

TWC/2019/0133

Recycling House, Rock Road, Ketley, Telford, Shropshire, TF1 5HW

Variation of condition 10 (hours of operation), Condition 16 (clarification of type of waste quantity) and Condition 17 (vehicle movements) of planning permission

TWC/2017/0882 \*\*Amended Description\*\*

**APPLICANT**

Johnsons Aggregates & Recycling Ltd, Steve Johnson

**RECEIVED**

11/02/2019

**PARISH**

Ketley

**WARD**

Ketley and Overdale

**THIS APPLICATION WAS DEFERRED AT PLANNING COMMITTEE ON 25 SEPTEMBER 2019 TO ALLOW OFFICERS TO NEGOTIATE WITH THE APPLICANT IN RESPECT OF CONCERNS RELATING TO HOURS OF OPERATION AND HIGHWAY SAFETY**

**1.0 DETAILS OF CONCERNS RAISED**

1.1 This application was heard at a previous planning committee meeting on 25 September 2019, whereby it was agreed by Members that the application would be deferred to allow Officers to negotiate with the applicant. Members raised concerns in respect of the Hours of Operation and Highway Safety.

**2.0 NEIGHBOUR & STATUTORY CONSULTATIONS**

2.1 No re-consultation has taken place and no additional representations have been received since the outcome of the previous Committee.

**3.0 NEGOTIATIONS**

3.1 The applicant has indicated that they are amenable to withdrawing the request to amend the Hours of Operation Condition on the basis of agreement to the proposed increase in throughput to 200,000 TPA. The original request was to allow up to 10No. pre-loaded HGV's to leave the site between 0600 and 0700 Monday to Friday. The existing consent on this site which would remain allows site operations to commence at 0700 and 1900 on weekdays and between 0700 and 1600 on Saturdays.

**4.0 PLANNING CONSIDERATIONS**

4.1 The main planning considerations in respect of this Variation of Condition(s) Application are highway safety and the impact upon the amenities of nearby residents. As discussed in the original report, the application site has an existing unimplemented planning consent that allows the site to process IBA Waste along with relevant Condition(s) controlling the tonnage of material allowed through the site, the Hours of Operation and a Condition controlling the number of HGV movements allowed in and out of the site.

- 4.2 As a point of clarification, the increased tonnage requested is largely as a result of the weight of materials to be processed at the site and does not necessitate that there will be more waste, noting that IBA waste is a lot heavier than materials previously processed at the site such as plastic. So as an example, a HGV full of IBA Waste is likely to be considerably heavier than a HGV full of plastic material. The weight of IBA is further increased by the addition of water which dampens the materials to both cool it and to prevent dust.

### **Highway Safety**

- 4.3 Members will recall that through previous negotiations with the applicant, an amendment to Condition 17 was agreed that effectively reduces the number of HGV's allowed in and out of the site by 200 movements per week. Furthermore, the applicant remains agreeable to provide contributions towards highways maintenance in the vicinity of the site and towards a VAS system either end of the junction.
- 4.4 In addition, the Highways Officer has requested an additional condition which would prevent HGV's leaving the site around school opening and closing times. It should be noted that the applicant does not consider this condition acceptable and has stated that such a limit would be likely to cause significant operational impacts and lead to health and safety concerns with HGVs backing up within the site. Officers disagree and consider that such a limit is necessary to avoid HGV's leaving the site during these busier periods on the local highway network. However, Officers acknowledge the applicants indication that this may cause operational issues within the site and have therefore slightly amended the suggested condition to be more in line with the registration and closing times of the two nearby schools. Instead of the hour long slots previously suggested, this reduces the periods to 40-minute slots in the morning in the afternoon whereby HGV's should not exit the site.
- 4.5 The Highways Officer has raised no technical objections on grounds of highway safety subject to the proposed Condition(s) and Contributions.
- 4.6 The existing planning consents remain a material planning consideration. Within these consents there is an existing condition which allows up to 50 HGV movements in and 50 movements out per day. Officers therefore remain of the view that this application represents a significant improvement to those previous consents that should be supported in accordance with the Local Plan. In addition to reducing the number of permitted HGV's every week, this application has the additional benefits of contributions towards the installation of a VAS system and contributions towards highways maintenance. The fall-back position is for the site to re-open under the existing consent which would allow another operator to use the site without providing any of these benefits.
- 4.7 Officer's consider that there are no grounds to recommend refusal of the application on Highway Safety especially given the reduction of HGV movements proposed and the proposed contributions that would be provided.

## **Impact upon the Amenities of Residents**

- 4.8 Members raised concerns that HGV's leaving the site between 0600 and 0700 would adversely affect the amenities of nearby residents by reasons of noise and vibrations at an unreasonable hour. The applicant has agreed to remove this request should the remainder of the application be approved.
- 4.9 Officers remain satisfied that there are no other concerns relating to impact upon amenities that were not considered on the previously approved application. This includes the use of the site to process IBA Waste. Furthermore, the environmental impacts of the development are controlled through the Environment Agency Permit.

