

Development Control Committee
Meeting to be held on 15 January 2025

Electoral Division affected:
West Lancashire East

West Lancashire Borough: LCC/2024/0035

Retrospective Application for the change of use of land to site for processing of inert waste to produce recycled aggregates. Former Haulage Yard, Simonswood Industrial Park, Stopgate Lane, Simonswood

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Brief Summary

Application - Retrospective Application for the change of use of land to site for the processing of inert waste to produce recycled aggregates. Former Haulage Yard, Simonswood Industrial Park, Stopgate Lane, Simonswood.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling approved documents, noise and dust controls, stockpiles and highway matters.

Applicant's Proposal

The application is for a change of use of land from a haulage yard to a site for the processing and recycling of inert waste. The site is already being used for this purpose and the application is therefore retrospective.

The applicant receives demolition rubble such as brick and concrete. These materials are crushed and screened to produce recycled aggregate materials. The site currently processes around 150 tonnes per week (up to 7500 tonnes per year). There is also a portacabin unit on the site used for business administration purposes. The site is also used as an operating centre for five heavy goods vehicles used for collecting inert waste materials and delivering processed product.

Description and Location of Site

The site is located on the Simonswood Industrial Estate approximately 1 km east of Kirkby in Knowsley Borough. The site measures approximately 70 metres by 60 metres and is directly adjacent to the main access road running through the



industrial estate. This access road serves a number of other timber storage, waste management and storage/haulage businesses on adjacent parts of the industrial estate and has a junction with Stopgate Lane approximately 400 metres north west of the application site.

The nearest residential properties to the application site are located on Sidings Lane 480 metres to the north east.

History

The application site was previously used as a haulage/container storage site. Adjacent units on the industrial estate benefit from a number of planning permissions for waste management operations.

A retrospective planning application relating to these activities was previously submitted in 2023 (ref LCC/2023/0022). This application was considered by the Development Control Committee at the meeting on 18 October 2023 when the application was refused.

Subsequently an enforcement notice was served in July 2024 requiring the removal of plant and stockpiles by 29 September 2024. The notice was subject to an appeal on ground g) in relation to the compliance timescales. The appeal decision was received on 4 December 2024 where the Inspector has determined to uphold the notice subject to the compliance period in the notice being extended until 4 April 2025.

Planning Policy

National Planning Policy Framework (December 2024 edition)

The following paragraphs are considered to be particularly relevant: 8–11 (achieving and definition of sustainable development), 57 (planning conditions), 116 (highway considerations), 135 (design), 198 and 201 (pollution impacts) and 223 (maintaining supply of aggregate materials).

West Lancashire Local Plan

Policy SP1 – A sustainable development framework for West Lancashire

Policy GN3 – Criteria for sustainable development

Policy EC1 – The economy and employment land

Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document (JLMWDF) and Minerals and Waste Local Plan.

The plan period for both of these documents ran from 2006 until the end of 2021. As both plans are time expired, the policies in these documents may not carry full weight depending upon the topic and wording of each policy. Further comment on the weight to be attached to these policies is provided in the advice section of this report.



Core Strategy policies

- Policy CS3 – Meeting the demand for new minerals
- 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 (JLMWLP) policies

- Policy DM1 – Management of waste and extraction of minerals
- Policy DM2 – Development management
- Policy WM3 – Local Built waste management facilities
- Policy WM4 – Inert waste recycling

Consultations

West Lancashire Borough Council: No observations received.

Knowsley Council: The Council note that the application is an almost identical proposal to that refused in October 2023. The current proposal still does not propose to process waste within a building and therefore the proposal remains contrary to Policy DM4 of the Lancashire Minerals and Waste Local Plan. Knowsley Council also raise the following issues:

- Policy EC1 of the West Lancashire Local Plan allocated the Simonswood Industrial Estate for B1, B2 and B8 uses. The application proposes sui generis use which therefore does not accord with policy EC1.
- Policy WM1 and WM2 of the Lancashire Minerals and Waste Local Plan identifies waste capacity requirements and allocations over the local plan period. Knowsley Council consider that the waste capacity allocation for West Lancashire and the Simonswood Industrial Estate has already been considerably exceeded.
- The applicant has not demonstrated a need for the site as required by the National Planning Policy for Waste.
- Knowsley Council consider that the waste operators on the industrial estate are not conforming to their planning permissions or permits which is leading to environmental impacts on residents within Knowsley Council.
- Whilst the applicant states they will employ mitigation measures to address dust impact, but this has not been the case to date and there is no assurance that this would be the case in future.
- The development would lead to additional heavy goods vehicles which would cause harm to amenity of residents by reason of dust and noise contrary to policy DM2 of the Lancashire Minerals and Waste Local Plan.
- The site has been the subject of enforcement action following the previous refusal of planning permission. By once again refusing permission and taking enforcement action against this use, the County Council would be able to make a meaningful contribution towards addressing local environmental harms.

