

**Development Control Committee**  
Meeting to be held on 2nd March 2016

Electoral Division affected:  
Heysham

**Lancaster City: Application number LCC/2015/0092**  
**Retrospective change of use of land from go-kart track to waste transfer station, the retention two demountable units, a bale shed and plant and equipment and erection of storage and sorting building. Unit 26, Stalls Road, Heysham Business Park, Middleton.**

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### **Executive Summary**

Application - Retrospective change of use of land from go-kart track to waste transfer station, the retention two demountable units, a bale shed and plant and equipment and erection of a storage and sorting building. Unit 26, Stalls Road, Heysham Business Park, Middleton.

### **Recommendation – Summary**

That planning permission be **refused** for the following reason:-

1. The proposed site layout and design fails to demonstrate that waste and recycled materials, particularly plastics, paper, putrescible materials and crushed and screened materials, can be managed, processed or stored in an acceptable enclosed environment to prevent the migration of waste materials, odour and dust off site contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy DM35 of the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD).

### **Applicant's Proposal**

Retrospective planning permission is sought for the change of use of land from a go-karting track to a waste transfer station for the sorting of mixed non-hazardous commercial and industrial wastes, the retention of existing structures and plant and machinery together with the erection of a new building . The buildings and plant and equipment to be retained are two demountable units for use as office accommodation, a building for use as a bale shed, plant and equipment including a weighbridge, trommel screen, a conveyor belt and screening and crushing equipment. The proposed building for use as material containment, storage and

sorting would measure 41.2m x 15.2m with a pitched roof to measure 4.6m high to the eaves and 5.2m to the ridge. It would be steel framed with a corrugated iron roof and be partially enclosed by the use of steel sheeting to some of the elevations; the north and west elevations would be fully enclosed, the south elevation would have sheeting to a height of 2m from ground level and the east elevation would be open to allow access for machinery.

The operations involve the importation of waste material to the site mainly in skips, which is then sorted and screened within the buildings by a combination of fixed machinery and by hand, with plant and machinery used to screen and crush aggregates and soils outside in the yard area.

Waste materials delivered to the site are deposited on an apron area located between the edge of a private road within the industrial estate and the opening to the south side of the munitions building. The waste is then moved into the building and stored in a 'holding' area before being loaded onto a conveyor which serves a sorting line consisting of a trommel and further conveyor within a metal shed like structure where waste is sorted by hand for bulking up with other similar waste types. Rubble is collected in a pile after dropping off the end of the open conveyor in the sorting line. Adjacent is an open sided steel framed building used for the storage of baled paper and plastic. A screen and crusher for processing of inert waste are located in the yard area on the south side of the site.

The sorted materials are stored outside in piles or are baled and stored under cover or in the yard area before removal from site for further recycling or disposal.

The hours of operation are 0730 to 1830 hours, Mondays to Fridays, 0800 to 1200 hours on Saturdays, with no development on Sundays or Public Holidays.

The applicant states that the maximum throughput of the site is approximately 75,000 tonnes per annum reflective of the waste management permit issued by the Environment Agency.

### **Description and Location of Site**

The site is located on the east side of Stalls Road within Heysham Business Park approximately 600m to the west of Middleton. Access to the industrial estate is from Middleton Road via Main Avenue. The site is then accessed by Stalls Road, a private road within the industrial estate.

The site is a flat and rectangular shaped piece of land with maximum dimensions of 125m x 57m, approximately 0.54ha. Access and egress is taken from Stalls Road on the west side of the site. A weighbridge and two stacked demountable units are located adjacent to the edge of Stalls Road and the site access. An open yard is located in the northern half of the site which is hard surfaced and used for the stockpiling of screened and sorted spoil, aggregates, soil and wood, and baled paper and plastic, between 3-9 metres high. The southern half of the site also has an open yard area with a building for use as a bale shed, and machinery in the form of trommel screens, a conveyor belt and screening and crushing equipment, used for the processing of waste materials. An existing former munitions building is located

on the south side of the site fronting Workshop Road within the industrial estate. Concrete sectional walls approximately 1.8m high bound the west side of the site fronting Stalls Road. The east side of the site is open beyond which is scrubland and other units within the industrial estate. An existing industrial building and yard area is adjacent to the north boundary. The surrounding land uses are industrial. The nearest houses are a group of three properties located on Carr Lane, between 120 - 190m to the south-east of the site.

The proposed building for material containment, storage and sorting would be located against the western boundary of the site adjacent to the site access.