## **5.0 CONCLUSION**

- 5.1 With the applicant agreeing to remove the request to Vary the Operating Hours Condition subject to Members agreement of the revised tonnage, Officers are satisfied that concerns relating to the impact upon neighbouring amenities have been overcome.
- 5.2 Officers consider that, given the previous consent, the current application provides betterment in terms of highway safety. This includes the reduction in permitted HGV's compared to the previous consents, the contributions towards a highway safety feature and highways maintenance, and the further proposed condition to prevent HGV's leaving the site during peak school times.
- 5.3 Further benefits arising from Approval include those already permitted by members in the most recent consent. This includes internal alterations to the site and site access. Furthermore, in order to comply with Condition(s) permitting these changes and the EA permit, the existing waste materials that remain on the site will be removed and hardstanding laid.
- 5.4 Therefore, the proposal complies with the relevant Policies contained within the Telford & Wrekin Local Plan and in accordance with the NPPF should therefore be approved without delay.

## **6.0 RECOMMENDATION**

- 6.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION to Vary Condition(s) 16 and 17** subject to the following:
- A) A contribution of £40,000 towards the installation and maintenance of a VAS system. The s.106 will contain a clause that any unspent money after this has been installed and maintenance sum + indexation has been deducted, will be returned to the applicant.

A contribution of £36,000 towards carriageway resurfacing along Waterloo Road in the vicinity of the site access. Contribution to be split into 3 phased payments of £12,000, the first payment being 12-months on from commencement of operations on site with a further two payments after another 12-months and 24-months respectively.

B) The following additional Condition (with authority to finalise Conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):

1. During school term times at the adjacent Newdale and Meadows Primary Schools there shall be no HGV movements leaving the site during the hours of 0830-0910 and 14:50-1530.

\*\*\*\*\*ORIGINAL COMMITTEE REPORT\*\*\*\*\*

**KETLEY PARISH COUNCIL AND LAWLEY AND OVERDALE PARISH COUNCIL HAVE REQUESTED THAT THIS APPLICATION IS DETERMINED BY MEMBERS OF PLANNING COMMITTEE**

**FINANCIAL CONTRIBUTIONS ARE ALSO SOUGHT TOWARDS THE INSTALLATION OF VEHICLE ACTIVATED SIGNAGE (VAS) AND TOWARDS ROAD RESURFACING WITHIN THE VICINITY OF THE SITE ACCESS ON WATERLOO ROAD**

## **1.0 SUMMARY RECOMMENDATION**

- 1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION** for the Variation of Conditions 10, 16 and 17 subject to a s.106 and additional Condition(s).

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is located approximately 3kms north west of Telford Town Centre, accessed off Waterloo Road. The M54 runs along the sites southern boundary.
- 2.2 The nearest residential properties are in Sinclair Gardens to the north of the site together with a Garden Centre which is located in-between. Waterloo Road (and Rock Road as it becomes) serve several housing estates and Ketley Business Park, as well as linking to Old Park roundabout, and passing Newdale Primary School. Opposite the site is an area of land known as Hilltop Farm and is under the same ownership. A range of activities takes place on this site including skip and plant hire and sale of aggregates.

- 2.3 Wellings Limited have operated from the application site for the majority of the time since the first appeal decision in 1999. More recently, since about 2014, another operator occupied and traded plastic waste from the site and were in the process of amending the Appeal Conditions to apply to their operations. However, that company ceased trading from the site and have left their waste on site, which will need clearing away before the current applicant can operate. This position remains unchanged since the previous application was considered by planning committee in August 2018.
- 2.4 Within the site there is a small processing/workshop building, a large processing building, a two-storey office building, a weighbridge office, weighbridge, staff/visitor car park, and an area to the west at the 'top' of the site for the outside storage of waste and for vehicles to unload and manoeuvre. The site topography rises up to a higher ground level to the west of the site. There are some soil mounds/bunds around this area of the site. The interim operator, who has ceased trading and operating from the site and has left bales of unprocessed plastic waste on site, in the buildings and on the open area.
- 2.5 The site is 'white land' in the adopted Local Plan so has no particular designation. A small slither of designated 'Green Network' lies between the southern site boundary and M54. The site is also located within the 250 metre buffer of a landfill site to the east and is in a High Risk Coal Mining Area.

### **3.0 APPLICATION DETAILS**

#### **Previous Consent**

- 3.1 In October 2017 the current Applicant, Johnsons Aggregates, submitted an application (TWC/2017/0882) to vary several Conditions on the existing consent for this site (W2005/0906). The proposed changes would allow this operator to run their particular type of waste recycling business from the site by processing Incinerator Bottom Ash (IBA). As part of the proposal changes to the site layout were also proposed and included:
- Demolition of the smaller processing/workshop shed;
  - Installation of a second weighbridge and then position both weighbridges further into the site to reduce traffic congestion for waiting vehicles entering/leaving the site;
  - Creation of an area in the north and western part of the site for vehicles to unload/load waste and a waste storage and quarantine area.
- 3.2 In August 2018, the application was considered by Planning Committee with an Officer Recommendation to Support all but two of the Conditions sought for Variation. These were Condition 17 which limited the tonnage of materials allowed in to the site, and Condition 11 which restricts operating hours. Planning Committee resolved to grant the Variation of the remaining Conditions in accordance with the Officer Recommendation.

