

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **23<sup>RD</sup> MARCH 2016**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **APPLICATION FOR VARIATION OF A CONDITION 4 (TO INCREASE TONNAGE CAPACITY), CONDITION 10 (EXTENSION TO WORKING HOURS) AND CONDITION NO. 26 (INCREASE HEIGHT OF STOCKPILES) FOLLOWING GRANT OF PLANNING PERMISSION (052359) AT FLINTSHIRE WASTE MANAGEMENT, EWLOE BARNES INDUSTRIAL ESTATE, MOLD ROAD, EWLOE**

**APPLICATION NUMBER:** **054536**

**APPLICANT:** **THORNCLIFFE BUILDING SUPPLIES LTD**

**SITE:** **FLINTSHIRE WASTE MANAGEMENT, EWLOE BARNES INDUSTRIAL ESTATE, MOLD ROAD, EWLOE**

**APPLICATION VALID DATE:** **03/11/2015**

**LOCAL MEMBERS:** **CAROL ELLIS**

**TOWN/COMMUNITY COUNCIL:** **BUCKLEY**

**REASON FOR COMMITTEE:** **MEMBER REQUEST**

**SITE VISIT:** **No**

**1.00 SUMMARY**

1.01 This is an application under Section 73 of the Town and Country Planning Act for the variation of conditions attached to planning permission 052359. Planning permission 052359 was issued for the extension of an existing waste management site, the retention of a

new waste transfer building and associated infrastructure. A number of conditions were attached to the planning permission, including condition 4, which restricts the annual tonnage of waste which can be managed at the site, condition 10 which restricts working hours and condition 26 which restricts stockpile heights. The Applicant initially sought to vary condition 4 to enable up to 125,000 tonnes of waste to be managed at the site per annum and condition 26 to increase stockpile heights to 10m, however, these elements of the application have now been withdrawn by the Applicant. The Applicant has also requested that the local planning authority consider the extended hours for a 6 month trial period.

- 1.02 The Applicant has submitted a noise assessment in support of the application to vary condition 10 which identifies that noise generated by certain activities at the site would not exceed background levels at the nearest noise sensitive property. It is recommended that condition 10 is varied to allow those activities which have been assessed to be undertaken at the site between 0600 and 1900 and on a Sunday between 1000 and 1700 over a period of 6 months, in line with the Applicant's request, to enable the local planning authority to assess the impact of allowing the extended hours on nearby residential properties.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

- 2.01
- (1) Commencement
  - (2) List of relevant documents and plans
  - (3) Restriction on fixed plant and machinery
  - (4) Restrict annual tonnage to 75,000 as existing
  - (5) Contaminated land – The development shall be carried out in accordance with the approved scheme submitted under condition 5 attached to planning permission 052359
  - (6) Restriction on use of land on the southern part of the site in advance of compliance with condition 5
  - (7) Contaminated land monitoring
  - (8) Restriction of working if contamination not previously identified is found
  - (9) Noise levels limited to 55dB LAeq (1hour freefield) and 45dB after 1pm on a Saturday or Christmas Day
  - (10) Hours of operation – extended hours limited for a 6 month period after which the hours of operation shall revert back to the original hours of operation attached to planning permission 052359.
  - (11) Compliance with landscape scheme
  - (12) Restriction on use of land on the southern part of the site in advance of compliance with condition 11
  - (13) Retention of trees along the eastern boundary
  - (14) Fencing
  - (15) Restriction on use of land on the southern part of the site in advance of compliance with condition 14

- (16) Compliance with the approved ecological compliance audit scheme
- (17) Restriction on use of land on the southern part of the site in advance of compliance with condition 16
- (18) Compliance with the approved biosecurity risk assessment
- (19) Restriction on use of land on the southern part of the site in advance of compliance with condition 18
- (20) Compliance with Ecological Impact Assessment
- (21) Restriction on vehicle movements
- (22) Compliance with scheme for the provision of wheel wash facilities
- (23) Restriction on use of land on the southern part of the site in advance of compliance with condition 22
- (24) Compliance with lighting scheme
- (25) Colour of building to be juniper green
- (26) Height of stockpiles to be restricted to 5m
- (27) No more than 50% of the available floor space shall be occupied by stockpiles
- (28) Compliance with scheme for the hard surfacing of internal roads
- (29) Restriction on use of land on the southern part of the site in advance of compliance with condition 28
- (30) Compliance with scheme for the control of dust
- (31) Restriction on use of land on the southern part of the site in advance of compliance with condition 30
- (32) Compliance with the drainage scheme
- (33) No surface water shall connect to the public sewerage system
- (34) Noise monitoring

### **3.00 CONSULTATIONS**

- 3.01 Local Member: Request that the application is referred to Planning Committee and that a site visit is undertaken due to the effect on the environment, visual impact, effect on residential properties north of the site regarding noise. In light of changes to the application consider that a site visit is no longer necessary.
- 3.02 Neighbouring Ward Member: Raised a number of queries including the need for the application so soon after the grant of full planning permission, breaches of conditions, highway impacts of the development.
- 3.03 Town/Community Council: Concerns are expressed with regard to the entrance to the site being on a trunk road (A494) and in close proximity to the Elm cross roads. The residue on vehicle wheels will naturally spread on to the A494 and will impact upon the safety of all road users, including pedestrians. The application, if approved, will further increase the traffic flows at and around the Elm cross roads, particularly since Flintshire County Council now have a high volume of vehicles accessing and egressing the Elm cross roads from its Alltami Depot.

