

Development Control Committee
Meeting to be held on 4th March 2020

Electoral Division affected: West Lancashire East
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West Lancashire Borough: application number. LCC/2020/0007

Change of use of land and building to storage of recycled aggregate materials as an extension to an existing waste management site/ waste transfer station and skip business. City Centre Commercials, Tower House, Simonswood Industrial Estate, Stopgate Lane, Simonswood, Kirkby.

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Executive Summary

Application - Change of use of land and building to storage of recycled aggregate materials as an extension to an existing waste management site/ waste transfer station and skip business. City Centre Commercials, Tower House, Simonswood Industrial Estate, Stopgate Lane, Simonswood, Kirkby.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling time limits, working programme, site operations, stockpile heights and location, hours of working, highway matters and noise.

Applicant's Proposal

Planning permission is sought for the change of use of an area of land to storage of recycled aggregate materials as an extension to an existing waste management site/ waste transfer station and skip business. The site was previously used for the storage of shipping containers.

The processed aggregate would be produced from the waste processing operations on the adjacent waste transfer station and would be stored in stockpiles up to a height of 9 metres before being exported from the site for use elsewhere. A large derelict building would be demolished to increase the available storage space.

The hours of working within the site would be the same as the applicant's existing waste transfer station :- 0730 to 1800 Mondays to Fridays, and 0730 to 1200 on Saturdays, with no work on Sundays or Public Holidays.

Description and Location of Site

The application site is a flat piece of land with an area of 2.3 hectares and with maximum dimensions of 240 metres by 140 metres. A large derelict building is on site. The site includes part of a 5 metre high planted screen mound along the entire southern boundary.

The application site is immediately to the west of an existing waste management site/ waste transfer station and skip business operated by City Centre Commercials and is located at the eastern end of Simonswood Industrial Estate approximately 800m from the northern edge of Kirkby.

Vehicular access to the application site would be via the existing waste management site within Simonswood Industrial Estate and is achieved from the south side of Stopgate Lane, and then via the internal road that runs through the industrial estate. The existing waste management site has an area of 5.7 hectares and consists of an open yard area used for the storage, sorting, crushing and screening of waste materials, and for the storage of skips and machinery. A waste transfer building, an office building, and a building used as a vehicle repair/maintenance workshop and to house biomass boilers, are located on the west, north and south sides of the site, respectively.

A large building used for storing timber is located on the north side of the internal road that borders the application site, and beyond which are agricultural fields and then Stopgate Lane approximately 370 metres to the north of the site. To the west of the site is another waste transfer station that is not currently operating. To the south is the Kirkby to Wigan railway line with agricultural fields beyond, and to the north-east is a vehicle repair, MOT, de-pollution and breaking area for end of life vehicles.

The nearest residential dwellings are on Siding Lane approximately 260m to the north-east of the application site.

Background

There is no relevant planning history for the application site but it was previously used for the storage of shipping containers.

Land immediately to the east is an existing waste management site that has been the subject of a number of planning permissions since the early 1990's for inert waste recycling uses, the most relevant being as follows:

In 2005, a planning application ref 8/05/1335 was submitted to allow the height of stockpiles on the site to be raised to 9 metres from their permitted height of 5.5 metres. This application was refused. A further application ref 8/06/0128 was submitted in 2006 to allow stockpiles to be increased to 7.5 metres in height. This was also refused. Both of these decisions were appealed. The appeals were dismissed.

Planning permission for the erection of a new wash plant facility for processing of inert waste materials to produce recycled aggregates, was granted in March 2019 (ref: LCC/2018/0050).

Planning Policy

National Planning Policy Framework

Paragraphs 7 - 11, 38, 47, 54 - 55, 80, 82, 102, 108, 110, 117 – 118, 124, 127 - 128, 170, 180 – 181, 183 and 204 are relevant with regard to the following: Achieving sustainable development - the presumption in favour of sustainable development; Decision making - determining applications, and planning conditions and obligations; Building a strong, competitive economy; Promoting sustainable transport – considering development proposals; Making effective use of land; Achieving well-designed places; Conserving and enhancing the natural environment – ground conditions and pollution and taking account of the contribution of recycled materials to the supply of construction materials.

National Planning Policy for Waste - Section 7 is relevant in relation to the determination of planning applications.