- 3.3 As a result of that decision, a new revised planning consent was created for the site which allows all the changes to the site mentioned above, including the processing type of waste (IBA) but remains limited to the amount of waste brought into the site (6,000 tonnes in any calendar month) and to the existing operation hours of between 0700 and 1900 on weekdays, and between 0700 and 1600 on Saturdays, with no working or activities at all on the site on Sundays or Public Holidays.

### **Current Application**

- 3.4 The current application has been submitted to again seek the variation of those conditions that remained un-amended previously. Due to a reordering of Condition numbers these are now Condition 10 (operating hours) and 16 (weight of waste materials). Following negotiation with the application, it has also been agreed to Vary Condition 17 of the previous consent which relates to the number of vehicle movements allowed to and from the site. The Conditions and proposed changes are listed below:

- 3.5 Vary Condition 10 - This conditions restricts operating house and currently reads as:

*'The operations hereby permitted shall only be conducted between 0700 and 1900 on weekdays, and between 0700 and 1600 on Saturdays, with no working or activities at all on the site on Sundays or Public Holidays.'*

*Reason: To protect the residential amenities of the surrounding area.'*

The applicant seeks to vary the condition in order to allow up to 10 pre-loaded HGV's that would be filled, parked and ready to go the previous day, to exit the site between the hours of 0600 and 0700 Monday to Friday inclusive. No other site operations would take place other than the drivers arriving. This is to allow the pre-loaded HGVs to leave the site to take recycled products to development sites where they are required for 0700 starts, in addition to avoiding early morning peak traffic.

In addition to the above, it is also proposed to close the site two hours earlier on a Saturday with a closing time of 1400 (instead of 1600).

- 3.6 Vary Condition 16 - This condition limits the amount of materials that can enter the site during any calendar month. The current condition reads as:

*'Not more than 6,000 tonnes of waste materials shall be brought onto the site in any calendar month. Records of the amount of waste material received at the site shall be maintained and made available for inspection by the Local Planning Authority at all reasonable times.'*

*Reason: In the interests of highway safety and the amenity of the area.'*

The Applicant seeks to Vary Condition 16 to replace the monthly limit of 6,000 tonnes per month with an annual limit of 200,000. This would be an effective

increase of 128,000 tonnes per year. This is due to the wet and dense nature of IBA that is to be recycled and is heavier than previous waste allowed into the site such as paper, plastic and general skip waste.

- 3.7 Vary Condition 17 - This condition limited the number of movements per day into and out of the site. The current conditions reads as:

*'There shall be no more than 50 heavy goods vehicle (over 7.5 tonnes gross vehicle weight) movements into the site and 50 heavy goods vehicle movements out of the site during any working day.'*

*Reason: In the interests of highway safety and the amenity of the area.'*

Negotiations with the Applicant have provided an agreement to Vary this Condition which would continue to allow up to 50 HGV movements in and out per day but limits this to a maximum of 200 in and 200 out movements per week. The current condition equates to 600 HGV movements per week whilst the amended version would reduce this to a weekly limit of 400, an overall reduction of 200 vehicle movements allowed. Averaged over the week this equates to approximately 33 in and out movements per day, however the daily limit of 50 would allow the applicant to deal with demand if required.

The application is accompanied by the following supporting documents:

- Planning Statement;
- Transport Note (plus Addendum);
- Noise Survey (noise from site);
- Noise Survey (vehicle noise);
- Additional Letter confirming agreement to Amend Condition 17.

- 3.8 The application is subject to the following contributions which have been agreed by the applicant and are to be secured through a s.106 agreement:

- £40,000 towards the installation and maintenance of a VAS system. The s.106 will contain a clause that any unspent money after this has been installed and maintenance sum + indexation has been deducted, will be returned to the applicant;
- £36,000 towards carriageway resurfacing along Waterloo Road in the vicinity of the site access. Contribution to be split into 3-phased payments of £12,000, the first payment being 12-months on from commencement of operations on site with a further two payments after another 12-months and 24-months respectively.

### **General Site Operations**

- 3.9 Johnsons Aggregates intend to use the site for the accepting and processing of Incinerator Bottom Ash (IBA). This is a non-hazardous end-product of incinerated waste. The waste is collected from the incinerator and doused with water (which produces a crust and prevents dust being generated) and then transported by lorry to the application site. Once on site, the lorries pass over the in-bound weighbridge before tipping the waste into specific outside

stockpile bays divided with concrete brick walks, where the waste is doused with water again and left to 'mature' for between 8-12 weeks. The lorries may either then leave the site empty, or they may go and collect a load of 'matured' waste from a different part of the site and take this load to its next destination, passing over the out-bound weighbridge. Stockpiles will not be allowed to exceed 5 metres in height to prevent them being visible along the north and north-eastern boundaries.