Simonswood Parish Council: No objection. The Parish Council says that their comments on the previous application still stand and that their main concern is that the Traffic Management Plan lacks detail and is ambiguous and misleading.



Lead Local Flood Authority: No observations received.

Environment Agency: No objection. The site is regulated by an environmental permit issued by the Environment Agency on 2/10/2020. . The Environment Agency state that they have carried out 12 months of air quality monitoring in this area due to concerns from local residents that dust is escaping from sites which treat inert waste. However, as a result of the monitoring the Environment Agency have not been able to substantiate any dust impacts in relation to this site. The Environment Agency state that they have monitored the application site twice in the last 12 months. On the first visit a minor non-compliance with the permit was noted which had been rectified by the second visit.

Lancashire County Council Highways Development Control: No objection – the proposal will have a negligible impact on highway safety and capacity in the vicinity of the site.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Two representations have been received raising the following issues:-

- The operator's heavy goods vehicles are constantly using the weight restricted area of Stopgate Lane and that traffic from the site leads to tracking out of mud and other debris onto the public highway.
- Operations on the site are getting closer to residential properties and as a result noise and dust pollution is impacting on local residents.
- The Simonswood Industrial Estate is unregulated.
- The application site has been the subject of previous enforcement notice. The applicant should not be able to make a planning application to continue operations.
- The applicant says that five heavy goods vehicles are involved in the operation. It is not clear if this figure includes any other contractors' vehicles.
- The applicant regularly breaches working hours and the local traffic regulation order.

County Councillor Rob Bailey has requested that this application comes before the Development Control Committee.

Advice

The operation subject to this application commenced on this site in 2021. Prior to this the site was used as a haulage and shipping container storage yard. The current operations already benefit from an Environmental Permit from the Environment Agency. However, no planning application was ever made to change the use of the site before the waste recycling operations commenced. Section 73 A of the Town and Country Planning Act 1990 specifically provides a facility for the submission of retrospective planning applications to regularise development that has already been carried out.



A planning application to regularise the waste processing activities on this site was previously made in 2023. This application was considered at the meeting of the Development Control Committee on 18 October 2023 when the committee resolved to refuse planning permission for the following reason:

The proposed development is not enclosed within a building as required by policy WM4 of the Lancashire Minerals and Waste Local Plan – Development Management and Site Allocations Policies. Without enclosure within a building the development would have unacceptable impacts on the local environment by way of noise and dust contrary to Policy DM2 of the Lancashire Minerals and Waste Local Plan – Development Management and Site Allocations Policies.

Following refusal of the application, an enforcement notice was served in July 2024. The notice required that the importation and processing of materials cease within one day of the notice coming into effect with all stockpiles of waste and processed materials being removed within a further two month period. An appeal against the notice was made originally on the basis that planning permission should be granted for the development subject to the notice. However, the appeal on that ground was not accepted by the Planning Inspectorate as the notice was served less than two years following the date when the original planning application was determined. An appeal relating to the compliance timescales in the notice was accepted and the Inspector has decided that the timescale for clearance of the site should be extended to 4 April 2025 which would give time for the current planning application to be determined.

The applicant still wishes to operate from the site and has made the current further retrospective application. To address the issues that were raised in the reason for refusal of the previous application, the applicant has submitted a noise impact assessment, dust plan and travel management plan.

The applicant operates a fleet of five grab/tipper heavy goods vehicles that are used to collect waste arising from utilities and demolition works including brick, concrete and other inert wastes. These are crushed and screened to produce a range of recycled aggregate materials that can be used in other construction works. The operation processes approximately 7500 tonnes per year which equates to approximately 30 tonnes per day. The applicant states that the crushing plant is operated around twice per week for two hours at a time which is sufficient to process the volumes of material generated by the business.