## **Background**

The site has been used as a waste transfer station since mid-2011. Previously, the last use of the site was as a 'go-cart' circuit.

Retrospective planning permission for the change of use of land from go-kart track to Waste Transfer Station was refused in March 2013 for the following reason (ref. 01/12/0949):

'Waste materials and recycled materials, particularly plastics, paper and putrescible materials would not be processed, managed or stored in an acceptable enclosed environment to prevent the migration of waste materials off site to the detriment of the local environment and adjoining land users contrary to Policies 2 and 88 of the Lancashire Minerals and Waste Local Plan, Policy E1 of the Lancaster City Core Strategy and Policy EC6 of the Lancaster City Local Plan.'

Retrospective application for the change of use of land from go-kart track to Waste Transfer Station, the retention of buildings, plant and equipment and a proposed new sorting/ storage building was refused in November 2013 for the following two reasons (ref. 01/13/0945):

1. 'The proposed site layout and design fails to demonstrate that waste and recycled materials, particularly plastics, paper, putrescible materials and crushed and screened materials, can be managed, processed or stored in an acceptable enclosed environment to prevent the migration of waste materials, odour and dust off site contrary to Policies DM2 and WM3 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies, Policies SC5 and E1 of the Lancaster District Core Strategy and Policy EC6 of the Lancaster District Local Plan.
2. Waste materials and recycled materials, particularly plastics, paper and putrescible materials, are not processed or stored in an acceptable enclosed environment resulting in the migration and tracking out of waste materials off site and onto adjoining land and the public highway to the detriment of the local environment, highway and adjoining land users contrary to Policies DM2 and WM3 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies, Policies SC5 and E1 of the Lancaster District Core Strategy and Policy EC6 of the Lancaster District Local Plan.'

## **Planning Policy**

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17 - 19, 56 - 66, 109, 111, 120, 122 - 125 are relevant with regard to the requirement for sustainable development, core planning principles, building a strong competitive economy, good design, conserving and enhancing the natural environment, use of brownfield land, noise, air quality and light pollution.

National Planning Practice Guidance

National Planning Policy for Waste

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

Policy CS7	Managing Our Waste as a Resource
Policy CS8	Identifying Capacity for Managing our Waste
Policy CS9	Achieving Sustainable Waste Management

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One (LMWLP)

Policy NPPF 1	Presumption in favour of sustainable development
Policy DM2	Development Management
Policy WM1	Capacity of Waste Management Facilities
Policy WM2	Large Scale Built Waste Management Facilities

Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD)

Policy NPPF1	Presumption in Favour of Sustainable Development
Policy DM35	Key Design Principles
Policy DM40	Protecting Water Resources and Infrastructure

## **Consultations**

Lancaster City Council – No objection subject to the imposition of conditions relating to the suppression of dust, and the restriction hours of operation to between 0800-1800 Monday to Friday, and 0800-1400 on Saturdays, with no work on Sundays or on Public Holidays. The City Council also comment that LCC should be satisfied that odour arising from the use would not be detrimental to the amenities of local businesses and surrounding residential dwellings, and that gas/radon mitigation measures should be considered.

Middleton Parish Council – No observations received.

Environment Agency - No objection and comment that the site is currently operating as a waste transfer station under the Environmental Permitting (England and Wales)

Regulations 2010. The EA states that the site has not been operated in compliance with the Permit and that they have taken enforcement action in this regard and following a hearing, the operator is awaiting sentencing. As the operation is already covered by a permit there would be no need to obtain any additional permits from the Environment Agency.

There is a very large quantity of waste on the site that poses a significant fire risk. There have also been on-going problems suffered by the Estate owner and other unit holders in terms of dust, litter and pests. The proposal of an additional building on this site may improve these matters and help bring the site into compliance. It must be noted that the existing bale shed is in a poor state of repair and is presently full of waste.

LCC Developer Support (Highways) – No objection.

LCC Specialist Advisor (Ecology) – No observations received.