- 3.10 During maturation the waste will be tested to determine when it is ready for processing and recycling. Once the waste is ready for processing it is removed from the stockpile bay with a front-loading shovel and placed into a feed hopper located outside the main processing building, which will have a raised roof to minimise stray dust. The hopper then feeds into a covered trammel screen and then onwards into the building. Once inside the building a series of magnets will remove metals and the IBA will be screened and crushed into various sizes of finished Incinerator Bottom Ash Aggregate (IBA) products. Another front-loading shovel will take the finished products to external storage bays located on the eastern side of the site. Therefore the only plant and machinery outside the building will be the two front-loading shovels and the hopper and covered trammel.
- 3.11 To improve site operations, traffic circulation and to lessen the potential for lorry traffic to wait on the road before entering the site (as was the problem with the previous interim operator) the applicant intends to:
- Demolish the existing smaller processing/workshop shed in order to make better use of the site and to remove a narrow pinch-point and create more room for vehicles to pass;
  - Widen the site access onto Waterloo Road to allow vehicles to enter and leave the site at the same time;
  - Install a second weighbridge and relocate both weighbridges further into the site away from the site entrance to allow any queuing vehicles to come into the site off the road.

These alterations were approved on the previous application.

#### **4.0 RELEVANT HISTORY**

- 4.1 The site benefits from existing planning permission to accept and process waste and this is a significant and material consideration in the determination of this current application. The first consent (application ref: W99/0012) was allowed on Appeal in 1999 for a waste transfer station for household, commercial and industrial waste for recycling.

In November 2007 an application W2005/0906 for an 'extension of the existing recycling centre; extensions to existing building/workshop; construction of additional car parking; creation of hardstanding for storage, separating and crushing of hard core soil and materials; storage of skips; and



associated landscaping' was allowed on Appeal for the then applicant and operator Wellings Limited.

In granting consent, the Inspector imposed 33 Planning Condition(s) including those which are sought for variation. Most recently consent was granted under TWC/2017/0882 which allowed alterations to the site layout and provided a new list of conditions including the use of the site to process IBA waste. This consent has not been implemented, however it remains valid alongside the existing 2005 Consent.

### **Planning History**

- 4.2 TWC/2017/0882 - Variation of Conditions, 1 (revised site plan), Condition 9 (1 modern wheel wash), Condition 11 (operating hours), Condition 16 (clarification of type of waste) and Condition 17 (Importation limit) and Removal of conditions 31 and 32 (Mineshafts and Landscaping) (previously discharged) of planning permission - W2005/0906 - Approved subject to a new set of Conditions (except Conditions 11 and 16 which remained unchanged) 04 September 2018
- 4.3 TWC/2016/1042 - Amendment and Variation of various Conditions of existing Planning Approval W2005/0906 to allow more HGVs, longer working hours and more waste tonnage, new zoning layout of external storage areas and internal traffic flow, widening of existing entrance/exit, provision of additional weighbridge and wheel wash and installation of two balers - Withdrawn 02 October 17
- 4.4 TWC/2014/0852 - Installation of two waste balers and alterations to existing work plan - Withdrawn 03 March 2015
- 4.5 TWC/2014/0622 - Variation of Condition 11 on W2000/0228 to allow putrescible domestic refuse and mixed municipal waste (retrospective) - Withdrawn 03 October 2014
- 4.6 W2005/0906 - Extension of the recycling centre, extensions to existing building/workshop, construction of additional car parking, creation of hardstanding for storage, separating and crushing of hard-core soil and materials, storage of skips and associated landscaping - Refused 23 Jan 2007. Joint planning and Enforcement Appeal Allowed 28 November 2007
- 4.7 W2004/0933 - Extension to waste recycling facility - Withdrawn 08 December 2004
- 4.8 W2000/0228 - Erection of a waste transfer station incorporating offices, workshops, gate house, weighbridge re-fuelling area, landscaping and construction of a new vehicular access - Granted 14 August 2000
- 4.9 W99/0012 - Outline Planning (with all Matters Reserved) for Change-of-Use to Waste Transfer Station - household, commercial and industrial wastes for

recycling, excluding difficult and special waste types - Appeal against Non-Determination Allowed 21 December 1999

## **5.0 RELEVANT POLICY DOCUMENTS**

### **5.1 National Guidance:**

National Planning Policy Framework (NPPF)

### **5.2 Local Development Plan:**

Telford & Wrekin Local Plan

## **6.0 SUMMARY OF CONSULTATION RESPONSES**

### **6.1 Local Member and Town/Parish Council Responses:**

#### **6.1.1 St Georges and Priorslee Parish Council: Object:**

- Increased opening hours will affect local residents adversely through additional noise, traffic increases in the locality and additional inconvenience to residents and pedestrians in the area;
- Transportation of heavy materials will damage the local road network which is not in any way suitable for high levels of large, heavy vehicles. The local physical infrastructure will also suffer, e.g., damaged pavements, street furniture, drains due to use by heavy vehicles which are unsuited to the road;
- Local residents will be affected by noise and dust and general loss of amenity which will affect their properties, reducing their quality of life;
- Road safety will be jeopardised for pedestrians and particularly children walking to and from school in the area due to a lack of footpaths. Residents will have no option but to take the risk of using the roads and will be faced with large vehicles approaching them in a relatively narrow area;
- Traffic safety at the 'S' bend near the Wrens Nest public house is a major concern. Large Vehicles already have problems negotiating this bend safely without additional heavy vehicles making the situation worse. The roads can be seen to be unsuitable for heavy traffic.