The main issues relate to the appropriateness of the use on this site in relation to the policies of the development plan and the local environmental impacts including noise, dust and traffic.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the policies of the development plan unless material considerations indicate otherwise. For the purposes of this planning application, the development plan is comprised of the West Lancashire Local Plan, the Lancashire Minerals and Waste Core Strategy and the Lancashire Minerals and Waste Plan – Site Allocation and Development Management Policies Development Plan Documents.



Paragraph 11 of the National Planning Policy Framework establishes a presumption in favour of sustainable development. For decision taking this means that:

- Proposals that accord with an up to date development plan should be approved without delay or
- Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, planning permission should be granted unless:
 - a) The application of policies in the National Planning Policy Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
 - b) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole.

The National Policy for Waste requires that applicants should only be expected to demonstrate a need for new waste management facilities where proposals are not consistent with an up to date local plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

The Simonswood Industrial Estate is allocated as an employment site for B1, B2 and B8 uses in Policy EC1 of the West Lancashire Local Plan. Waste recycling uses would normally be considered to fall within a B2 Use Class and the business employs eight full time staff (drivers and plant operatives). Therefore, the proposal is considered to be an employment use and complies with policy EC1 of the local plan.

The Lancashire Minerals and Waste Core Strategy and Local Plan contains policies relating to the provision and location of waste management infrastructure. Policy WM1 sets out the overall quantum of waste management capacity that will be provided for waste in Lancashire, including construction, demolition and excavation waste between 2006 and 2020. The predicted overall capacity requirements are then distributed between Policy WM2 dealing with strategic sites and policy WM3 dealing with local waste management facilities. Policy WM3 states that *'development involving local waste management facilities, of a capacity of around 50,000 tonnes per year, for the recycling, transfer and materials recovery (excluding thermal treatment) will be supported at the strategic locations identified in Policy WM2 and at a number of other industrial estates listed in the policy'*. Policy WM2 lists the Simonswood Industrial Estate as an appropriate site for waste development in West Lancashire.

At the outset, it should be noted that Policy WM3 concerns facilities of a capacity around 50,000 tonnes per year. This proposal would have a throughput of only 7,500 tonnes per year, significantly below the threshold in the policy. In addition, the plan period of the Lancashire Minerals and Waste Core Strategy and Local Plan ran until the end of 2021. Some of the policies in this plan such as WM2 and WM3 deal with the amount of waste management capacity to be provided over the plan period. As the plan period has now finished, it is considered that less weight should now be attached to policy WM3, particularly the aspects that deal with the volumes of waste to be managed in different areas of Lancashire over the plan period. Knowsley



Council have objected to the application on the basis of conflict with Policy WM2 and WM3. However, for the reasons discussed above it is considered that these aspects of the policies now carry less weight and therefore cannot amount to a reason for refusal of the application. Knowsley Council also consider that Policy EC1 does not support the proposed use as it would be sui generis use rather than a B1, B2 or B8 use. However, waste recycling uses are generally considered to fall within Use Class B2 so would therefore be appropriate on the sites allocated under Policy EC1.

In terms of paragraph 11 of the National Planning Policy Framework, it is considered:

- that the proposal is consistent with Policy EC1 of the West Lancashire Local Plan.
- Due to the issues discussed above it is concluded that limited weight should be applied to Policy WM3 of the Lancashire Minerals and Waste Plan particularly those aspects of the policy that relate to the volumes of waste capacity that should be approved over the plan period.

The judgement has to be made in terms of the development plan as a whole. Given the issues surrounding Policy WM3, it is considered that Policy EC1 takes precedence as it is within an up to date local plan.

The recycling activities on this site are removing the need to dispose of these wastes to landfill. Paragraph 223 of the National Planning Policy Framework also states that planning policies should take account of the contribution that recycled materials can make to the supply of construction materials before considering extraction of primary materials. To meet these objectives, the recycling of inert wastes should be maximised.

General Environmental Issues

The application site is located on a large scale industrial estate and the site is surrounded by other larger industrial uses including waste management operations. The development has been operational for a number of years which allows an appreciation of the local environmental impacts including on the nearest residential properties on Sidings Lane/Stopgate Lane.

Policy DM2 of the Lancashire Minerals and Waste Local Plan states that proposals for waste management development will be supported where it can be demonstrated that all environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels.

