



REPORT OF INTERIM CORPORATE DIRECTOR – PLACE

GEDLING DISTRICT REF. NO.: 7/2022/1066NCC

PROPOSAL: VARIATION OF CRITERIA C AND D OF PLANNING CONDITION 24 OF PLANNING PERMISSION 7/2021/0648NCC TO ENABLE THE WASTE TRANSFER STATION TO OPERATE WITHOUT THE USE OF THE PREVIOUSLY CONSENTED AIR FILTRATION PLANT DURING PERIODS WHEN THERE IS NO WASTE SHREDDING/REFUSE DERIVED FUEL PREPARATION ACTIVITIES UNDERTAKEN WITHIN THE BUILDING AND ALLOW THE PASSIVE VENTILATION OF THE BUILDING TO BE UNDERTAKEN BY PERMITTING THE OPENING OF THE AIR INLET LOUVRES.

LOCATION: LAND OFF PRIVATE ROAD NO. 3, COLWICK INDUSTRIAL ESTATE, COLWICK, NOTTINGHAM, NG4 2BA

APPLICANT: VEOLIA ENVIRONMENTAL SERVICES (UK) LIMITED

Purpose of Report

1. To consider a Section 73 planning application to vary the controls imposed under Condition 24 criteria c and d of planning permission 7/2021/0648NCC to allow the waste management facility to operate without the installation and operation of the air filtration plant and to permit the opening of the louvre air vents at night-time, specifically during periods when RDF manufacturing is not undertaken within the building but also when segregated food waste is not being stored or transferred. The main issue raised by this modification to the working practices relates to ensuring that the site continues to provide satisfactory odour control. The recommendation is to grant planning permission subject to the variation of Condition 24, as set out in Appendix 1.

The Site and Surroundings

2. The application site is located approximately 3 miles east of Nottingham City Centre within Colwick Industrial Estate in the Borough of Gedling. (see Plan 1) The industrial estate is extensive and incorporates a variety of uses including light and general industry, warehousing and waste activities and a recently constructed Sainsbury's supermarket.

3. The planning application site has road frontages onto Private Road No. 3 to the north and Private Road No. 5 to the west. It covers an area of approx. 2.18 hectares and is currently undeveloped, open and level with a stone surface. The front (northern) part of the site adjacent to Private Road No. 3 is currently used for the storage of empty waste skips and containers by the applicant, whilst the rear of the site is vacant (see Plan 2).
4. The land surrounding the application site is industrial in character with a mix of B2, B8 and sui-generis land uses. Amongst these is the Colwick driving test centre to the south, a vehicle repair workshop (formerly a skip transfer business) and ready-mix concrete plant to the west on the opposite side of Private Road No.5, and a gas cylinder company to the north on the opposite side of Private Road No. 3. The new Sainsbury's supermarket is on land to the north-west of the site on Private Road No. 3 at a distance of circa 80m. The more established Morrisons Supermarket is located to the north at a distance of circa 150m with the wider Victoria Retail Park, Netherfield beyond. The southern boundary of the site is some 80m north of the River Trent. The nearest residential properties are located within Netherfield beyond Colwick Loop Road, a distance of over 280m to the north (see Plan 3).

Background

5. Planning Permission for the Colwick waste management facility was granted by Nottinghamshire County Council on 16th September 2021 under Planning Reference 7/2021/0648NCC (see Plan 4).
6. The facility which is to be developed by Veolia Environmental Services (UK) Limited (hereafter referred to as Veolia) incorporates a new-build waste transfer and treatment centre which will provide a facility for the bulking, treatment and transfer of waste materials collected from local businesses and households. The waste transfer facility is designed to incorporate a series of internal bays for the storage of imported materials, including residual wastes, recyclates, clinical waste bins, and processed waste. There will also be eight external storage bays for glass, green waste, inert wastes and street sweepings (see Plan 5).
7. The waste management facility is anticipated to receive for processing and transfer up to 150,000 tonnes of waste per year. The approved development provides consent to incorporate a refuse derived fuel (RDF) manufacturing facility within the building. This RDF plant would utilise the residual waste streams delivered to the site, processing this waste by shredding to manufacture the RDF. The approved development also permits the importation of source segregated food waste for storage and transfer.
8. The approved design of the waste transfer station incorporates an odour abatement system consisting of air extraction equipment with activated carbon filters and exhaust stack designed to remove odours, odorous dust and bio-aerosols from the waste transfer building. The air extraction plant is designed to maintain the building under a negative air pressure, effectively meaning the facility sucks in air rather than pushes potentially odorous air out of the building and thus reducing the escape of potentially odorous emissions to the wider

environment. During the night-time period when RDF processing is not undertaken the air filtration plant would be turned off with odour control maintained by a requirement to close the louvre roof ventilation system and thus contain potentially odorous air in the building overnight until the air filtration system is switched on in the morning. Odour control was regulated through Planning Condition 24, as set out below:

