



31 October 2017

Agenda Item: 6

REPORT OF CORPORATE DIRECTOR – PLACE

ASHFIELD DISTRICT REF. NO.: 4/V/2017/0465

PROPOSAL: VARIATION OF CONDITION 4 OF PLANNING PERMISSION 4/V/2015/0175 TO ALLOW THE OPENING OF THE PREMISES BETWEEN 06:00 TO 17:30 MONDAY TO FRIDAY AND 06:00 TO 13:00 SATURDAY WITH NO OTHER OPERATIONS UNTIL 07:00

LOCATION: 15B WIGWAM LANE, HUCKNALL, NG15 7TA

APPLICANT: CENTRAL WASTE (UK) LIMITED

Purpose of Report

1. To consider a planning application for an extension of the morning opening hours by one hour, from 07:00 to 06:00, to allow HGVs to exit the site at the existing waste transfer station off Wigwam Lane, in Hucknall. The key issue relates to noise and the recommendation is to grant planning permission, subject to conditions.

The Site and Surroundings

2. The existing waste transfer station is located to the east side of Hucknall, within an industrial estate, approximately 850m south-east of the town centre (see Plan 1).
3. Immediately to the west and south of the waste transfer station is an inert waste recycling facility called Oakfield Recycling Limited. Beyond this to the south is a stream and then residential properties and an open field to the south-west. Beyond the Oakfield Recycling site, to the east are further industrial business units. The waste transfer station is bordered to the north-west by a private road and then a range of small industrial business units, beyond which is a wooded area. Immediately to the north of the waste transfer station is Wigwam Lane and beyond this is the Leen Valley Golf Club (see Plan 1).
4. The site is an operational waste transfer station which accepts inert and construction and demolition wastes. Occupying a large proportion of the southern half of the site is an open fronted, metal clad building with concrete push walls to its lower half. The building is closed on three sides and open fronted on its north-western elevation. The building is used for sorting and

bulking wastes and there is also a workshop towards the southern end of the western elevation which is used for repairing Central Waste vehicles (see Plan 2).

5. The northern half of the site is used for screening and sorting inert wastes and includes stockpiles of inert waste located within concrete bays. There is a site office and vehicle weighbridge to the north of the western side of the site. The site has a one way vehicular system with the site access and exit located off the private road to the west, which joins Wigwam Lane to the north (see Plan 2).
6. The nearest residential property boundary is located approximately 45m to the south of the application site, off Brickyard. The northern elevation of the property is approximately 70m south of the application site. The property is separated by part of the Oakfield Recycling site and the small stream (see Plan 1).
7. With regard to other notable features, the small stream is 45m south of the application site, and runs parallel to its southern boundary. At their closest, the Robin Hood rail line and the Nottingham Express Transit tram line, are approximately 165m to the south-west of the application site (see Plan 1).
8. The majority of the site is within Flood Zone 1 and has a low probability of flooding (less than 1 in 1,000 year probability). There is a small area of the site, adjacent to Wigwam Lane, which is in Flood Zone 2 and has a medium probability of flooding (between 1 in 100 and 1 in 1,000 year probability).
9. The nearest ecological designation is the River Lean Pastures Local Wildlife Site (LWS) which is located over 500m to the east.
10. There are no heritage designations or rights of way in close proximity to the application site.

Planning history

11. Central Waste was originally granted planning permission by the County Council for the erection and installation of a waste picking station in March 2005 (Ref: 4/2004/1160). The permission allowed for the construction of a building, although this has since been demolished due to safety concerns. At the time, there were no planning restrictions on waste throughput or HGV movements, but the Environment Agency's permit restricted throughput to 25,000 tonnes per year.
12. In 2009, planning permission was granted for the erection and installation of a waste picking station (Ref: 4/2009/0076). In 2010, planning permission was granted for the extension of the site into an adjacent plot (Ref: 4/2010/0210) for the processing and recycling of inert waste. Condition 9 of this permission restricted the throughput of inert waste on the site to 20,000 tonnes per annum; again there was no restriction on HGV numbers.
13. The County Council has also granted planning permissions to another operator in respect of adjacent plots to the south-west of the original Central Waste site. Planning permission was granted in 2003 to Kirkby Skip Hire for a waste

transfer/recycling station and retrospective planning permission was granted in 2005 for a building on this site.