The following local environmental issues are raised by the proposal:

Traffic: The scale of the development is limited with a throughput of only 7500 tonnes per year which equates to approximately 30 tonnes per day. The impacts of the development in terms of heavy goods vehicle numbers and other environmental impacts therefore need to be seen in that context. The applicant has stated that the five heavy goods vehicles based at the site commonly leave the site at the start of the working day and do not return until late afternoon. Trips back to the site during the day are only made if the vehicles have a load of brick/concrete that is suitable for recycling. Loads of soils are taken elsewhere for disposal or reuse. Activities



elsewhere on the Simonswood Industrial Estate will generate a much larger number of heavy goods vehicle movements and the traffic impacts of this proposal therefore need to be seen in that context. It should be noted that Lancashire County Council Highways raise no objection to the proposal.

Two representations have been received which refer to issues about heavy goods vehicle traffic using roads subject to traffic regulation orders. To support the application, the applicant has submitted a copy of the traffic management policy which he employs. This includes a plan showing the roads in the area which are subject to Traffic Regulation Orders (TRO's) and those which heavy goods vehicles can legitimately use. The applicant states that a copy of this plan is displayed in their site office and that all of his vehicles have a copy in the cab. The resident may be correct in witnessing the applicant's vehicles travelling in the Traffic Regulation Order (TRO) area on Stopgate Lane. However, there is an existing soil recycling business located within the restricted area and the applicant states that it is usual for his vehicles to visit that site particularly when they have picked up loads of waste soil. Such movements would not be in breach of the Traffic Regulation Order (TRO) as they are accessing an existing business. Heavy goods vehicles would only breach the Traffic Regulation Order (TRO) if they travelled all the way through the restricted area to reach the A570/A506.

However, it is acknowledged that there are persistent problems with heavy goods vehicles illegally using Stopgate Lane and Sinacre Lane. Whilst this is a matter for the police to enforce, it is considered that a condition can be attached to any planning permission requiring all hauliers visiting the site to be issued with instructions regarding the approved routes and for the implementation of a disciplinary system should hauliers be noted breaching the Traffic Regulation Order. This is Condition no. 8.

There are issues on the Simonswood Industrial Estate concerning dirt and debris being tracked out of individual sites onto the common estate access road and then onto Stopgate Lane. This is partly due to the condition of the common estate access road. In particular, the part of the road near the entrance to the application site is in very poor condition with multiple potholes and broken surfacing. The repair of this area is the subject of a clause within a Section 106 agreement which will be attached to the planning permission for the proposed medical waste treatment plant that was determined by the Development Control Committee in 2023. If this permission is implemented and the repairs undertaken this should make a significant difference to the condition of this road and help to prevent the tracking out of mud and debris onto the public highway.

At present only part of the application site is hard surfaced. The applicant has said that he wishes to concrete the whole site should planning permission be granted and being able to purchase the land (at present he only holds a lease). Concreting the whole site would be of benefit. However, given the small scale of the site and limited potential for significant dust generation, particularly with mitigation, it is considered that a condition requiring such surfacing could not be justified. However, a condition can be attached to any permission requiring general measures to be taken to ensure appropriate levels of wheel cleaning. This is Condition no.4.



Local amenity impacts: To accompany the application, the applicant commissioned an acoustics company to undertake a noise assessment. The assessment was undertaken by recording background noise levels at five noise sensitive properties in the local area. Recordings were then made of the sound levels of plant and equipment used on the site to establish the likely noise impacts at the nearest noise sensitive properties. The findings of the noise assessment are that the noise levels at the two closest properties to the north of the site would be increased by up to 2dB(A). Such a magnitude of increase would have a low likelihood of adverse impact.

The application site is located nearly 500 metres from the nearest residential properties including those on Sidings Lane. There are a number of large industrial buildings located in the intervening space to the properties to the north of the site which will reduce the potential noise impacts. The operator has also explained that crushing and screening activities are limited to twice per week each of two hours duration. This is sufficient to process the throughput of the site. The site is small in area, and it is considered that this level of throughput could not be increased significantly. This means that the noise impacts for most of the operational period would generally be lower than those worst case noise levels considered by the noise assessment. The site is already subject to an Environment Agency permit which contains controls regarding to noise mitigation. There should be no reason to duplicate such controls through a planning permission.