Condition 24: Odour

Measures shall be employed to ensure that waste transfer operations associated with the development hereby permitted do not give rise to any malodours. Such measures must include but not necessarily be limited to the following:

- a. All residual and RDF unloading, processing, storage and loading shall be undertaken within the waste transfer building only and at no time from the open areas of the site.
- b. The fitment, use and regular maintenance of fast acting rapid-rise doors to the frontage (eastern elevation) of the waste transfer building. The doors shall remain shut at all times except to allow the passage of waste delivery/collection vehicles into/out of the building for unloading and plant working within the building to enter and leave. For the avoidance of doubt the doors shall be shut at all times during waste vehicle loading/unloading operations.
- c. The air filtration system shall be operated between 05:00 – 22:00 hours each day in accordance with the operating specification set out within paragraph 6.15 of the supporting statement to maintain the waste transfer station under negative air pressure and provide 2.5 air changes per hour.
- d. During the night-time period when the air filtration system is not operational the attenuated air inlet louvres shall be closed to prevent the escape of odours from the building.
- e. Residual waste and RDF shall be regularly rotated within the waste transfer building and shall be removed as soon as possible and in all events, within 72 hours of its receipt at the site.
- f. The regular cleaning of all areas within the waste transfer building.
- g. The use of masking agents where necessary to neutralise any malodours.
- h. External storage shall be strictly limited to glass, green, inert and road sweepings within the designated bays detailed on Drawing No. VES_TD_COLW_200_000 Rev. D: Proposed Site General Arrangement Plan – Colwick WTS/Depot received by the WPA on 31st August 2021 and no other external areas within the site.
- i. The use of odour abatement sprays within the road sweeping storage area when required.
- j. No vehicles loaded with waste materials shall be parked outside the

waste transfer building overnight.

- k. All vehicles transporting waste materials either to or from the site shall be fully enclosed or sheeted.

In the event that these measures prove inadequate, then within one week of a written request from the WPA, details of additional steps or measures to be taken in order to prevent the release of odours from the site, including a timetable for their implementation, shall be submitted to the WPA for its approval in writing. The additional measures shall be implemented in accordance with the approved details within the timeframes specified and thereafter maintained for the life of the development.

Reason: To minimise potential nuisance from odour in accordance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

Proposed Development

9. Planning permission is sought under a Section 73 planning application submission to vary the odour management controls imposed under Condition 24 criteria c and d relating to the requirement to install and operate the air filtration system and requiring the closure of the louvre vents during the night-time period.
10. The applicant explains that they have reviewed the development and initially would like to operate the site as a waste transfer station and to not undertake the potentially more odorous RDF manufacturing and importation/storage of segregated food waste.
11. During this initial operational period, and at times when RDF manufacturing and segregated food waste is not imported to the facility, permission is sought to amend the controls imposed under Condition 24 criteria c and d so as to allow the waste transfer activities to be undertaken without the installation and operation of the air filtration system and without the night-time closure of the louvre vents as originally approved.
12. The odour management plan which supports the planning application confirms the air filtration plant would be installed prior to the commencement of the RDF production or the importation of segregated food waste and thereafter the roof ventilation louvres would be closed at night-time on days when the air filtration plant is used. The odour management plan acknowledges that these activities have a medium to high odour potential and therefore identifies the need to install and operate the additional air filtration plant to manage odour releases.
13. Within their supporting statement the applicant explains that in their experience waste transfer stations are significantly less odour intensive than RDF manufacturing plants, stating that transfer stations result in much less disturbance and agitation of the waste and therefore lower levels of odour release. Because of the lower levels of odour release the applicant is satisfied

the facility can operate as a waste transfer station without the need to install and operate the air filtration plant.