Representations – The application has been advertised by site notice and press notice and the surrounding businesses in the Industrial Estate have been notified by letter. Three representations have been received; one from the landlord of the industrial estate, one from a neighbouring business within the industrial estate, and from a nearby resident objecting to the proposal for the following reasons:

- The current application bears no discernible difference to the two previously refused planning applications that sought retrospective consent for the waste transfer station and therefore should be refused on the same grounds. The application site continues to operate in an uncontrolled manner and causes harm to the amenity of the locality whilst failing to adequately deal with the waste in a sustainable and environmentally friendly manner.
- The land owner has not and will not give consent to construct any of the buildings and structures applied for. On the basis that the structures will not be permitted by the land owner and as the existing buildings and site clearly cannot perform the waste transfer function in its current form, a waste transfer function operated by the applicant should not be permitted on this site.
- The applicant has an on-going issue with the Environment Agency regarding non-compliance with their environmental permit conditions and it is evident from the length of time these unauthorised operations have taken place that there is no willingness from the applicant to adhere to any planning or environmental permissions or conditions. As such, the granting of any planning permission and imposition of conditions cannot be considered to sufficiently control what is a poorly managed waste transfer operation on a constrained site within close proximity to a variety of other operators and businesses.
- The quality of the submitted information is considered to be poor as it does not accurately depict what has been constructed on site nor does it provide any certainty as to the quality and appropriateness of any proposed structures. As such, it is considered that the application could not be permitted on the basis of the information submitted and there can be no confidence that the structures could fulfil the functions required.
- A document outlining a Management System for the site has been submitted and the planning statement asserts that the identified 'system is used for both sites'. A

suitable management system is not being operated at the site as it is filled with waste stored in open areas that spill out onto adjacent sites and is not operated in an appropriate manner - therefore the site management system document is inaccurate, flawed and/or not being adhered to.

- A 2m chain link fence is proposed to the site boundaries to 'contain material and prevent it reaching other parts of the industrial estate'. It is evident from the operation of the site over the years and the significant amount of waste that is continually inappropriately stored at the site that the proposed fencing would be totally inadequate to prevent waste reaching other parts of the industrial estate.
- The planning statement refers to the existing foul and surface water drainage system being of sufficient capacity and suitability. However, due to the poor management of the site much of the waste has at times spread out onto the road network and filled the drains. In addition there is a large area of earth stored to the immediate north of the site that is stored over drain covers and is therefore causing further impediment to the drainage of the wider site.
- The information provided by the applicant relates to how the site could be operated. However, this bears no resemblance to how the site has been operated and is not considered to demonstrate that the significant environmental impacts could be reduced to an acceptable level.
- The operations are totally unsuitable for a business park and have a significant adverse impact on neighbouring businesses and the wider site.
- Waste is stored in every nook and cranny of the site, allowing it to rot, stink, blow across the locality, attract vermin and be a complete eyesore.
- So much waste is overflowing from the site that it has half-buried two tractors on land forming a part of three adjoining industrial units that are privately owned and rented out to provide the owner a living. The tenants of two of them left in January 2016 due to Hancocks operations. It will be difficult to find fresh tenants with the condition of Hancocks site.
- Hancocks park their vehicles on other peoples' land within the industrial estate.
- The road in and around the site is covered in mud and has been damaged and potholed as a consequence of vehicles and heavy machinery from Hancocks.
- The pile of rubbish at the site has greatly increased since the operations first commenced and is getting worse.
- The site operates outside of the proposed operating hours on an almost daily basis. It is a regular occurrence to be woken by incredibly noisy machinery operating very early, such as on a Saturday at 6.20am. The same noisy vehicles often operate late into the evening including Saturday's and Sunday's.
- The trees and bushes in nearby gardens and the lanes surrounding the site are often festooned with polystyrene, paper and plastic bags blown from the rotting piles on the site. This is especially the case after a strong wind and that happens on a regular basis being so close to the sea. The smell from the rotting rubbish on a warm or breezy day can be unbearable and force nearby residents indoors. The matter has been reported to the Environment Agency on numerous occasions who forced the operator to buy a perfume machine. However, it has no impact whatsoever other than adding a further unwanted smell to the air.
- The dust from this site caused by the decomposing waste has become almost unmanageable; it constantly covers cars, and ingresses nearby houses.

- The character of the area has suffered tremendously since the waste operations started, becoming infamous for the mounds of scrap and rotting rubbish spilling over into Carr Lane.
- The site has a large rat population which the site staff shoot in the evenings. Granting planning permission to facilitate such a business would be an absolute travesty for the environment, for the local area and for local residents.
- LCC should not repeatedly allow retrospective planning applications to be made and realise when enough is enough. LCC should communicate with the environmental health authority to take a joint action to stop any more waste being brought on to this site and stop any such damaging and antisocial business from operating so close to people's homes.
- Members of the planning committee should consider if they would like to live next to the site with the problems that are experienced.
- The proposal does not accord with the policies of the Development Plan for the site.

