

Development Control Committee
Meeting to be held on 4 September 2013

Electoral Division affected:
Rossendale East

Rossendale Borough: Application 14/13/0239
Extension to building at waste transfer station and erection of a screen wall
Waterbarn Mill, Newchurch Road, Stacksteads, Bacup

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Appendix A – Application 14/13/0239 – Report to Development Control Committee
17th July 2013

Executive Summary

Application: Extension to building at waste transfer station and erection of a screen wall at Waterbarn Mill, Newchurch Road, Stacksteads, Bacup.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling time limit, working programme, noise attenuation measures for the extension and screen wall, site operations, hours of working, dust, lighting and highway matters.

Background

The application was presented to the Development Control Committee meeting of 17 July 2013. The Committee resolved to defer the application and requested the applicant to consider redesigning the building in a way that would attenuate noise and provide dust suppression. The report previously presented to the Development Control Committee is attached as Appendix A. This report incorporates a summary of the site visit attended by members of the Committee in advance of the meeting, a summary presentations received in advance of and to the Committee at the last meeting, an update on proposed changes made by the applicant to address the concerns of the Committee, an assessment of the proposed changes and an updated recommendation incorporating the proposed additional conditions reported to the Committee on the update sheet.

Site Visit

Members of the Committee visited the site on Monday 15 July 2013. Operations on the site were observed and the wider environs of Waterbarn Mill, Brandwood Park and the sheltered accommodation at Glen Crescent were visited.

Resident Presentations

A presentation by four local residents objecting to the proposal was made to members of the Committee on Monday 15 July 2013. The issues raised were reported on the update to Committee and are summarised as follows:

- 36 letters of objection to the application residents were extremely concerned that the extension would not improve the current operations of the site that were intolerable for the local residents.
- Slides and video clips of the site and the issues that affected the residents in terms of noise and dust were displayed.
- House bound residents who live a few yards from Waterbarn Mill were affected by vermin - a rat in the garage, dead mice in the loft and plagued by flies. A container of collected dead flies was circulated. All windows and doors had to be kept shut due to contaminated air, and issues of dust causing health and stress concerns necessitating visits to the doctors.
- Rossendale Council are sympathetic to the residents' concerns; LCC are requested to adopt a similar approach.
- The proposed extension would have a negative impact on the amenities of residential property.
- The applicant advertises that they are experts in managing asbestos waste leading to concerns of health and safety.
- Search lights impacted upon the rear of residential properties.
- The resident's experience smells and rats and are plagued by flies due to household waste being piled too high.
- There had been issues of horse manure and that a Planning Contravention Notice had been served by LCC.
- The application if approved would mean that the rubbish dump would expand and that there would be unacceptable levels of noise from the machinery.
- The existing tree planting/screening belt located to the rear of 9 Brandwood Park would not help to mitigate against the impact of the extension.
- The residents are subject to vibrations from the operations associated with the waste transfer station which causes lack of sleep and cracks were starting to appear in the nearest houses.
- Questions were raised about the purpose of the screen wall and that operations would continue out of doors irrespective of the extension being built.
- In 2004 LCC concluded that the buildings on the site and the site itself were unsuitable for their own proposed waste management operations.
- The application should be refused as the building is of a poor design with no acoustic measures incorporated into the design.
- The extension would bring the building closer to residents; LCC has a statutory duty to protect the amenity of residents.
- A 25% increase in building size would not accommodate 50% expansion of this business.
- The building extension is not necessary as it is not a waste storage facility.
- The extension would result in further loss of amenity to residents and would not achieve the objective to process all waste within the building.

- Conditions should not be applied if they are not enforced. Conditions cannot and will not be enforced.
- The proposed wall is of a poor design, has no acoustic properties and would be lower than the large skips and machinery. It would channel noise to the other part of the site.
- Planning Policy 10 states that waste management facilities should be well designed and that poor design is undesirable.
- The application would not improve the issues associated with dust, vibrations, smell and flies.
- The application should be refused in order to protect residents.