National Planning Policy Framework Planning Practice Guidance

Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document

Policy CS3 Meeting the demand for new minerals
Policy CS7 Managing 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 DM1 Management of Waste and Extraction of Minerals
Policy DM2 Development Management
Policy WM1 Capacity of Waste Management Facilities
Policy WM4 Inert Waste Recycling

West Lancashire Local Plan 2012-2027 Development Plan Document (DPD)

Policy GN3 Criteria for Sustainable Development
Policy EC1 The Economy and Employment Land – Managing development on employment land - Other Significant Employment Sites – Allocated Waste Sites

Consultations

West Lancashire Borough Council – No comments yet received.

Simonswood Parish Council – The Parish Council strongly object to the application and are of the view that activity on the site has already commenced.

Knowsley Metropolitan Borough Council - No comments received.

Environment Agency – No objection and comment that a new Environmental Permit, or a variation of the existing Environmental Permit, will be required.

LCC Highways Development Control - No objection and comment that the nature and scale of the proposals should have a negligible impact on highway safety and capacity within the immediate vicinity of the site.

Health and Safety Executive – No objection.

Lead Local Flood Authority – No comments received.

Network Rail - No comments received.

Representations – The application has been advertised by press, site notice and neighbouring residents have been notified by letter.

Four objections have been received raising the following issues:

- Stockpile heights - the permitted heights of stockpiles are exceeded on the existing City Centre Commercials site. If there is any wind, nearby properties are covered in the dust and debris that blows across.
- Traffic - the number of heavy vehicles from the development will increase the existing impact on the surrounding area and its residents, plus there is a 7.5 tonne weight limit on Stopgate Lane that is not complied with at the moment by HGVs that use the route as a shortcut. This Traffic Regulation Order is in need of review and not fit for purpose because Lancashire Police state they cannot enforce under the current conditions. If permission is granted, then the applicant should be advised to instruct all their drivers and customers that they must not access the site by breaching the weight limit of the Traffic Regulation Order.
- Stopgate Lane and the access to Simonswood Industrial Estate via Stopgate Lane are in dire need of repair and are dangerous so any increase in HGV traffic can only exacerbate the situation. The poor condition of Stopgate Lane is reported to Lancashire County Council on a regular basis, but as soon as existing defects are fixed, the road surface is damaged again by HGVs. If more development is allowed on the industrial estate which results in an increase in HGV traffic, then Lancashire County Council should seek a contribution from the developers for highway improvements.
- Noise – there are questions as to what the noise level will be from the site. At the moment, the noise is very loud when the crusher is running that is presently only used on alternate days. The proposal may result in the crusher operating six days a week with the associated noise.
- Human Rights – the applicant makes a case for environmental recycling as a reason to expand, but residents also have environmental protections under the Human Rights Act.

Advice

Planning permission is sought for the change of use of a 2.3 hectare area of land to store recycled aggregate materials as an extension to an existing waste management site/ waste transfer station and skip business operated by City Centre Commercials. The application site would be used for the storage of recycled aggregate materials in stockpiles up to a height of 9 metres that have been produced by the processing and washing plant on the applicant's adjacent waste transfer station. It is anticipated that there would be a number of stockpiles on the site, the location of which would change on an on-going basis in order to adapt to the storage needs of the business at any given time. No processing would be carried out at the application site other than the storage of washed aggregate materials and their loading onto vehicles prior to being exported from the site for use elsewhere.

The principle issues concern the acceptability of the site to be used for this purpose, the potential to cause nuisance or disturbance to surrounding and nearby land uses from the visual impact, noise, dust and potential light pollution, and from highway safety from a potential increase in heavy goods vehicles that the use of the site may generate.

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.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy, the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies, and the West Lancashire Local Plan 2012-2027.

National Planning Policy encourages recycling and the re-use of waste to reduce reliance on land filling and requires waste to be managed at the highest level possible within the waste hierarchy. The Framework also seeks to ensure that the planning system supports and secures sustainable economic growth in order to create jobs and prosperity and that account is taken of the contribution that recycled materials can make to the supply of construction aggregates.

Policy CS7 of the Lancashire Minerals and Waste Core Strategy DPD seeks to manage 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 proposal would provide space for the storage of recycled aggregate materials produced from the processing and washing of inert waste materials at the adjacent City Centre Commercials site. The proposal therefore complies with the principle of National Planning Policy and with Policies CS3, CS7 and CS8 of the Core Strategy in terms of waste management strategy and the supply of materials to the construction industry.

The location of the site within Simonswood Industrial Estate is subject to Policy EC1 of the West Lancashire Local Plan DPD. This policy supports a mix of industrial, business, storage and distribution uses and waste sites within the allocated area. The proposed site would be used in association with the existing waste management operations at the City Centre Commercials site and hence conforms with Policy EC1.