#### **6.1.2 Lawley and Overdale Parish Council: Object:**

- Local residents do not want the hours extended to allow lorries to leave the site before 0700 and fully support them. Ask the Applicant to consider the residential nature of the surrounding area, and the fact that planning committee imposed the current working hours 'to protect the residential amenities of the surrounding area';

- Appreciate that the number of lorry movements will not increase but are concerned that the size of the lorries will be larger to accommodate the volume of waste to be moved;
- Ask that the applicant ensures that drivers of lorries using the site are instructed to use Rock Road and Waterloo Road only, and not to travel via Overdale and Garfield Road as this route is totally unsuitable for HGVs;
- Request that Telford and Wrekin Highways take into consideration the residential nature of the area, the proximity of the local Primary School and play area, acknowledge that this road is a designated route for pedestrians and vehicles to travel to the Primary School and HLC Secondary School and also the dangerous bend close to the site on Waterloo Road;
- The Applicant should also note that the recent planning application granted for the Phase 5 and 9 development will inevitably have a cumulative effect on the traffic in this residential area as it will give direct access to Rock Road, very near to this site, from Lawley and Horsehay and Lightmoor area making this road much busier.

### **Amendment Comments**

The Parish Council does not believe the amendments to the proposals address the concerns of residents and continue to **Object** to the proposal.

## **6.2 Standard Consultation Responses**

### **6.3 Highways: Comment:**

Further to previous highways comments made relating to planning application ref. TWC/2017/0882, the LHA acknowledges the absence of any existing restriction on vehicle sizes associated with the extant permission. Nonetheless it is considered that the proposed increase in throughput of material will necessitate an increase in use of larger vehicles and as such, the previously requested mitigation measures are considered proportionate to the likelihood of an increase in larger vehicles.

Confirm that the Local Highway Authority makes **No Objection** to the proposals, subject to the following conditions and s.106 Contributions.

Following further discussion with the LPA, the LHA acknowledges that the previous request for the banning of all HGV movements both to and from the site during peak school times, may have been logistically difficult to enforce. It is acknowledged that HGV arrival times may not always be fully within the applicants control due to external influences, and as such, the prohibition of HGVs accessing the site at certain times throughout the day may result in knock on effects with HGV's waiting elsewhere on the network. It is considered however, that restricting HGV's leaving the site during these times

is something which can be more readily controlled by the applicant and enforced by the LPA.

Recommend Condition:

*'During school term times at the adjacent Newdale and Meadows Primary Schools there shall be no HGV movements leaving the site during the hours of 0800-0900 and 1430-1530.'*

Following the proposed amendment to Condition 17 of TWC/2017/0882 to reduce the permitted weekly HGV movements, the LHA have reduced the previously requested s.106 contribution figure proportionate to the proposed reduction in weekly HGV movements. The LHA would request a s.106 contribution of £36,000 to go towards carriageway plane and inlay and other associated works in the immediate vicinity of the site access. The monies are to be split into 3 phased payments of £12,000, the first of which shall be paid on the first anniversary of commencement of operations on site, followed by a further two payments after another 12-months and 24-months respectively.

The LHA would request a s.106 contribution of £40,000 to go towards the installation and future maintenance of a VAS (Vehicle Activated Sign) Traffic Safety System to be located at either end of the chicane to the north of the site on Waterloo Road. The monies are to be paid prior to the commencement of the works to widen the site access, indexed and any unspent monies after the installation of the VAS system and deduction of maintenance fee, refunded to the applicant.

For the avoidance of doubt, the following Condition implemented on the planning consent under planning ref. TWC/2017/0882 is also considered necessary from a highways perspective to be included with any subsequent new consent:

*'Notwithstanding details shown on the Proposed Revised Site Layout Plan v1.2 no importation, storage and processing of IBA waste on the site shall take place until the site access has been widened within the site in accordance with details to be first submitted and approved in writing with the LPA. The approved scheme shall be fully implemented prior to the first importation, storage and processing of IBA waste on the site.'*

#### 6.4 The Environment Agency: **No Objection:**

No Objection to the proposed Variation of Conditions 10 and 16 and would offer the following additional comments for consideration. An Environmental Permit (ref.: RP3237YR) for the recovery of >50 tonnes per day of incinerator bottom ash at the site was issued by the Environment Agency to Johnsons Aggregates and Recycling Ltd on 31 August 2018. Prior to commencement of

these permitted activities the significant amount of waste still at the site following the vacation of the site by the previous occupier must be removed.

6.5 Drainage: **No Comment**

6.6 The Coal Authority: **No Comment**

6.7 Shropshire Fire Service: **Comment**:

Requires consideration to be given to advice provided in Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications.'