## **Advice**

Retrospective planning permission is sought to for the change of use of land from a go-kart track to a waste transfer station for the sorting of mixed non-hazardous commercial, industrial waste and the retention and proposed erection of associated industrial buildings and machinery.

Retrospective permission (ref. 01/12/0949) for this use was first refused in March 2013. The reason for refusal of the application is as follows:

*Waste materials and recycled materials, particularly plastics, paper and putrescible materials would not be processed, managed or stored in an acceptable enclosed environment to prevent the migration of waste materials off site to the detriment of the local environment and adjoining land users contrary to Policies 2 and 88 of the Lancashire Minerals and Waste Local Plan, Policy E1 of the Lancaster City Core Strategy and Policy EC6 of the Lancaster City Local Plan.*

A further retrospective application (ref. 01/13/0945) for this use, plus a proposed new sorting/ storage building, was refused in November 2013 for the following reasons:

1. *The proposed site layout and design fails to demonstrate that waste and recycled materials, particularly plastics, paper, putrescible materials and crushed and screened materials, can be managed, processed or stored in an acceptable enclosed environment to prevent the migration of waste materials, odour and dust off site contrary to Policies DM2 and WM3 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies, Policies SC5 and E1 of the Lancaster District Core Strategy and Policy EC6 of the Lancaster District Local Plan.*
2. *Waste materials and recycled materials, particularly plastics, paper and putrescible materials, are not processed or stored in an acceptable enclosed environment resulting in the migration and tracking out of waste materials off site and onto adjoining land and the public highway to the detriment of the local environment, highway and adjoining land users contrary to Policies DM2 and*

*WM3 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies, Policies SC5 and E1 of the Lancaster District Core Strategy and Policy EC6 of the Lancaster District Local Plan.*

This application seeks to address the reasons for refusal of the previous application 01/13/0945 by proposing the construction of an additional larger and partially enclosed building for use as material containment, storage and sorting.

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 necessary to take into consideration the relevant policies of the Development Plan and 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.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD (LMWDF), Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One (LMWLP), and the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD)

National policy seeks to achieve sustainable waste management by moving the management of waste up the 'waste hierarchy' of reduction, re-use, recycling, composting, using waste as a source of energy and only disposing of waste (landfilling) as a last resort.

The NPPF seeks to ensure that the planning system supports and secures sustainable economic growth in order to create jobs and prosperity. Policy CS7 of the Core Strategy DPD seeks to manage our waste as a resource, while Policy CS8 of the Core Strategy DPD seeks to ensure an adequate provision of suitable waste facilities across the county to ensure that waste can be managed as a resource.

The previous application was considered to be acceptable in principle in relation to the broad requirements of Government policy in terms of encouraging the recycling of waste. This application is for the same development and is therefore equally compliant with National Planning Policy and with Policies CS7 and CS8 of the Core Strategy DPD in terms of the waste management strategy.

Policy CS9 of the LMWDF seeks to achieve sustainable waste management, attaches priority to the location of larger waste facilities within existing or planned industrial or commercial areas and sets out broad criteria against which proposals for new waste facilities will be assessed. The development is classed as a larger waste management facility within an existing industrial area and hence conforms to the broad locational criteria set out in Policy CS9 of the LMWDF. The development also complies with Policy WM1 of the LMWLP as it helps to provide capacity to meet anticipated need for waste management facilities as outlined in the policy.



In terms of general location, the development is located on an industrial estate which includes a number of other waste, haulage and other heavy industrial uses. Policy WM3 of the Lancashire Minerals and Waste Local Plan states that development of local waste management facilities of a capacity of around 50,000 tonnes per year will be supported on the Heysham Industrial Estate. The site is accessed via Main Avenue from Middleton Road leading to the main gate of the industrial estate and by private internal roads within the industrial estate all of which are suitable for the nature and levels of traffic generated by this site. Given the nature of the industrial estate, the nature of the local highway network and the provisions of policy WM3, it is considered that in principle, the location of the site is acceptable.

However, it is also necessary to assess the application in terms of the suitability of the design and nature of the waste transfer operations, the site layout and the potential impacts of the proposal in the locale.

Policy DM2 of the LMWLP supports proposals for waste management operations where it can be demonstrated that all material social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. In assessing proposals account will be taken of the setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts can be controlled in accordance with current best practice and recognised standards. Impacts and issues to be considered are the quality of design, layout, form, scale and appearance of buildings, the control of emissions from the proposal including dust, noise, light and water, and the control of the numbers, frequency, timing and routing of transport related to the development. Policy DM35 of the Lancaster City Council DPD also has similar objectives in terms of key design principles and resisting development which would have a detrimental impact on amenity.