14. Planning permission was granted in July 2016 for the construction of a new waste transfer building and the consolidation of the former Kirkby Skip Hire site and the Central Waste site (reference 4/V/2015/0175). This is the extant planning permission and is also subject to a Section 106 legal agreement to secure the routing of HGVs.

Proposed Development

15. Condition 4 of the extant planning permission (Ref: 4/V/2015/0175) states:

“Except in the case of an emergency when life, limb or property are in danger (with such instances being notified in writing to the WPA within 48 hours of their occurrence), or with the prior written approval of the WPA, operations associated with the development shall only take place during the following hours:

Monday to Friday 7am to 5.30pm

Saturday 7am to 1pm

There shall be no processing of inert waste on Saturdays. There shall be no working at all on Sundays, Public or Bank Holidays.

Reason: To minimise the impact of noise from the site in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.”

16. The applicant is seeking a variation to Condition 4 to allow skip lorries to leave the site between 06:00am and 07:00am. No other processes associated with the site would be undertaken before 07:00am and no HGVs would be permitted to return to the site before 07:00am. The number of lorries leaving during this period would be between 10 and 14.
17. The applicant has set out a series of measures which they would adhere to in order to minimise the noise from the early departure of lorries.
 - a) Only the main entrance gate will be opened (see Plan 2) between 06:00 and 07:00 as this is furthest from residential receptors.
 - b) The key holder responsible for opening the gate will ensure it is not dragged along the floor and that it cannot swing and create impact noise.
 - c) Where lorries are departing the site full in the morning, the skip will have been loaded the previous day. Therefore, there would be no skip loading between 06:00 and 07:00.
 - d) Lorries loaded the previous day will be parked outside of the waste transfer building to minimise the possibility of reverberation noise from engine start-up.

- e) All vehicles due to depart the site between 06:00 and 07:00 will be parked in such a way that they are facing the main entrance gate so that they will leave the site in a forward gear and not have to manoeuvre.
- f) No machinery will operate between 06:00 and 07:00.

Consultations

18. **Ashfield District Council** – *No objection subject to a condition as follows:*

All vehicles due to leave the site prior to 07:00 shall be loaded and ready for departure by 17:00 of the preceding evening. All vehicle checks undertaken prior to 07:00 will not involve the generation of noise. All vehicles due to leave the site prior to 07:00 will do so via the main gate only. The secondary middle and workshop gates shall remain locked until 07:00. No other activity other than vehicle departure from the site shall be undertaken prior to 07:00.

19. **NCC (Planning Policy)** – *Nottinghamshire and Nottingham Waste Local Plan Policy WCS13 details support for waste treatment facilities 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 and where this would not result in an unacceptable cumulative impact.*
20. *Nottinghamshire and Nottingham Waste Local Plan policies W3.9 and W3.14 also deal with noise impact and disturbance. Policy W3.9 stipulates that conditions should be imposed to reduce potential noise impact (including restricting the hours of operation). Policy W3.14 states that planning permission should not be granted where vehicle movements would cause unacceptable disturbance to local communities.*
21. *Provided there is no unacceptable noise impact caused by extending the hours of operation, the application is acceptable in respect of the Nottinghamshire and Nottingham Waste Local Plan.*
22. **NCC (Highways)** – *No objection. The development would not have a detrimental effect on highway safety and capacity.*
23. **NCC Noise Engineer** – *No objection to the proposed change in operating hours subject to there being no processing of waste in the extended hours and that the operator abides by the measures outlined in their supporting statement to minimise any noise impacts from departing lorries.*
24. **NCC (Flood Risk) Statutory** – *No comments.*
25. No response has been received from **the Environment Agency**. Any responses received will be reported orally.

Publicity

26. The application has been publicised by means of site notices, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement Review.