Policy WM4 supports developments for aggregate recycling facilities at listed industrial estates, including Simonswood Industrial Estate. The location of the proposal is therefore acceptable in terms of the general locational criteria of Policy WM4.

In terms of general environmental impacts, Policy GN3 of the West Lancashire Local Plan requires that proposals for development should be of high quality design and have regard to visual amenity through sensitive design including appropriate siting, orientation, scale and materials. Policy DM2 of the Lancashire Minerals and Waste Local Plan states that development for waste operations will be supported where it can be demonstrated that all material environmental impacts can be eliminated or reduced to acceptable levels.

Four representations have been received concerned that the proposed stockpile height of 9 metres would have a detrimental visual impact on the surrounding area and give rise to wind-blown dust.

Stockpiles on the applicants existing site are limited to a height of 5.5 metres. The applicant proposes that stockpiles within the application site be limited to 9 metres in height.

In relation to the visual impact issues, the location of the site within the industrial estate means it is largely screened by surrounding uses and buildings, while the screening mound along the southern boundary of the site helps to screen the site from the agricultural fields to the south. It should also be recognised that the previous use of the site was for the storage of shipping containers which could be stored to a height considerably in excess of 9 metres in height.

The main issue in relation to the stockpile heights relates to dust. This issue was considered in an appeal in 2006 at the applicant's adjacent site where an Inspector declined to increase the limitation on stockpile heights to 9 metres in height due to potential dust impacts. However, since that date the applicant has installed a washing plant and the purpose of the application site would be to store the washed materials. This should mean that the stored aggregate materials would contain much less fine material than unprocessed waste as it would have been removed by the washing process. The washed material would therefore be less likely to give rise to wind-blown dust issues. This would especially be the case when the washed aggregate is of a certain minimum size. There would be no processing on the application site and this could be the subject of a planning condition. With this in mind and to achieve a compromise with the applicant, it is considered a condition could be imposed requiring that the stockpiles on the site be restricted to a height of 7 metres providing that such stockpiles consist of washed aggregate materials with a minimum size of 10mm.

The site is bounded to the south by a bund approximately 5 metres in height beyond which is the railway line. Although no response has been received from Network Rail it is considered that a condition should be imposed requiring details for the containment of stockpiles to be submitted in order to prevent materials from falling down the outside of the bund towards the railway.

In relation to noise, the applicant has advised that no processes would be carried out at the application site other than the loading of clean materials prior to being exported from the site for use elsewhere. A noise assessment submitted with the application concludes that the likely noise from the new facility would be sufficiently below the existing background and ambient noise levels so as to not noticeably increase the current noise levels. To ensure that the development would not have any noise impacts on the amenities of the nearest residential properties on Stopgate Lane and Sidings Lane, a number of conditions are proposed: that the site shall only be used for storage purposes, any operations at the site should be restricted to the hours of working at the existing City Centre Commercials site; all plant, equipment and machinery should be effectively silenced and sound proofed; and there should be a limit on noise emitted from the development when measured or calculated at the boundary of any nearby residential dwelling.

Policy WM4 of the Lancashire Minerals and Waste Local Plan supports aggregate recycling facilities on the industrial estates named in the policy subject to such facilities being housed with a building. The proposed facility would be in the open air and not in a building. While it is accepted that the proposal would not truly accord with the requirements of Policy WM4, it is considered that the visual, noise and dust impacts could be controlled to acceptable levels such that they would not be detrimental to the amenity of the surrounding area. It is therefore considered acceptable for the storage of the aggregates not to be enclosed within a building.

There are also concerns from local residents that there would be extra traffic on the surrounding road network. In relation to highways impacts, vehicular access to the site is via the internal road that runs through the Simonswood Industrial Estate from Stopgate Lane to the north of the site. No details have been provided as to whether the proposal would result in an overall increase in vehicle numbers to and from the City Centre Commercials site. However, it must be recognised that the site has a historic use as a container storage facility that would have generated HGV traffic. LCC Highways Development Control have no objection and are satisfied that the development should have a negligible impact on highway safety and capacity in the immediate vicinity of the site. A condition should be included to require that all vehicles transporting materials from the site shall be securely sheeted.