14. The modification to allow the louvres in the roof to be opened during the night-time period is to allow the passive ventilation of the building in the absence of the air extraction and filtration plant. The applicant states that if the building was not vented during the night-time period, odour would accumulate in the enclosed building resulting in a 'spike' of intensive odour emissions when the roller shutter doors are opened in the morning. The applicant states that these sudden 'spikes' of odour emissions are much more likely to generate odour complaints than a steadier, lower level, of release which would disperse and dilute.
15. The applicant explains that they have obtained an environmental permit from the Environment Agency to enable the site to operate under the terms of the revised odour abatement controls set out above. The examination of the odour issues carried out as part of the permit submission was informed by an odour management plan. A copy of this approved odour management plan has been submitted in support of the planning application. This permit and its supporting odour management plan are reviewed in more detail within the planning considerations section of this report.

Consultations

16. Gedling Borough Council: *No representation received.*
17. Environment Agency: *The Environment Agency state they have reviewed the submitted documents and do not wish to make any formal comment on the submission.*

Publicity

18. The application has been publicised by means of site notices, a press notice in the Nottingham Post and the posting of notification letters to the occupiers of surrounding business properties in accordance with the County Council's adopted Statement of Community Involvement. No representations have been received.
19. Cllr Mike Adams has been notified of the application and has requested the planning application to be referred to Planning and Rights of Way Committee for determination.

Observations

20. Planning policy in respect of odour and wider pollution control is incorporated within the Nottinghamshire and Nottingham Waste Core Strategy (WCS), the saved policies of the Nottinghamshire and Nottingham Waste Local Plan (WLP)

and the Gedling Borough Local Planning Document (Part 2 of the Local Plan) (GLP).

21. WCS Policy WCS13 (Protecting and enhancing our environment) states that new or extended waste treatment or disposal facilities will be supported only where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby including any unacceptable cumulative impacts.
22. WLP Policy W3.7 (Odour) states that when planning permission is granted for waste management facilities planning conditions will be imposed, where necessary, to reduce the impact of unpleasant odours.
23. GLP Policy LPD 10 (Pollution) states that planning permission will not be granted for development which would result in an unacceptable level of pollution or is likely to result in exposure to sources of pollution or risks to safety. GLP Policy LPD 32 (Amenity) states that planning permission will be granted for development proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers, taking into account potential mitigation measures.
24. The applicant acknowledges that odour emissions are frequently the subject of concern in relation to waste management facilities and therefore they supported their original planning application submission with a detailed odour assessment which gave extensive consideration to the anticipated level of odour emissions from the development and how they could be managed and controlled. The assessment had regard to the characteristics of the waste materials which the facility would receive, the processes used to manage this waste, the location of the development site in terms of its proximity to odour sensitive receptors and the control practises which would be put in place to manage/reduce the level of odour releases from the facility. No objections were received to the original planning application from local residents or adjoining businesses.
25. The controls imposed through Condition 24 of the planning permission sought to regulate the level of odour emissions from the development and prevent any unacceptable odour impacting the quality of life of people living or working nearby, consistent with the approach set out within WCS Policy 13, WLP Policy W3.7 and GLP Policies LPD10 & LPD32.
26. The appraisal of this current planning application requires an assessment to be made as to whether the alterations to the site's operation which seek to modify the composition of waste imported to the site, the arrangements for treating/processing this waste, and the arrangements to no longer install and use the previously approved air filtration equipment during periods when the facility would not be used for RDF production and for the delivery/storage of source segregated food waste, would continue to provide satisfactory odour control and thus ensure that the amenity of those living and working nearby is not significantly adversely impacted.
27. In terms of the potential source for odour releases from the waste management facility, the RDF production processing and the delivery/storage of source segregated food waste are potentially the most odorous aspects of the

approved waste management facility. Specifically, the RDF manufacturing process necessitates the shredding, agitation and disturbance of the waste with potential to release high levels of odour and the composition of the food waste has potential to be very odorous. The proposal to not undertake these activities when the air filtration equipment is not operational means that the overall level of odour release from the waste which is delivered and managed at the site is likely to be lower.

