

Development Control Committee

Meeting to be held on 8 June 2022

Electoral Division affected: West Lancashire West
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West Lancashire Borough: application number LCC/2022/0013
Variation of conditions 2 and 5 of permission LCC/2021/0045 to allow Saturday working at the waste recycling yard on land off Southport Road, Scarisbrick.

Contact for further information:

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Executive Summary

Application - Variation of condition 2 and 5 of permission LCC/2021/0045 to allow Saturday working at the waste recycling yard on land off Southport Road, Scarisbrick.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling working programme, site operations, highway matters and drainage.

Applicant's Proposal

Planning permission is sought to amend condition 2 and 5 of permission LCC/2021/0045 to allow Saturday working at the existing waste recycling yard.

Condition 2 is currently worded as follows:

No delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall take place outside the hours of:

0830 to 1730 hours, Mondays to Fridays (except Public Holidays)

No delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall take place at any time on Saturdays, Sundays or Public Holidays.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Condition 5 is currently worded as follows:

No more than 10 skip/container carrying vehicles shall enter, or leave the site per day, Monday to Friday.

Reason: To reduce the potential conflict within the site between the different uses and to maintain optimum operational conditions for the various uses and to conform to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

The applicant wishes to amend condition 2 so waste management activity can formally continue to take place on Saturdays between the hours of 0800 and 1600. Condition 5 would be amended to allow waste to be imported to the site on Saturdays.

Description and Location of Site

The application site covers an area of approximately 0.15 hectares and sits within an established storage site and haulage yard located in Scarisbrick, West Lancashire. The site is currently being used for small scale waste management activities and includes skip and container storage areas. The wider site is still used for vehicle storage and includes a large building, which is not included in the application area. The surrounding area includes a mix of agricultural land and housing. An isolated property is located to the northwest of the site and a row of houses is located to the east of the site along Southport Road, from where the site is accessed. The site is bounded by shrubs, bushes and perimeter fencing at the north, west and south and a security gate and garages/sheds to the rear of Southport Road at the east. The nearest residential properties are located some 40m to the east of the site and approximately 70m to the northwest. Although a previously developed site, it is located within the Green Belt.

Background

The site has historically been used as a storage area, haulage yard and car parking area. On 2 March 2022 planning permission was granted for a retrospective change of use of part of the haulage yard to use for waste recycling (ref. LCC/2021/0045).

Planning Policy

National Planning Policy Framework

National Planning Policy Framework Planning Practice Guidance

Waste Management Plan for England (December 2013)

National Planning Policy for Waste (October 2014)

Our Waste, Our Resources: A Strategy for England (December 2018)

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD

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

Policy NPPF1 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

West Lancashire Local Plan

Policy SP1 A Sustainable Development Framework for West Lancashire
Policy GN3 Criteria for Sustainable Development

Consultations

West Lancashire Borough Council – No objection subject to a planning condition limiting the operations on Saturdays between the hours of 08:00 and 13:00 only.

Scarisbrick Parish Council – Object. The retrospective planning permission already granted for this yard was granted despite objections from West Lancashire Borough Council's Environmental Health Department regarding noise levels. However, a condition of the permission granted was that the yard would not be operated on Saturdays/Sundays or Bank Holidays to protect residential amenities. There have been resident complaints that the yard is affecting their amenities. However, the applicant has now applied for permission for Saturday working at the yard which will increase the impact on the amenities of residents.

Environment Agency – No objection to the proposed variation of Conditions 2 and 5 but note that the development requires an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12.

LCC Highways Development Control – No comments received.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Three representations have been received objecting to the application for the following summarised reasons:

- Noise for machinery on site and the tipping of waste on the yard floor, and from traffic.
- Smells and litter from waste activity.
- Close to residential properties.
- Vehicles blocking the road and residential areas.
- The skip business should be on an industrial estate.
- Application does not conform to the Joint Lancashire Minerals and Waste local plan.
- Site is already working 7 days a week. Approval would condone retrospective applications.

- Increase in vermin.

One representation highlighted that the application site address as set out on the application form should not be 410 Southport Road as this is incorrect. This matter has now been resolved and the reference to 410 Southport Road has been removed.

Advice

The general acceptability of waste management activities at the site was established through the determination of planning application LCC/2021/0045 subject to conditions. The site operator's agent had advised that restricting hours of working to Monday to Friday was acceptable to the applicant and this was seen as a means of minimising potential impacts on neighbouring residents. However, the site operator has advised that this was not the case and they have always worked on Saturdays. They now wish to regularise this situation.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework sets out the Government's planning policies and is a material consideration in planning decisions.