In terms of dust, the applicant has submitted a dust management plan. This management plan was prepared to accompany the applicant's permit application to the Environment Agency but provides a basis for considering the types of mitigation that would be employed and the likelihood of significant dust impacts. The applicant states that he has a bowser on site which is employed to dampen the yard area during dry weather conditions. The crushing plant also has dust suppression fitted to the hopper so that water can be applied to the waste materials as they enter the processing plant. It is considered that these mitigation measures, as applied through the Environment Agency permit, would be sufficient to control dust to acceptable levels.

The previous planning application on this site was refused due to the operations not being contained within a building in conflict with the requirement within Policy WM4 of the Lancashire Minerals and Waste Local Plan. Although this policy is within a time expired plan, it is considered that this policy should still carry weight as it is considered to accord with national policy. However, the application site is small scale and is located at some distance from the nearest properties where the noise and dust impacts would not be significant even with the processing plant operating in the open air. For these reasons it is considered that it would not be reasonable to require these operations to be enclosed within a building.

Subject to conditions relating to hours of operation, noise levels and the fitting of low noise reversing alarms to mobile plant, (nos. 2 and 6) the proposal is considered to be acceptable in terms of noise impacts and complies with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

In conclusion, this development is meeting an existing need for inert waste recycling capacity, thereby moving the management of wastes up the waste hierarchy and



reducing the need to use quarried aggregates. The proposal therefore meets objectives in Government policy relating to waste management and supply of construction materials.

The proposal is on an existing industrial estate which is already used by other waste management operations and its use for this purpose is supported by Policy EC1 of the Borough Local Plan. The operation is small scale and subject to suitable planning conditions, it is considered that the local environmental impacts of the development are acceptable in relation to Policy DM2 of the Lancashire Minerals and Waste Local Plan.

In view of the location, scale and design of the proposal it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be granted subject to the following conditions:-

1. 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 and supporting statement received by the County Planning Authority on 4th November 2024

b) Submitted Plans and documents dated 4th November 2024

Location Plan
Travel Management Plan
Dust Plan

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 policy DM2 of the Lancashire Minerals and Waste Local Plan and policy GN3 of the West Lancashire Local Plan.

2. No waste recycling operations including the importation to or export of materials from the site shall take place outside the hours of:

07.00 to 18.00 hours, Mondays to Fridays (including Public Holidays)
07.30 to 13.00 hours on Saturdays

No waste recycling operations including the importation to or export of materials from the shall take place at any time on Sundays or Public Holidays.

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



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

3. Notwithstanding the hours of operation in Condition 2 above, the operation of crushing and screening equipment shall not take place other than between the hours of 07.30-18.00 Mondays to Fridays.

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

4. All vehicles transporting recycled aggregates or soils from the site shall be securely sheeted.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

5. Measures shall be taken at all times to prevent the transfer of mud, dust and other deleterious materials onto the industrial estate internal access road by heavy goods vehicles leaving the site. Such measures shall include the cleaning of vehicle wheels when leaving the site and the maintenance of surfaced areas of the site in a drained condition, free of mud and dust.

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

6. All stockpiles of recycled materials shall be located within storage bays which shall be designed and maintained to contain all such materials within the site boundaries. No stockpile of waste or recycled material shall exceed a height of five metres when measured from ground level.

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

7. All mobile plant used on the site shall be fitted with and use white noise or low noise reversing alarms. No reversing beepers shall be used.

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

8. Measures shall be taken at all times to minimise the generation of dust. Such measures shall include the fitting of dust suppression equipment on crushing and screening plant and the watering of stockpiles and vehicle circulation areas.

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



9. Within two months of the date of this planning permission, a scheme of traffic management measures shall be submitted to the County Planning Authority for approval in writing. The scheme shall contain details of the following:
- a) The measures that the site operator will take to inform all hauliers of the roads that shall be used to access and egress the site taking account of the traffic regulation orders that operate on Shevingtons Lane, Headbolt Lane and Stopgate/Sinacre Lane.
 - b) The measures that the site operator will take to reinforce compliance with the traffic regulation orders in the event that hauliers are observed breaching the Traffic Regulation Orders on the roads listed in a) above.

Thereafter, the provisions of the approved scheme shall be complied with at all times for the duration of the development.

Reason: In the interests of highway safety and the amenity of local residents and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

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

Paper	Date	Contact/Tel
LCC/2024/0035	January 2025	Jonathan Haine, Environment and Planning, 01772 534130

Reason for inclusion in Part II, if appropriate

N/A