Following re-consultation, support comments already made by Councillor Ellis:-

1. The removal of conditions 10 and 26, the increase in working hours would have an impact on nearby residents which is why the conditions were set. Additional movements on the A494 could have a detrimental effect on other road users. This matter had been raised with the Welsh Assembly Government.
2. An increase in the height of the stockpile may result in further environmental issues and also have an impact on residents who are at present experiencing issues with the site.

- 3.04 Head of Public Protection: Initially objected to the proposal due to the impact on nearby sensitive properties. Following the receipt of further information with respect to noise advise that condition 10 can be varied to allow the receipt and tipping of waste to take place within the transfer building approved under planning permission 052359, subject to the inclusion of a time limit to give the local planning authority the opportunity to evaluate the impact of allowing the extended hours on local amenity.
- 3.05 Head of Assets and Transportation: No comment. The Welsh Government is the highway authority for the A494 trunk road.
- 3.06 Welsh Government: Initially directed that permission be withheld until further notice while additional information is provided and analysed to enable appropriate highway observations to be made. Following the removal of the request to vary condition 4 advise that they do not issue a direction in respect of this application.
- 3.07 Natural Resources Wales: Do not object to the proposed development. Note that the operator currently operates under an environmental permit which allows the applicant to accept a maximum amount of 125,000 tonnes per year. Advise that the operator should bear in mind that increasing the heights of waste piles will increase the exposure of the waste to the weather and the operator may have to take additional measures to reduce the risk of wind-blown litter/dust from these piles. The operator should also be taking into account the risk of fire and the advice provided within the Waste Industry Safety and Health (WISH) Forum guidance on Reducing Fire Risk at Waste Management Sites which suggests a maximum height for loose waste piles of 5m (4m for baled waste) and minimum distance between stacks/piles and buildings, maximum volumes of individual piles and maximum widths that should also be taken into consideration.

#### **4.00 PUBLICITY**

- 4.01 Press Notice, Site Notice, Neighbour Notification  
Objection to the proposed extended hours of operation. Concerns raised include noise and the visual impact of vehicle beacons flashing within the site.

## **5.00 SITE HISTORY**

- 5.01 052359: Application for the extension of the existing waste management site, together with the retention of a new waste transfer building and product storage bays, weighbridge and weighbridge office building. Approved, 14/10/2015

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
GEN 1: General requirements for development  
D3: Landscaping  
D4: Outdoor lighting  
EM7: Bad Neighbour Industry  
EWP7: Managing Waste Sustainably  
EWP8: Control of Waste Development  
EWP12: Pollution  
EWP13: Nuisance

Planning Policy Wales Edition 8, January 2016

Technical Advice Note 5: Nature Conservation and Planning, 2009

Technical Advice Note 11: Noise, 1997

Technical Advice Note 21: Waste, 2014

## **7.00 PLANNING APPRAISAL**

- 7.01 This is an application under Section 73 of the Town and Country Planning Act for the variation of conditions attached to planning permission 052359. Planning permission 052359 was issued for the extension of an existing waste management site, the retention of a new waste transfer building and associated infrastructure. A number of conditions were attached to the planning permission, including condition 4, which restricts the annual tonnage of waste which can be managed at the site, condition 10 which restricts working hours and condition 26 which restricts stockpile heights. The Applicant initially sought to vary condition 4 to enable up to 125,000 tonnes of waste to be managed at the site per annum and condition 26 to increase stockpile heights to 10m, however, these elements of the application have now been withdrawn by the Applicant. The Applicant has also requested that the local planning authority consider the extended hours for a 6 month trial period.

- 7.02 The Applicant is now seeking to vary condition 10, to extend working hours from 0700-1800 hours to 0600-1900 hours and allow Sunday working between the hours of 1000 and 1700.

- 7.03 Condition 10  
Condition10 states:

*The operations hereby permitted shall only be carried out between:*

- 0700-1800 hours Monday to Saturday
- No working Sundays or Christmas Day, except for repair, maintenance and testing which shall only be carried out between 0900-1700 hours.

*Prior written approval shall be obtained from the Local Planning Authority for any operations outside these hours.*

Condition 10 was originally included in the interests of residential amenity, in accordance with policies GEN 1 and EWP 13 of the Flintshire Unitary Development Plan. The main issue which is considered of relevance is noise. Visual disturbance is also considered below in response to concerns raised by a member of the public during the consultation.