28. However, in terms of the potential pathway of any odour release to sensitive receptors, including residential properties and retail units, specifically the two nearby supermarkets and the wider Victoria Business Park, the proposed move away from the use of mechanical air filtration plant during daytime periods to a passive ventilation system and the opening of the louvres within building at night-time has potential to increase the risk that fugitive odours could be released to the wider environment with potential for these odours to impact the amenity of surrounding land and property if they were not to disperse to an acceptable level.
29. With specific regard to the air filtration system, the original decision acknowledged that the use of this system was required to control the level of odour emissions from the RDF shredding operations with Condition 24c requiring its operation throughout the daytime period when the RDF manufacturing activities were proposed to be undertaken but permitting the system to be switched off at night when the RDF manufacturing is not carried out.
30. In terms of the roof ventilation louvres, Condition 24d requires these louvres to be closed during the night-time period to minimise the escape of odour during this time-period when the air filtration equipment is switched off. The applicant seeks to modify this control to allow the louvres to be opened during the night-time period to allow some passive ventilation of the building, stating that the ventilation of the building is desirable to avoid odour concentrations building-up in the night-time period when the access doors would be shut for extended periods of time. The applicant states that the opening of the ventilation louvres would allow odour to disperse at a low level of intensity and thus avoid the potential for a spike of concentrated odour release first thing in the morning when the building is opened up and which has greater potential to be intrusive and generate odour complaint.
31. It is acknowledged that industry practice for waste transfer stations is that they generally operate without the necessity to have air filtration equipment installed. This is evidenced in Nottinghamshire where there are a number of operational waste transfer stations which do not incorporate air filtration systems, the exception being the Veolia facility at Welshcroft Close, Kirkby in Ashfield which does have air filtration plant installed but also incorporates an RDF manufacturing facility. Industry practice therefore is supportive of the odour management controls proposed within this current planning application submission.

32. Waste management facilities are required to obtain both Planning Permission and an Environmental Permit to enable them to lawfully operate. Planning and permitting decisions are separate but closely linked, with the focus of the planning permission decision being whether the development is an acceptable use of the land and the focus of the permitting decision being whether the operation of the facility can be managed on an ongoing basis to prevent or minimise pollution.
33. In terms of making a judgement as to whether the level of pollution control is appropriate to protect the amenity of those living and working nearby in accordance with the policy requirements of WCS Policy WCS13, WLP Policy W3.7 and GLP Policies LPD10 & LPD32, policy advice within the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW) in relation to responsibilities for pollution control and its implications for planning decisions is relevant and provides useful guidance to inform the decision on the current planning application. Specifically, NPPF Paragraph 188 states:
- 'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.'*
34. More detailed national planning policy relating to pollution and odour control specific to waste management is set out within the NPPW in Paragraph 7 which states:
- 'When determining waste planning applications, waste planning authorities should:*
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies; and*
 - concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.'*
35. Appendix B of the NPPW states that considerations in respect of odour will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.
36. Since the County Council issued planning permission for the Veolia Colwick Waste Management Facility in September 2021, the operator has obtained an

Environmental Permit from the Environment Agency. This permit provides formal consent for the new facility to operate as a waste transfer station without the installation of the air filtration plant and allows the roof ventilation louvres to be opened during the night-time period, but once the site is used for RDF production/importation of segregated food waste the permit requires the air filtration plant to be operated and the roof mounted louvres to be shut during the night-time period. The current planning submission therefore seeks planning permission to enable the Colwick facility to operate in accordance with the consented permit.

37. The Environment Agency's appraisal of the level of odour emissions which they carried out prior to issuing the Environmental Permit was informed by a detailed odour management plan which identifies the location of the site and its proximity to potentially odour sensitive receptors, the sources of potential odour emissions, consideration of site processes, control processes to manage odour releases, and arrangements for reporting odour complaints.
38. In reaching their decision to issue an Environmental Permit for the operation of the facility the Environment Agency would have satisfied themselves that the facility would comply with the 'Odour Boundary Condition', which requires that:

'Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in an approved odour management plan, to prevent or where that is not practicable to minimise the odour' (Environment Agency guidance note H4: Odour Management paragraph 2.1)
39. Compliance with the permit requires the site to be operated to prevent odour pollution or minimise it when prevention is not practicable. The odour boundary condition does not mean the operator would necessarily be in breach of their permit controls if there was some residual odour emissions beyond the site boundary, but if this residual odour is at such a level that it is unreasonable it will be necessary for the operator to take further measures to reduce odour pollution or risk having to reduce or cease operations.
40. Based on the policy set out within the NPPF paragraph 188 and NPPW paragraph 7, the issuing of an Environmental Permit for the operation of the site as revised is an important consideration in the context of assessing the current planning application. It is reasonable for this planning decision to proceed on the basis that odour emissions from the facility will be controlled and regulated under the Environmental Permit, and these controls will ensure the revised method of operation now sought planning permission would not result in significant adverse levels of odour emissions to nearby occupiers of land.
41. Whilst it is concluded that the air filtration plant would provide better control for odour emissions, this needs to be balanced against the fact that the composition of waste received at the site and the waste management techniques to be utilised are anticipated to be less odour intensive during the initial operational phase. Having regard to the clear guidance regarding responsibility for pollution