## 7.0 **SUMMARY OF PUBLIC RESPONSE**

7.1 A total of 25 objections were received on the first round of consultation and 23 on the second and are summarised as follows:

### **Highway Matters**

- Additional vehicles unsuitable for existing highway;
- Amount and size of vehicles will cause disruption;
- Existing roads are not large enough to cope with HGV's;
- Impact upon Pedestrian Safety;
- Size of vehicles will affect state of existing road;
- Wagons will park and wait outside of site;
- Vehicles are dangerous considering location of schools nearby;
- There are a lack of suitable paths;
- Vehicles will cause noise and vibration;
- Vehicles park across entrances to bridleways.

### **Environmental Matters**

- Existing waste causes smells and attracts vermin;
- Proposal will cause smells and attract vermin;
- Increased pollution from operation and vehicles;
- Wildlife impact;
- Noise pollution;
- Early operating hours will disrupt sleeping.

### **Other Comments**

A large number of comments relate to the principle of the use and suggestions are made that the site should be moved to a more suitable location. These concerns are acknowledged, however the principal of the site and its use is already established and this is not for further consideration.

## **Newdale Primary School**

The existing school currently occupies 510 children and is at capacity. The school is already concerned about mass house building in their immediate surroundings and the effects this will have on congestion and road safety.

Developing this recycling centre further can only add to concerns. The School has many parents and children who travel to school via the proposed site and whom already have to negotiate a difficult stretch of road. Lorries and added heavy goods congestion will increase risk by way of the roads.

The school has a developed play area adjacent to the Rock road where children play and learn which is in constant use. Traffic from this site will cause pollution by way of fumes and noise not to mention escaped waste which used to happen regularly when the site was used by another waste company.

Many families of the school live near the site and the disruption to their way of life by way of smell, noise and unsociable hours must be considered.

### **Support**

Two letters in support of the application have been received on grounds that the proposal would:

- Support Local Business;
- Regenerate the existing site;
- Alleviate the environmental problems by allowing removal of existing waste which removes rodent problem.

## **8.0 PLANNING CONSIDERATIONS**

8.1 Having regard to the Development Plan Policy and other Material Considerations including comments received during the consultation process, the planning application raises the following main issues:

- Principle of Development
- Highway Implications
- Impact upon Neighbouring Amenity
- Planning Obligations

### **8.2 Principle of Development**

8.3 The site received permission to operate as a waste recycling and skip hire business in 1999 (allowed on Appeal), with a further extension of the recycling centre, extensions to existing building/workshop, construction of additional car parking, creation of hard-standing for storage, separating and crushing of hard-core soil and materials, storage of skips and associated landscaping also allowed on appeal in November 2007 (W2005/0906). The most recent

consent granted in August 2018 (TWC/2017/0882) allows the operation of recycling IBA waste and approved alterations to the site as outlined in para. 3.1 of this report. This consent remains unimplemented with the applicant confirming that they are unable to operate viably with the restricted tonnage approved on that consent.

- 8.4 The Principle of allowing a waste business to operate from this site is therefore established. This 'fall-back' position is a significant and material consideration in the determination of this application as the existing permission runs with the land, not with a particular company or operator. This means that refusing this current application does not remove the Use on the site nor does it stop the site continuing to be used as a waste transfer station, regardless of who is operating it. This also applies to the existing Conditions including hours of operation and the number of HGV movements. The most recent 2018 consent could also be implemented by another operator subject to the Condition(s) of that particular application (and subject to an EA Permit).
- 8.5 TWLP Policy ER7 (Waste Management Facilities) expects altered waste facilities, such as this, to help increase rates of recycling, create new employment opportunities and minimise the impact of the facility on the local environment and positively contribute to the local community.

## **8.6 Highway Implications**

- 8.7 It is acknowledged that one of the most significant concerns raised by the local Parish Councils and local residents is the highway implications arising from operations at this site. As noted above, the fall-back position is a significant and important planning consideration in this regard and it should be noted that another company could operate under the existing conditions which would allow up to 50 in and 50 out HGV (above 7.5 Tonne) movements from the site per day in addition to as many vehicles under 7.5 Tonne as required within the limits of the current waste weight restrictions. This could include skip trucks, vans and cars. The previous operator who vacated the site for example ran a different type of waste business and used large articulated HGV's. However, providing the occupier or any future occupier of the site remains within the vehicle limit restrictions, they cannot be held in breach of the existing planning consent.
- 8.8 Further to the above, there is no road limit on the size/weight of vehicles that can use Waterloo and Rock Road which form part of the Borough's highway network. The road can therefore be used by HGV's whether or not they are operating out of this site, unrestricted.
- 8.9 The previously approved application allowed internal changes to the site that overcome some of the concerns raised, particularly in regards to vehicles waiting on the highway. Members were satisfied and concurred with the Officers view that the proposed widened access, relocation of weighbridges and demolition of a building in a narrow pinch-point went a long way towards improving general site operational efficiency as well as reducing the issue of

'waiting lorries' parked on the road outside the site. These proposed changes remain unaltered on this proposal.