27. A total of nine representations have been received objecting to the proposed variation. The representations object on the following grounds:
- a) Concern that the movement of HGVs, and associated arrival of employees at early hours, will have an unacceptable noise impact, particularly on sleep.
 - b) Noise from the site after 07:00 intermingles with noise from other surrounding activities, however, if operations were allowed before 07:00 it would stand out.
 - c) The noise from the industrial estate is already unacceptable, and residents are already woken at very early hours and find noise levels unbearable in their gardens.
 - d) This variation would open the door to other businesses to open at early hours.
 - e) Concern that this permission will go beyond HGV movements, and actual operations will begin at 06:00.
28. Councillor Ben Bradley has been notified of the application.
29. The issues raised are considered in the Observations Section of this report.

Observations

30. Condition 4 of the extant planning permission restricts operations to 07:00 – 17:30 Monday to Friday and 07:00 – 13:00 on Saturday, with no working on Sundays, Public or Bank Holidays.
31. The applicant is seeking to vary this condition to allow skip lorries to leave the site between 06:00 and 07:00. The existing time restrictions would remain for all other operations and activities, and no lorries would be permitted to return to the site prior to 07:00.

Noise

32. The National Planning Policy Framework (NPPF) states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Decisions should also mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions (Paragraph 123).
33. Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) seeks to ensure that waste management facilities do not have an unacceptable impact and sets out a range of measures that can be controlled by condition to mitigate noise impact.
34. Policy W3.14 of the WLP states that planning permission will not be granted for waste management facilities where vehicle movements would cause unacceptable disturbance to local communities.

35. Policy WCS13 of the Nottinghamshire and Nottingham Waste Core Strategy (WCS) supports new or extended waste treatment or disposal facilities where it can be demonstrated that there would be no unacceptable impact on any element of the quality of life of those living or working nearby.
36. The County Council Noise Engineer raises no objection to the proposal subject to the measures set out by the applicant being adhered to. In addition, Ashfield District Council raises no objection, subject to a condition which secures the noise mitigation measure proposed by the applicant, which are set out in the observations section above.
37. The application has resulted in a total of seven objections, all of which relate to noise. The specific nature of the objections are addressed in turn.
38. There is concern that the arrival of employees and movement of HGVs would have an unacceptable noise impact and result in disturbed sleep for residents. Based on the consultation response from the County Council Noise Engineer and Ashfield District Council's Environmental Health Officer (EHO), the WPA is of the view that noise levels would not be unacceptable provided the measures the applicant has set out are adhered to. As such, it is recommended that these measures are secured through a condition on any new permission issued.
39. In addition, attention is drawn to conditions attached to the existing planning permission which set noise levels and a procedure for implementing mitigation in the event that noise levels are exceeded. The conditions would be retained on any new permission issued (see Conditions 10 and 11 of Appendix A).
40. An objection makes reference to "screeching, banging and clattering" noises that come from the site and that these would stand out if operations started at 06:00, however, at 07:00 the noise intermingles with other activities and is therefore tolerable to some extent. The MPA accepts that background noise would likely be lower prior to 07:00 than after it. However, it should be noted that the tram starts running for the day during this period, leaving Hucknall at 06:04. In any event, the applicant is not applying to begin normal operations at 06:00, but simply to allow pre-loaded HGVs to exit the site. It is considered that with the mitigation measures in place the noise associated with HGVs leaving the site is likely to be lower than normal daytime operations generate by operation at the site, and would be short lived whilst the HGVs leave the site.
41. Objections have stated that noise from the industrial estate is already unacceptable and granting this planning permission will extend the "unbearable" noise levels to earlier hours. One of the purposes of erecting the building to house the picking-line was to contain and reduce noise from the operations. Since the erections of the building, the MPA has received two complaints about noise, this was in November 2016 and was a general complaint about noises coming from the site being unacceptably loud. This was investigated by the Monitoring and Enforcement Team and no breach of condition was found.
42. It is noted since the erection of the building a further complaint was received in April 2017 which claimed that Central Waste were operating earlier than their permitted hours. This was investigated by the Monitoring and Enforcement Team, which observed loaded HGVs leaving the site before 07:00 in breach of

their approved hours, although no other operations were taking place. This has led to the applicant seeking to regularise the activity through this planning application.