The National Planning Policy for Waste refers to the Waste Management Plan for England in which the Government supports efficient energy recovery from residual waste to deliver environmental benefits, reduce carbon impact and provide economic opportunities. The National Planning Policy for Waste sets out the national planning policies for waste development and should be read in conjunction with the National Planning Policy Framework. It sets out the Government's continuing ambition to work towards a more sustainable and efficient approach to resource use and management including by driving waste up the hierarchy and minimising waste. This includes helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment and recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal.

Paragraph 185 of the National Planning Policy Framework states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. New development should mitigate and reduce to a minimum the potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Policy 188 of the National Planning Policy Framework states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities. The Environment Agency has raised no objection to the proposed development but has stated that the

development will require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12. The applicant and Environment Agency have been reviewing the permitting requirements as part of ongoing activities at the site.

Policy SP1 of the West Lancashire Local Plan refers to a sustainable development framework for West Lancashire. It advises that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan supports development for minerals or 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 should be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts could be controlled in accordance with current best practice and recognised standards.

The applicant previously submitted a noise assessment to support planning application LCC/2021/0045 to seek to demonstrate that noise levels are and can be controlled to acceptable levels at the nearest sensitive receptors and therefore it was considered unreasonable to refuse permission on this basis. The original assessment included noise calculations during the week and on Saturdays given the assessor's assumption that there would be Saturday morning working.

It is common for business uses to wish to work over the weekend and on large industrial estates there are often no controls on hours of working. However, on more restricted sites it is more often accepted that weekend working be restricted to Saturday mornings to seek to ensure that local amenity is not unduly compromised by intermittent disturbance. On this basis it is recommended that condition 2 be amended to allow Saturday morning working from 0830 to 1300 hours as opposed to the applicant's request from 0800 to 1600 hours. A similar view is shared by West Lancashire Borough Council. It is also recommended that condition 5 be amended to allow up to 6 vehicles to enter or leave the site on Saturday mornings. It is considered that these relaxed controls compared to those attached to permission LCC/2021/0045 would still provide sufficient protection for neighbouring residents while also appreciating business aspirations at a site that has a history of employment use.

Human Rights

The Human Rights Act 1998 requires the County Council to take into account the rights of the public under the European Convention on Human Rights and not to act in a manner incompatible with those rights. Article 1 of Protocol 1 states that an individual's peaceful enjoyment of their property shall not be interfered with except as is necessary, in accordance with the law and as is proportionate.

This application was it to be approved would be unlikely to generate a degree of impact on neighbouring properties, which would breach these rights. However, it is considered that any potential impacts could be controlled by conditions or through an Environmental Permit should one be granted.

Further scrutiny would be required through an application for an Environmental Permit and should a permit be refused waste management activities as currently undertaken would have to cease. The proposal is considered to be acceptable in terms of the policies of the National Planning Policy Framework and the policies of the Development Plan.

Recommendation

That planning permission be Granted subject to the following conditions:

Working Programme

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

Submitted Plans:

Location plan dated 21/12/2021

Drawing no ML/DB/6121 dated 21/12/2021

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 policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Site Operations

2. No delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall take place outside the hours of:

0830 to 1730 hours, Mondays to Fridays (except Public Holidays)

0830 to 1300 hours on Saturdays (except Public Holidays)

No delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall take place at any time on Sundays or Public Holidays.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

3. Depositing, sorting, segregation, processing and loading of waste shall only be undertaken within skips or containers with the exception of inert soil, bricks and aggregates.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users, and the local environment and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

4. No soil, hardcore or aggregate stockpiles shall exceed 3 metres in height.

Reason: To safeguard the visual and residential amenity of adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

5. No more than 10 skip/container carrying vehicles shall enter, or leave the site per day, Monday to Friday. No more than 6 skip/container carrying vehicles shall enter or leave the site on Saturdays.

Reason: To reduce the potential conflict within the site between the different uses, to maintain optimum operational conditions for the various uses and to protect the amenity of local residents and to conform to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

6. All vehicles transporting waste materials or recycled waste products into the site or from the site shall be securely sheeted or contained.

Reason: In the interest of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

7. Measures shall be taken during the duration of the development to minimise the deposit of mud, dust or other deleterious material on the public highway by vehicles leaving the site.

Reason: In the interest of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

8. Provision shall be made for the collection, treatment and disposal of all water entering or arising on the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

Reason: To safeguard local watercourses and drainage and avoid the pollution of any watercourses or groundwater resource or adjacent land, and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

9. All foul water drainage shall be discharged to a public sewer or else to a sealed watertight tank.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Notes

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

Recommendation

That planning permission be **granted** subject to conditions controlling working programme, site operations, highway matters and drainage.

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

Paper	Date	Contact/Directorate/Ext
LCC/2022/0013	May 2022	R Hope Planning and Environment 01772 534159

Reason for Inclusion in Part II, if appropriate

Not applicable.