- 8.10 The proposal to Amend Condition 16 (weight of waste materials) does however mean that it is more likely than on the previous consents, that a greater quantity of larger HGV's would be used in order to carry out the IBA recycling operations. IBA is dense and heavy especially as it is transported doused in water. Notwithstanding this, it must be recognised again that a different operator could use the site for different type of waste recycling and use large HGV's. Certainly, with the proposed improvements to the site access (widening), there is an opportunity to improve highway safety in the immediate vicinity of the site.
- 8.11 With this in mind, Officers have discussed in detail the proposed operations with the applicant and discussed ways in which improvements to the previous consent could be made. The first of these is the number of vehicle movements to and from the site. The existing consent allows up to 50 HGV movements in and 50 HGV movements out of the site each working day (Condition 17). The applicant did not propose to amend this on the previous application or when this application was originally submitted. However, the applicant has now agreed to amend this Condition so that that whilst continuing to allow up to 50 HGV movements in and out per day, it is limited to an overall maximum of 200 in and 200 out movements per week. The current Condition equates to 600 HGV movements per week whilst this amended version would reduce this to a weekly limit of 400, a significant overall reduction of up to 200 weekly HGV movements allowed. Averaged over the week this equates to approximately 33 in and 33 out movements per day, however the daily limit of 50 in and 50 out would allow the applicant to deal with demand if required on certain days. Officers are of the view that this is an improvement on both the existing and most recent planning consents and would lessen the overall impact upon the highway.
- 8.12 On the previous application put before Planning Committee, the Case Officer noted the highways request for a contribution towards road resurfacing but considered that this did not meet the planning tests (as set out in the CIL Regulations, April 2010) on grounds that it would not be necessary to make the development acceptable in planning terms, did not directly relate to the development and that it did not fairly and reasonably relate in scale and kind to the development. The Applicant was however happy to provide this contribution and this remains the case subject to the introduction of phased payment triggers. Notwithstanding the previous Officer's report, further discussions between the applicant, their planning agent and both planning and highways Officers have taken place which has formed an alternative opinion of this previous stance. The primary reason for the requirement to contribute towards carriageway plane and inlay and other associated works in the immediate vicinity of the site access is that due to the weight of IBA waste the average weight of the vehicles operating out of this site will be heavier and will place a greater burden upon the existing road surface which without the necessary improvements may quickly deteriorate. Without an agreement in place to improve the nearby roads to cope with this extra weight demand, the



Council's Highways Officers would be unable to support the proposal. As such, a contribution to resurface the road to a suitable standard is necessary to make the development acceptable, directly relates to the development and the monies requested relate in scale and kind to the development. As such, a request is considered CIL compliant and Officer's consider such road improvements will benefit not only the development itself but also users of the local highway network.

- 8.13 In addition to the above and as with the previous application, the Council's Highways Officers have recommended the installation of a Vehicle Activated Signage at either end of the nearby S bend north of the site. This will benefit other users of the road including other HGV drivers coming in the opposite direction that a larger vehicle is oncoming. The previous Officer report acknowledged this benefit but felt at the time that requirement to install such a system simply acknowledges that there is a problem. Notwithstanding this previous consideration, the current view is that the problem is an existing one and the issues of the number of HGV's negotiating the S bend can manifest with any future occupier of the application site under the existing consent as previously discussed. Given that the current proposal is likely to result in a higher number of larger HGV's, there is an opportunity with this application to make use of this technology which the applicant is happy to provide through an appropriate s.106 contribution.
- 8.14 Local residents, the Parish Council's and the nearby school have all raised concerns over increased traffic from the development however, there is no evidence to suggest that the development would result in more vehicles using the surrounding roads than would be possible under the existing consents. In fact, the Amendments proposed to Condition 17 which reduce the overall number of HGV's over a week by up to 200 is a significant improvement in addition to the fact that the current applicant is unlikely to operate a significant number smaller vehicles under 7.5 Tonnes. Despite this, Officers concur with local concerns in relation to large vehicles on the local highway during school drop off and pick up times.
- 8.15 The previous report to Committee acknowledged the Highways Officers request to provide a Condition that would cease vehicle movements in and out of the site between 0800-0900 and 1430-1530 however, the Officer considered that this would be difficult to enforce. This view remains the case as it would be extremely difficult for the applicant to control when vehicles arrive at the site and their inability to enter the site during these times is likely to result in vehicles waiting outside the site. However, it remains that a condition can be attached to cease vehicles leaving the site between these times which could be controlled by the applicant and is far easier to enforce, both visually and through obtaining weighbridge records if required. Officers therefore consider that a condition ceasing vehicle movements out of the site between 0800-0900 and 1430-1530 is appropriate and provides an extra mechanism that reduces the conflict between HGVs operating from the site and other users of the highway.