The residents confirmed their photographs had been taken from the old railway track located to the rear of Waterbarn Mill and which it is proposed to form part of the 'Valley Way' and the video clip of the noise had been recorded at 13 Brandwood Park

During and after the presentations, photographs, a leaflet and CD were handed to those present.

Committee Presentations

Three presentations were made to the Committee at the meeting of 17th July opposing the proposal for the following summarised reasons:

- Concern was expressed to the power point presentation made by officers as it omitted to mention that Lancashire County Council (LCC) had looked at the site previously and discounted it.
- The site is not a well established industrial site.
- LCC has failed to protect the amenity of the local residents.
- The site is not a well planned development. The building is lightly fabricated and which contributes to the issue of noise.
- The site is in a sensitive area surrounded by elderly people
- The operator has previously been prosecuted by the Environment Agency. On the basis of the community's experience of the company and how it manages its operations, the Committee should reject the application.
- The application is contrary to policy 2 and 88 of the Lancashire Minerals and Waste Local Plan (LMWLP).
- There needs to be a balance between the needs of industry and residential amenity when it is side by side. The operator has blatantly disregarded the conditions set by the committee to the original application which sought to balance those needs.
- The site accepts fortnightly deliveries of manure and the residents continue to experience an infestation of flies
- Any increase in size of the building would result in the applicant taking on more work rather than address the issues; the application should be refused.
- It was disappointing that the original application was approved.
- There have been consistently fundamental problems with the site. Four different agencies are investigating the site operations and this demonstrates the issues of balancing the industrial use with protecting residential amenity.

Whilst the site is a source of employment this needs to be carefully balanced against the impact and harm to residential amenity. The main reason to refuse the application is the loss of residential amenity.

The applicant spoke in support of his application:

- Over the past 3 years he has supported three businesses from the site providing employment for 32 people with 15 associated with the waste transfer station.
- He maintains the opposition to his operations are a malicious campaign orchestrated by a few people.
- He accepts that there has been a breach of planning conditions but in his view these have been of a minor scale and the current application would address these issues: all operations would be within inside the building, and the screen wall would protect the visual amenities of the area.
- All officers including Rossendale Borough Council and the Environment Agency are in support of the application.

Resolution

The Committee resolved that the application be deferred to allow further consideration and discussions with the applicant regarding an amended building design to address potential impacts associated with the use of such on nearby residential properties.

Applicant's Proposal

Planning permission is sought for the construction of an extension to an existing waste transfer station (WTS) building. The proposed extension would measure 20m x 14m with a maximum roof height of 7.5m. The extension would be rectangular in shape and would be located on the eastern elevation of the existing WTS building. It would include a single pedestrian door and sliding doors that would enable vehicles to enter and leave the proposed extension and existing WTS building.

To address the concerns of the Committee the applicant has proposed amendments to the application whereby the walls and roof to the proposed building extension, and the 2.5m screen wall would be constructed from a double skin cladding material, with sound insulation capability, such as Kingspan KS1000RW/80 panels, with the aim of maximising noise attenuation. He has also repaired the roof of the existing building.

The applicant has advised that repairs to the roof of the existing building, combined with the extension and screen wall should also address concerns about dust migration from the building and on the site.

Planning Policy

In law all EU regulations and Directives apply and all government guidance and policy statements must be taken into account. The following are particularly relevant to this proposal.