43. Concern is raised that allowing this planning application for an earlier start would result in other businesses starting earlier, and resulting in additional noise impacts. It is noted that the adjacent Oakfield Recycling Limited starts operations at 07:00 and this is secured by condition on its planning permission. In any event, what other businesses choose to do is not for consideration as part of this application.
44. Objections have suggested that activity at the site before 07:00 will go beyond HGVs leaving the site and extend into actual operation of the site. This is not what planning permission is being applied for and if such activities took place the operations would be in breach of their conditions and the WPA would take appropriate action.
45. In summary, the proposed change of hours to allow the departure of HGVs would not have an unacceptable noise impact on nearby sensitive receptors, provided the measures set out by the applicant are adhered to. As such, the proposed development is considered to be in accordance with Policy WCS13 of the WCS and W3.14 of the WLP. In addition, it is recommended that the applicant's proposed measures are secured by condition and this approach is in line with Policy W3.9 of the WLP and Paragraph 123 of the NPPF.

Legal Agreement

46. The extant planning permission (Ref: 4/V/2015/0175) was issued on 25th July 2016 subject to a Section 106 legal agreement. The agreement relates only to the routing of HGVs. The agreement has been written so that it applies to all variations of the planning permission and, as such, no change to the agreement is required should planning permission be granted for this application.

Other Issues

47. The roof and elevations of the waste transfer building were constructed differently to those that were detailed on the plans that were approved under the extant planning permission. The building elevation drawing approved under Planning Permission Ref: 4/V/2015/0175 shows a building with the roof pitch falling to the north-east and south-west, with gable ends on the south-east and north-west elevations. The drawing also shows full cladding on all elevations. However, the building was constructed with the roof pitch falling to the south-east and north-west, with gable ends on the north-east and south-west elevations; and cladding is used for the top half of the building elevations, below which are concrete push-walls. These design discrepancies were regularised through a non-material amendment application which was approved on 25th August 2017. It is proposed that Condition 3 is updated to reference the now approved elevations drawing.
48. There are a number of Conditions attached to the extant planning permission which no longer apply:

- a) Condition 2b requires the WPA to be notified upon the completion of the new waste transfer building;
 - b) Condition 5 of the extant planning permission restricts the hours that the waste transfer station building can be constructed;
 - c) Condition 7 restricts the quantity limits the throughput of the site prior to the construction of the waste transfer building
 - d) Condition 9 requires the submission of samples of the building prior to its construction;
 - e) Condition 10 limits HGV movements prior to the installation of the waste transfer station building;
 - f) Condition 12 sets out measures to be used during construction of the waste transfer station building to prevent the deposit of mud, clay and other deleterious material on the public highway.
49. Given the building has been constructed, it is recommended that these conditions are removed.
50. Condition 20 required the submission of a dust management plan prior to the waste transfer building being brought into use. It is recommended that this condition is simply altered so that it sets out the dust management measures that the WPA requires to be in place.

Other Options Considered

51. 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.

Statutory and Policy Implications

52. 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

53. The development would be located within an established industrial area benefiting from perimeter security fencing.

Human Rights Implications

54. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. The proposed variation has the potential to introduce impacts of noise on residential amenity of nearby properties. This needs to be balanced against the operational improvements that the proposal would give to an existing waste management facility and the management measures proposed that would mitigate any adverse noise impacts. Members will need to consider whether the benefits would outweigh any potential impacts.

Implications for Sustainability and the Environment

55. These are considered in the Observations Section above.
56. There are no implications in relation to data protection and information governance; financial implications; human resources; public sector equalities; safeguarding of children and adults at risk; and service users.

Statement of Positive and Proactive Engagement

57. 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

58. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 5/10/2017]

Planning and Licensing Committee is the appropriate body to consider the contents of this report.

Comments of the Service Director – Finance [SES 06/10/2017]

There are no specific financial implications arising directly from this report.

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division(s) and Member(s) Affected

Hucknall North

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