The applicant states that the waste imported to the site is mixed non-hazardous inert construction, demolition and excavation, commercial, industrial and household (municipal) waste, which includes plastic, wood, paper and general putrescible waste. The processing of these waste types has the potential to generate different environmental impacts than purely inert waste and requires different management techniques to reduce environmental impacts such as noise, dust, odour and vermin to acceptable levels. Whilst such matters are controlled through a permit issued by the Environment Agency, it is also incumbent upon planning authorities before granting planning permission to ensure that such operations are designed and operated in a manner to allow impacts to be controlled to acceptable levels and not generate unacceptable impacts on surrounding landuses.

The operations are already being carried out so the impacts can to some degree be assessed to establish whether they are unacceptable or could be made acceptable by the imposition of conditions. Whilst some waste sorting and storage operations are undertaken under cover, large quantities of waste are stored outside in stockpiles or bales. To address the reasons for refusal of the previous application, the applicant has proposed a further building that would be used for the sorting and storage of recovered materials.

Although, the building would provide much needed additional containment for the sorting and storage of waste, the general site design does not provide for waste reception facilities to be within a building and therefore unsorted waste is tipped onto the ground in the open air without any form of enclosure before being manually moved onto the sorting line. Without such enclosure, the outside deposit and storage of waste is leading to problems of windblown litter, vermin and odour impacts that are not being controlled to acceptable levels.

The site is leased to the applicant. The landowner of the site has objected to the application and has stated that they will not give consent to construct any of the proposed buildings. A copy of the lease has been provided which confirms that no consent is given to the tenant to make any alterations, additions, or improvements affecting the exterior or structure of the property, nor to change the external appearance of the property.

Many of the impacts relate to poor site design and insufficient containment of operations. On the basis that the proposed structures will not be permitted by the land owner, it is difficult to conclude that the proposed new building could be implemented even if planning permission was granted. However, even if the new building were to be constructed, it is still considered that the design of the site, particularly in terms of the waste reception facilities, would be insufficient to address all impacts to acceptable levels.

The Environment Agency has advised that the site is subject to an Environmental Permitting Regulations waste permit but is not being well operated and not in accordance with the requirements of the permit. Consequently, the EA have taken enforcement action in this regard. The outcome in Lancaster Magistrates Court in November 2015 is that the operator has been ordered to reduce both non-specified waste and the amount of waste on site. Whilst compliance with the permit as required by the court would reduce the impacts of the operation, it is considered that it would not fully address the environmental issues that are generated by this operation.

In conclusion, the principle of the waste management and recycling in this general location is acceptable. However, the applicant's proposals for controlling the impacts of the operation are not sufficiently developed in that they do not address the impacts arising from the lack of contained waste reception facilities. Whilst it is possible that the applicant's proposals for other parts of the site could assist by providing further cover and containment for the wastes that are being managed on the site, the landowner has made it clear that permission for such structures would not be forthcoming. In the absence of such necessary containment, the design and layout of the site does not allow for the proper control of the environmental impacts of the development. The development is therefore considered to be contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy DM35 of the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD)

Human Rights Issues

Article 1 of the 1<sup>st</sup> Protocol concerns the enjoyment of property and provides that everybody is entitled to the peaceful enjoyment of his possessions and that no one should be deprived of the enjoyment of property except in the public interest. The refusal of planning permission has the potential to affect the applicant's rights under this Article. However, the County Council has a duty to secure the proper location and design of waste recycling development in order to protect the amenities of local residents as set out in the policies of the Development Plan. The proposal would conflict with these policies and the interference in the rights of the applicant is therefore considered to be justified in order to protect the public interest. It is considered that the public interest can only be safeguarded by refusal of permission and that refusal of the application would not place a disproportionate burden on the applicant.

### **Recommendation**

That planning permission be **refused** for the following reason:-

1. The proposed site layout and design fails to demonstrate that waste and recycled materials, particularly plastics, paper, putrescible materials and crushed and screened materials, can be managed, processed or stored in an acceptable enclosed environment to prevent the migration of waste materials, odour and dust off site contrary to Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy DM35 of the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD).

### **Local Government (Access to Information) Act 1985 List of Background Papers**

<b>Paper</b>	<b>Date</b>	<b>Contact/Directorate/Ext</b>
LCC/2015/0092		

18th September 2015

Rob Jones  
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534128

Reason for Inclusion in Part II, if appropriate  
N/A