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and sets out the Government's planning policies for England. Although it does not contain specific waste policies, waste planning authorities must have regard to the policies in the Framework so far as relevant when taking decisions on waste applications. Relevant sections include:

- Section 1 Building a strong competitive economy
- Section 7 Requiring Good Design
- Section 10 Meeting the challenge of climate change.
- Section 11 Conserving and enhancing the natural environment

Planning Policy Statement 10 – Planning for Sustainable Waste Management

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD (JLMWDF)

- Policy CS7 Managing our Waste as a Resource
- Policy CS9 Achieving Sustainable Waste Management

Lancashire Minerals and Waste Local Plan (LMWLP)

- Policy 2 Quality of Life
- Policy 5 Environmental and Other Benefits
- Policy 23 Water Resource Protection
- Policy 37 Strategic Road Network
- Policy 88 Recycling, Sorting and Transfer of Waste
- Policy 112 Standards of Operation

Rossendale Core Strategy DPD (2011)

- AVP 2: Strategy for Bacup, Stacksteads, Britannia and Weir
- Policy 1 General Development Locations & Principles
- Policy 10 Provision for Employment
- Policy 23 Promoting High Quality Design and Spaces
- Policy 24 Planning Application Requirements

Advice

Director of Transport and Environment – Observations

Policy context

When considering applications for waste development a local planning authority must have regard to the EU Waste Framework Directive, which has been made part of domestic law by the Waste Management Licensing Regulations 1994. This legislation provides that the local planning authority must have regard to the 'relevant objectives', which are ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods that could harm the environment and, in particular, without risk to water, air, soil, plants or animals; or

causing nuisance through noise or odours; or adversely affecting the countryside or places of special interest.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the issues that arise from the proposed development it is not only necessary to take into consideration the relevant policies of the Development Plan but also the planning history of the site and all other material planning considerations. Government policy is a material consideration that should be given appropriate weight in the decision making process.

Government policy on waste management (PPS10) establishes key sustainable waste management principles and considers that proposals should be assessed in terms of their contribution towards driving waste management up the waste hierarchy in a manner which safeguards human health, does not harm the environment, and enables waste to be disposed of in one of the nearest appropriate installations (proximity principle). PPS10 stresses that the wider environmental and economic benefits of sustainable waste management are material considerations that should be given significant weight in determining planning applications.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, the saved policies of the Lancashire Minerals and Waste Local Plan 2006, and the Rossendale Borough Council's Adopted Core Strategy Development Plan Document (DPD). The Lancashire Minerals and Waste Local Plan was prepared, and the Lancashire Minerals and Waste Development Framework is being prepared with regard to the EU Waste Framework Directive and Paragraph 4 of Part 1 of Schedule 4 of the Waste Management Licensing Regulations 1994. The 'relevant objectives' are referred to in the plans and the policies were prepared to reflect the intentions of such.

To address the concerns of the Committee, the applicant has undertaken a further noise assessment (dated 16 August 2013) including noise measurements from the rear garden of No 9 Brandwood Park, clarification of the nature of operations, and noise attenuation associated with building construction. The assessment concludes that the existing operations if undertaken within the existing building and proposed extension building with a basic steel frame construction along with the construction of the screen wall with open doors would not generate noise levels above recommended guideline values. Nevertheless, to further mitigate potential noise, the applicant has confirmed that he is willing to construct the proposed extension building and screen wall with materials that feature additional noise attenuating properties. The noise assessment has concluded that it would be unreasonable to require additional noise attenuation within the existing building and which is accepted.

The applicant has acknowledged that operations have taken place outside the building and this is not permitted by the existing planning permission. The applicant has sought to address these issues through the current application. The noise assessment makes it clear that the extension and screen wall would result in an

improvement in the current noise environment for the local residents and would meet the levels previously specified.

It was previously considered unnecessary to impose a specific condition requiring the doors to be closed on the original application as the initial noise assessment concluded that with doors open or closed the operations from the waste transfer station would not exceed recommended guidance noise limits. The applicant has advised that for operational reasons, in particular the effective and safe movement of vehicles, it would not be practicable to operate the Waste Transfer Station with the doors closed. In view of the findings of the noise assessment, it is considered that a condition that seeks to secure operations behind closed doors would be unreasonable, particularly given the proposed additional condition to restrict the uses within the building.

