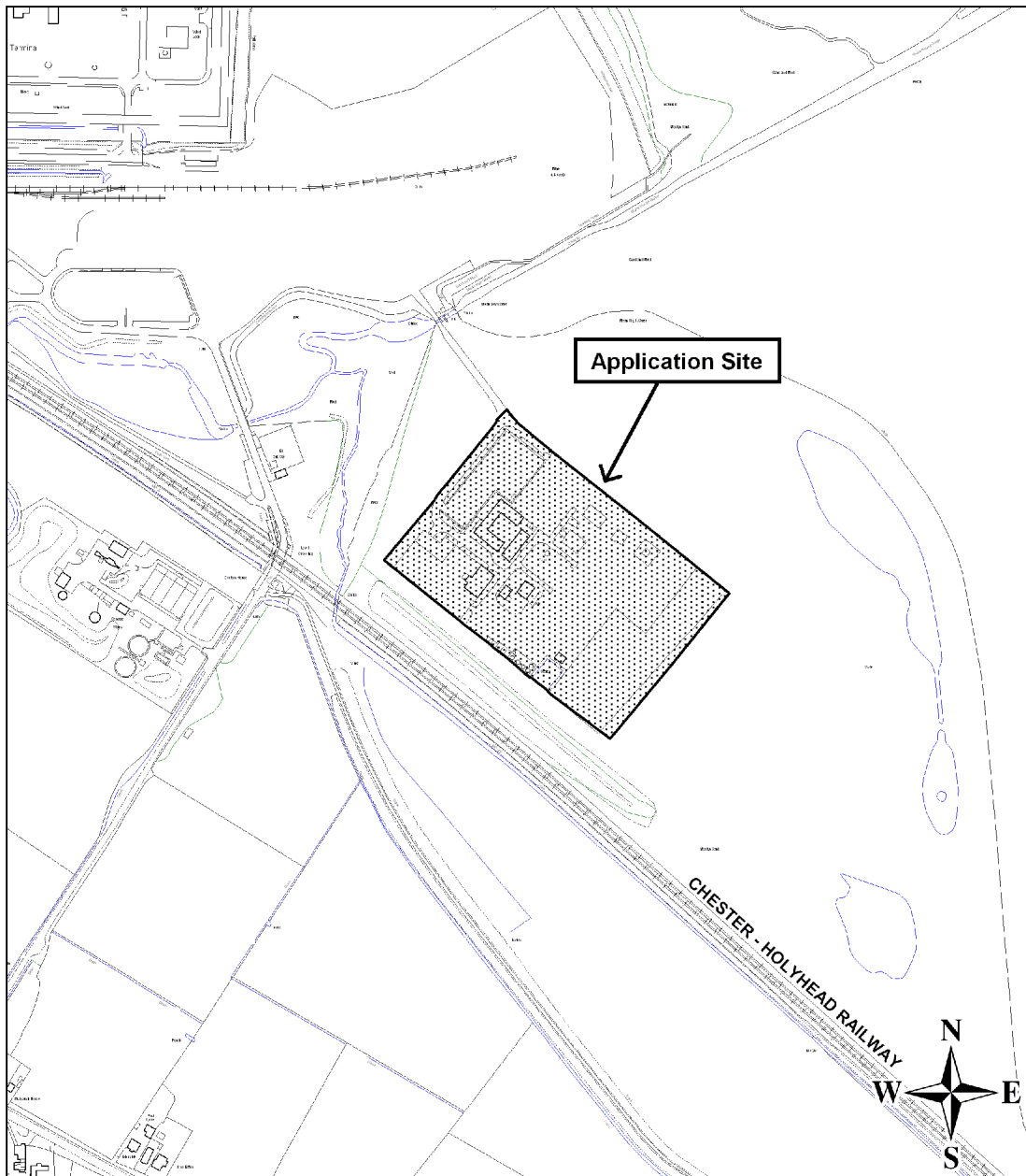
12.00 APPENDICES

- 12.01

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

Planning application
Consultation replies
Representations

Contact Officer: Roger Bennion
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	Environment Directorate, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Director: Mr. Carl Longland
	<p>Key to Settlement Boundaries</p> <ul style="list-style-type: none"> Alyn & Deeside Local Plan Settlement Boundary North Flintshire Local Plan Settlement Boundary Emerging Flintshire Unitary Development Plan Settlement Boundary
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Map Scale	1:5000
Ordnance Survey Sheet	SJ 1283
Planning Application	45069