#### 7.04 Noise

The Applicant is seeking to vary the condition to allow working on Sundays between the hours of 1000 and 1700 and to extend weekday opening hours to between 0600 and 1900 hours. The proposal site is located on a well-established industrial estate with a variety of different uses. The closest residential properties are located approximately 200m north of the proposal site, separated by the A494 trunk road. The Environmental Health Officer initially objected to the proposed variation to working hours in the absence of evidence to demonstrate that noise would not be unacceptable at nearby noise sensitive properties. The Applicant submitted a noise assessment to try and address the concerns raised by the Environmental Health Officer which concluded that noise arising from the site between the hours of 0600 and 0700 on a weekday would result in a difference of 13.5dB above background and on a Sunday would result in a difference of 9.5dB above background at the nearest noise sensitive properties, Parry's Cottages. The Environmental Health Officer objected to the proposed hours of operation on the basis that there would be an adverse impact on nearby residential properties.

7.05 The Applicant has now submitted a revised noise assessment which has used a revised methodology and assessed a range of activities within the site including vehicle movements and reversing beeping, workers sorting waste, HGV movements, the use of a Liebherr 550 digger and tipping of waste. The assessment included continuous noise monitoring at a residential property located along Pinfold Lane approximately 300m to the west, and spot measurements at Parry's Cottages, by properties along Smithy Lane approximately 390m to the east and at the top of Smithy Lane, by properties located along Liverpool Road approximately 690m from the site. The assessment concluded that noise arising from the site would not exceed background levels at the nearest noise sensitive properties. Activities such as crushing and screening have not been assessed and it is therefore recommended that any condition restricts the activities to those assessed within the noise assessment. In light of the revised noise assessment the Environmental Health Officer has removed his objection subject to the inclusion of a condition to limit the duration of

the additional hours of operation to a six month period, in line with the Applicant's request. This would enable the impact of allowing the extended working hours to be fully assessed. In order to ensure that noise is assessed, it is recommended that a condition is included to secure a noise monitoring scheme, including the identification of actions which would be taken in the event of a breach of noise limits contained within condition 9 attached to planning permission 052359.

7.06 Visual disturbance

Concern has been raised by a member of the public regarding both the impact of noise and the visual impact of vehicles moving within the site. Vehicles which use the site use a combination of audible and visual warnings for health and safety reasons, including flashing beacons. Due to topography and the location of sensitive receptors in the locality it is considered that flashing beacons used within the site would be visible from residential properties to the east. The nearest residential properties to the east of the site are those located along Smithy Lane, the closest of which is approximately 390m from the site, although there are no direct views of the site because of the location of windows within the properties. Views of the site are also possible from properties along Liverpool Road, the closest of which is approximately 690m from the site. Whilst flashing beacons would be visible they are located at distance and as such are considered unlikely to have a significant adverse impact on residential amenity. The Environmental Health Officer has not raised concern regarding the visual impact of flashing beacons during the extended hours. Nevertheless, by limiting the period of time within which the site can operate under extended hours would enable the impacts to be fully assessed.

7.07 It is therefore recommended that condition 10 is amended to read:

*For a period of six months starting from the date of this permission the receipt of waste and tipping of waste within the transfer building, including the manual sorting of waste, shall be restricted to :*

- *0600-1900 hours Monday to Saturday*
- *1000 – 1700 Sunday*

*All other activities, including crushing and screening and processing of waste in the open air, shall be restricted to:*

- *0700-1800 hours Monday to Saturday*
- *No working Sundays or Christmas Day, except for repair, maintenance and testing which shall only be carried out between 0900-1700 hours.*

*Following the period of six months identified above, the hours of operation shall revert back to those contained within condition 10 of planning permission 052359, which states:*

*The operations hereby permitted shall only be carried out between:*

- *0700-1800 hours Monday to Saturday*
- *No working Sundays or Christmas Day, except for repair,*

*maintenance and testing which shall only be carried out between 0900-1700 hours.*

*Prior written approval shall be obtained from the Local Planning Authority for any operations outside these hours.*

- 7.08 Subject to conditions to address the above, it is concluded that revising the hours of operation would not result in a significant adverse impact on nearby residential properties, in line with policies GEN 1 and EWP 8 of the Flintshire Unitary Development Plan.

## **8.00 CONCLUSION**

- 8.01 The proposal site is located within an existing industrial estate with the closest sensitive receptors located approximately 200m to the north of the site separated by the A494 trunk road. A noise assessment submitted by the Applicant has predicted that noise levels would not exceed background noise levels at the nearest residential properties. It is recommended that the extended hours of operation are approved for a limited period of time so that monitoring can be undertaken to confirm that noise levels are acceptable.
- 8.02 All other elements of the Section 73 application, including the request to amend conditions 4 and 26, no longer form part of the application.
- 8.03 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, and has had due regard to its public sector equality duty under the Equality Act 2010.

## **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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