With regard to the issue of dust, all operations are proposed to be restricted within the building. Such a restriction in conjunction with the provision of the 2.5m high screen wall would prevent the migration of dust associated with the waste management operations. Day to day waste management operations would also be controlled by the Environment Agency through its Environmental Permitting regime.

Human Rights

Concern has been raised that although the site has an historic industrial use, residents now have basic human rights to peaceful enjoyment of their homes. However, providing the site is regulated in accordance with statutory controls, it is considered that there would be no unacceptable adverse impact on the amenity of local residents and therefore no Convention Rights as set out in the Human Rights Act 1998 would be affected to such an extent that would warrant refusal of planning permission. The applicant also has Convention Rights and those rights can only be taken away when necessary in accordance with the provisions of the Act, such as when necessary in the public interest, and when such interference would be proportionate to the rights, which it is necessary to safeguard. In the circumstances it is considered that no such interference could be justified here.

Conclusion

The additional noise assessment has sought to demonstrate that the proposed building extension and screen wall would contribute to the reduction of noise from the site. The assessment has concluded that noise would be acceptable within recommended guideline levels even with buildings constructed with standard portal frame design and operations taking place within. Nevertheless, in view of the concerns raised, the applicant is willing to provide further noise attenuation within the building extension and screen wall construction. It is considered that the proposed development with the additional measures to insulate the extension and 2.5m screen wall would seek to address the Committee's concerns about noise and dust attenuation and would meet the aims of Policies 2, 5, 88 and 112 of the LMWLP, Policy CS9 of the JLMWDF and Policies, 1, 10 and 24 of the Rossendale Core Strategy DPD.

The proposed development would assist in providing enhanced facilities to contribute towards the diversion of waste materials away from landfill, reduce reliance on landfill and move the management of waste up the waste hierarchy. The site has a long history of industrial use and a thermoplastics recycling plant. The proposed building extension and screen wall would be acceptable in terms of size, design and location.

It is considered that conditions controlling all operations within the building, noise attenuation measures to the walls and roof of the extension and screen wall, the use of white noise reversing alarms, lighting, hours of working, highway matters and protection of watercourses would ensure that the amenity of the local residents would be sufficiently protected. It is considered that the proposed development complies with the policies of the Development Plan and can be supported.

Recommendation

That planning permission be **granted** subject to the following conditions

Time Limits

1. The development shall commence not later than 3 years from the date of this permission.

Reason: Imposed pursuant to Section 91 (1) (a) of the Town and Country Planning Act 1990.

2. Written notification of the date of commencement of the construction of the building extension shall be sent to the County Planning Authority within 7 days of such commencement.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission and to conform with Policy 24 of the Rossendale Core Strategy Development Plan Document.

Working Programme

3. The building extension and screen wall subject of this permission, and all operations carried out on the site (as defined in this permission) pursuant to this permission and those approved under permission 14/10/0452 shall be carried out in accordance with the following documents:

- a) The Planning Application received by the County Planning Authority on 09.05.2013 and the additional information from:

Mr.Metcalf dated 16.08.2013

Mr.McCann dated the 16.08.2013

- b) Submitted Plans and documents:

Drawing entitled 'Waste Transfer Station as existing'

Drawing entitled 'Application Site edged in red'

Drawing entitled 'Waste Transfer Station proposed'
Drawing entitled 'Waste Transfer Station-existing elevations'
Drawing entitled 'Waste Transfer Station-proposed elevations East'
Drawing entitled 'Waste Transfer Station proposed elevations -South'
Drawing entitled 'Waste Transfer Station -proposed working
arrangements Rev A received 28 June 2013
Drawing entitled Waste Transfer Station –proposed elevations- North
Rev A received 3 July 2013.

- c) All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with Policies 2, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

Building Materials

4. Notwithstanding the details shown on the approved plans, the extension and screen wall hereby approved shall be constructed from double skin cladding materials to the specification set out in the Acoustics Assessment report dated 16th August 2013 before the building is brought into use.