control and the avoidance of duplication of pollution controls within planning decisions it is concluded that odour emissions from the facility will be satisfactorily controlled to not significantly adversely impact nearby users of land and property.

42. The operation of the facility as a waste transfer station without the operation of the air filtration system would also be consistent with industry practice for similar facilities in Nottinghamshire.
43. It is therefore concluded that revised arrangements for the site will continue to provide satisfactory odour control, protecting the quality of life of people living or working nearby consistent with the requirements of WCS Policy 13, WLP Policy W3.7 and GLP Policies LPD10 & LPD32, and therefore it is recommended that the wording of Planning Condition 24 criteria c is modified to allow the site to operate as a waste transfer station with no waste shredding/refuse derived fuel preparation activities and no source segregated food waste deliveries/storage without the current requirement to install and/or operate the consented air filtration plant. It is also recommended that Planning Condition 24 criteria d is modified to permit the passive ventilation of the building by opening of the air inlet louvres during the night-time period during periods when the building is not being used for RDF manufacturing or for acceptance or storage of source segregated food storage.
44. The suggested modified wording for Condition 24 criteria c and d is set out below. The remainder of Condition 24 would remain as presently drafted.

- c. The air filtration system shall be installed prior to the commencement of the RDF shredding/manufacturing activities or the importation of source segregated food waste in accordance with the specification set out within paragraph 6.15 of the original planning supporting statement (Planning and Waste Statement dated March 2021). Thereafter, the air filtration system shall be operated between 05:00 – 22:00 hours each day during periods when RDF or source segregated food waste is manufactured or stored within the building to ensure the waste transfer building is maintained under negative air pressure, providing 2.5 air changes per hour.
- d. During the night-time period (22:00 – 05:00 hours) when the facility is being used for the storage of either RDF or source segregated food waste the attenuated air inlet louvres shall be closed to prevent the escape of odours from the building.

Other Options Considered

45. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered as part of this planning application submission.

Statutory and Policy Implications

46. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

47. The proposed waste transfer station would be located within a secure compound surrounded by perimeter security fencing and security gates. There would potentially be some operational activity during night-time hours, and consequently surveillance by staff at these times. The site would be locked outside of operational hours. CCTV cameras would be installed to provide coverage across the site.

Data Protection and Information Governance

48. Given that no representations have been received from the public, it is considered that no data protection issues have been raised.

Financial Implications

49. The County Council has a joint PFI contract with Veolia, but it is understood that the applicant is responsible for the design, commissioning and construction of the proposed waste transfer station under the terms of the Nottinghamshire Waste PFI contract as well as having the responsibility for operating and maintaining the facility.

Human Rights Implications

50. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the construction and operation of the waste transfer station. The proposals have the potential to introduce some minor odour effects however, these potential impacts need to be balanced against the wider benefits the proposals would provide by enabling waste to be managed locally and thus reducing the distance waste is transported, moving more residual waste up the Waste Hierarchy and away from disposal, Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Public Sector Equality Duty Implications

51. The consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty. Potential direct, indirect and cumulative impacts from the proposal have been considered equally to all nearby receptors and resulting from this there are no identified impacts to persons with a protected characteristic.

Implications for Service Users

52. The new waste transfer facility will provide be used by district council waste collection operatives to deposit collected waste at a local facility.

Implications for Sustainability and the Environment

53. These have been considered in the Observations section above.
54. There are no implications in relation to human resources or for the safeguarding of children/adults at risk.

Statement of Positive and Proactive Engagement

55. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

56. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

DEREK HIGTON

Interim Corporate Director – Place

Constitutional Comments

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference set out in the Constitution of Nottinghamshire County Council.

[JL 01/12/22]

Financial Comments

There are no financial implications arising from the contents of the report.

[KRP 1/12/22]

Background Papers Available for Inspection

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and you can view them at:
www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=V/4448

Electoral Division and Member Affected

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