The objections from local residents relating to highway impacts refer to the non-compliance with the Traffic Regulation Order to restrict vehicles to 7.5 tonnes in weight along part of Stopgate Lane. However, this is a matter for the police to enforce. An advice note should be included that a 7.5 tonne weight restriction applies to all vehicles (except for access and buses) that may approach the site from the west on Shevington's Lane and from the east on Stopgate Lane. The condition of the current access to the Simonswood Industrial Estate from Stopgate Lane site is poor and pitted with potholes. However, the access is not in the applicant's ownership,

and hence a condition cannot require that the applicant undertake remedial works to resurface the current access to the industrial estate.

Subject to the imposition of conditions, as recommended above, it is considered that the development accords with the requirements of the NPPF, Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy, and Policies NPPF 1, DM1, DM2 and WM1 of Joint Lancashire Minerals and Waste Local Plan, and Policy GN3 of the West Lancashire Local Plan DPD.

A note should also be attached to any permission in relation to the comments from the Environment Agency that the site operator will need to apply for either a new Environmental Permit, or a variation of the existing Environmental Permit

In view of the nature, location and purpose of the proposal it is considered that no Convention Rights as set out in the Human Rights Act would be affected.

Recommendation

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

Working Programme

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

a) The Planning Application received by the County Planning Authority on 07 January 2020.

b) Submitted plans received by the County Planning Authority on 07 January 2020:

Drawing No. P270.1_200 - Site Location Plan

Drawing No. P270.1_201 - Existing Site Plan

Drawing No. P270.1_202 - Existing Site Section

Drawing No. P270.1_203 - Proposed Site Plan

Drawing No. P270.1_204 - Proposed Site Section

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 CS7, CS8 and CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policies NPPF 1, DM1, DM2, WM1, WM2 and WM4 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies -Part One, and Policies GN3 and EC1 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Site Operations

3. The site shall only be used for the storage of recycled aggregate materials. No processing activities including the crushing and screening of waste materials shall take place on the site.

Reason: in the interests of local amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

4. A copy of this permission and all the documents referred to in condition 2 shall be available for inspection at the site office at all times throughout the development.

Reason: For the avoidance of doubt and to ensure all site operatives are aware of the planning conditions and approved documents and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

5. Stockpiles at the site shall not exceed 7 metres in height. Any stockpile exceeding 5.5 metres in height shall consist only of single sized washed aggregate with a minimum size in any dimension of not less than 10mm.

Reason: To safeguard the visual amenity and the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

6. No development shall commence until details for the containment of the stockpiles on the southern side of the site have been submitted to and approved in writing by the County Planning Authority. The means of containment shall be sufficient to prevent any aggregate materials from falling towards the adjacent railway line.

The approved measures shall be implemented prior to any stockpiling activities commencing and shall be retained in position throughout the duration of activities on site.

Reason: To safeguard the visual amenity and the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Hours of Working

7. The site shall only be open for the receipt or removal of processed/ recycled aggregate materials during the hours of:-

0730 to 1800 hours, Mondays to Fridays
0730 to 1200 hours, Saturdays

This condition shall not however operate so as to prevent the carrying out outside these hours of essential repairs to plant and equipment used on the site.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Highway Matters

8. All vehicles transporting aggregate materials from the site 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 Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Control of Noise

9. All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

10. Noise emitted from the development shall not exceed 55dB(A)LAeq, 15min, as measured or calculated at the boundary of any nearby residential dwelling.

The measurements shall be undertaken in accordance with the methodology described in BS4142:2014.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with 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 GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Dust

11. Measures shall be taken at all times during the development to ensure that no dust or wind-blown material from the site is carried on to adjacent property.

Reason: To safeguard the amenity of the local area and to conform with Policy CS9 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, and Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Notes

The Environment Agency has advised that if the storage of aggregates relates to storage of 'waste' aggregate then a new permit (under the Environmental Permitting Regulations 2016) will be required, or consideration given to permit variation, as an extension to the adjacent existing transfer station (Environmental Permit EPR/CP3491EX/EAWML 54307) could apply. Further guidance on making changes to an environmental permit is available at <https://www.gov.uk/guidance/change-transfer-or-cancel-your-environmental-permit>.

If the storage of aggregates relates to product "in accordance with the WRAP Quality Protocol, end of waste criteria for the production of aggregates from inert waste", the storage is unlikely to fall under the definition of waste and therefore the need for the requirement of an environmental permit. Further guidance is available at <https://www.gov.uk/government/publications/quality-protocol-production-of-aggregatesfrom-inert-waste>.

The applicant's attention is drawn to the 7.5 tonne weight restriction that applies to all vehicles (except for access and buses) on Shevington's Lane and Stopgate Lane.

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

None

Reason for Inclusion in Part II, if appropriate

N/A