Reason: To protect the amenities of the area and to conform with Policies 2, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

5. Within one month of the commencement of construction of the building extension a scheme and programme for the external lighting of the site (as defined in this permission) shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall include details of:
- a) Type, location and intensity of lights
 - b) Types of masking or baffle at head
 - c) Type, height and colour of any lighting columns
 - d) Light spread diagrams showing lux levels at the site boundary and calculation of the impact of these on nearby residential properties.
 - e) Details for the control of the times of illumination of the lighting.

The lighting at the site (as defined in this permission) shall be carried out in accordance with the approved scheme and programme.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy 24 of the Rossendale Core Strategy Development Plan Document.

Hours of Working

6. No construction development, delivery of waste, waste transfer station operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site (as defined in this permission) shall take place outside the hours of:

0800 to 1800 hours, Mondays to Fridays (except Public Holidays)
0800 to 1400 hours on Saturdays

No construction development, delivery of waste, waste transfer station operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site (as defined in this permission) shall take place at any time on Sundays or Public Holidays.

This condition shall not, however, operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential repairs to plant and machinery used on site (as defined in this permission).

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2, 37, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

Site Operations

7. No hazardous or putrescible waste shall be brought onto, stored or deposited at the site (as defined in this permission).

Reason: Waste materials outside these categories raise environmental and amenity issues which would require consideration afresh and to conform with Policies 2, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

8. No unloading, depositing, sorting, segregation and processing of waste, and no loading of waste and recycled materials into skips/containers shall be undertaken outside the building shown on the drawing entitled 'Waste Transfer Station -proposed working arrangements Rev A' received 28 June 2013. The whole of any vehicle loading or unloading skips or materials shall be located in its entirety within the building at the time of any loading or unloading operation.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

9. Where reversing alarms are employed on site (as defined in this permission) only broadband multi-frequency sound alarms (white sound) shall be used.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2 of the Lancashire Minerals and Waste Local Plan.

10. No skips, waste or materials shall be stored outside the building shown on Drawing entitled 'Waste Transfer Station -proposed working arrangements Rev A' received 28 June 2013.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2, 23, 88 and 112 of the Lancashire Minerals and Waste Local Plan and Policy 24 of the Rossendale Core Strategy Development Plan Document.

Highway Matters

11. All vehicles transporting waste/recycled materials from the site (as defined in this permission) shall be securely sheeted.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policies 2, 37 and 88 of the Lancashire Minerals and Waste Local Plan.

Safeguarding of Watercourses and Drainage

12. Provision shall be made for the collection, treatment and disposal of all water entering or arising on the site (as defined in this permission) to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies 2, 23, 88 and 112 of the Lancashire Minerals and Waste Local Plan.

13. All foul drainage shall be discharged to a public sewer or else to a sealed watertight tank fitted with a level warning device to indicate when the tank needs emptying. Upon emptying the contents of the tank shall be removed from the site (as defined in this permission) completely.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies 2, 23, 88 and 112 of the Lancashire Minerals and Waste Local Plan.

14. Any chemical, oil or fuel storage containers on the site (as defined in this permission) shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the

bund floor or walls. Double skinned tanks may be used as an alternative only when the design and construction has first been approved by the County Planning Authority.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies 2, 23, 88 and 112 of the Lancashire Minerals and Waste Local Plan.

Definitions

'**The site**' shall mean the area of land edged red as shown on the Drawing entitled 'Application Site edged in red'

Director of Transport and Environment: means the Director of Transport and Environment of the County Planning Authority or any successor position to that post.

Notes

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Ext
14/13/0239	09.05.2013	Catherine Lewis/Environment/30490
14/10/0452	09.08.2010	Catherine Lewis/Environment/30490

Reason for Inclusion in Part II, if appropriate

N/A