- 8.16 Officers note concerns raised by the applicant that this condition may cause vehicles backed up within the site during these hours. However, given the operating hours of the site, whereby vehicles coming into and out of the site can be spread over a whole day, it is not considered that this would cause significant operational issues for the applicant and that this concern is outweighed by the benefits of reducing the number of HGV's on the local road network during these peak times.
- 8.17 As such, Officers consider that the proposal to allow an increase in the weight of waste material entering the site would not cause an unacceptable impact upon the highway network that could not be mitigated through appropriate conditions and necessary improvements of the local highway including resurfacing and the installation of a VAS warning system. It is therefore difficult for Officer's to argue that the current proposal significantly makes worse any existing situation. Officers consider that refusal to amend Condition 16 on grounds that this would result in an adverse impact upon the highway or highway safety would not stand the test of appeal should the application be refused. This application will bring benefits compared to the previous consents including the reduction in the weekly number of HGVs and contributions towards the maintenance of the highway.

### **8.18 Impact upon Neighbouring Amenity**

- 8.19 A number of concerns have been raised in respect of the environmental impact of the site and the impact this has upon local amenity with concerns relating to both the proposed use and in regards to the leftover waste which still remains on the site. These concerns relate mainly to odour and noise. It should be noted that the environmental aspects of the proposal is controlled through an already valid permit issued by the Environment Agency. In order to facilitate the scheme and to comply with Environment Agency requirements, the initial benefit will be the clearance of the site of the existing waste before operations commence.
- 8.20 The type of waste to be processed is non-toxic IBA, a by-product of the incinerator process. The stockpiles of this waste will be doused with water to reduce airborne dust. The Environment Agency have issued an Environmental Permit for the storage and processing of IBA and ensures that the before the applicant can operate from the site and they will be required to remove the existing waste from the site so that hardstanding can be laid down. The EA are chief agency to monitor activities on site, including dust and air quality. The type of waste to be recycled at the site was approved on the previous consent and this is not a consideration on this application.
- 8.21 With regards the increased hours, this will be for an hour earlier in the mornings between 0600-0700 Monday to Fridays. There would be no deliveries of waste to the site and no processing of waste between 0600-0700 and the vehicles can be pre-loaded and parked ready to be driven out of the site in a forward manner. The main activity will therefore be for up to 10 vehicles to leave the site during this hour which would be taken out of the total number of vehicles allowed to leave the site under Condition 17.

8.22 The main concern with vehicles leaving at this time is chiefly the noise of vehicles passing residential properties at what is considered a night time hour. Following submission of this application, the applicant has produced a noise report carried out at the nearby S bend during this time. This is in addition to a survey carried out at the site itself. The results of this report demonstrate that the introduction of additional HGV's on the road network at this time would not cause a detrimental and significant increase in noise when compared against existing vehicle noise within this hour. Following the results of this survey, the applicant has clearly demonstrated that vehicles existing the site between 0600-0700 would not cause sufficient detrimental to the amenities of the surrounding area that would warrant refusal of the application. As such the proposal complies with TWLP Policy BE1 (xi).

### **8.23 Planning Obligations**

8.24 The proposed development meets the requirement to provide the following contributions:

8.25 Highways:

- £40,000 towards the installation and maintenance of a VAS system. The S106 will contain a clause that any unspent money after this has been installed and maintenance sum + indexation has been deducted, will be returned to the applicant;
- £36,000 towards carriageway resurfacing along Waterloo Road in the vicinity of the site access. Contribution to be split into 3 phased payments of £12,000, the first payment being 12-months on from commencement of operations on site with a further two payments after another 12-months and 24-months respectively.

8.26 In determining the required Planning Obligations on this specific application the following three tests as set out in the CIL Regulations (2010), in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

## **9.0 CONCLUSION**

9.1 A large number of the comments received on this application refer to the site being in an inappropriate location and that it should be closed or moved to a more suitable location within the borough. Whilst this may be desirable, and it is noted that Policy ER7 encourages new waste management facilities to be

located in the strategic employment areas, it remains that the site has existing consent for this use and this cannot be altered through this application.

- 9.2 The existing consent to be altered already reduces the types of waste that can be processed to just IBA. The implementation of this consent would therefore no longer allow plastics and cardboard for example. In addition, the existing consent will, once implemented, provide a number of on-site improvements, not just the clearance of the remaining stockpiles of waste on the site. The further improvements include improving the site access which will allow HGV's to pass and enter/leave at the same time. A second weighbridge will be installed so that lorries don't have to wait, and both weighbridges will be positioned further into the site away from the entrance – this means that vehicles can pull off the road and wait inside the site.
- 9.3 Officers consider that the increase in the tonnage in waste (Condition 16) would not have a significant detrimental impact that would warrant refusal of the application. The use of HGV's is already allowed through the existing consent and through negotiations on this application, a significant reduction in the weekly number of HGV movements has been agreed (Condition 17). When combined with contributions towards road resurfacing and the introduction of a VAS system, Officers are of the view that the resultant set of conditions now proposed offer an overall improvement when compared to previous consents. The altered facility is compliant with Policy ER7 of the TWLP as it will help increase rates of recycling, create employment opportunities and minimises the impact of the facility on the local environment.
- 9.4 The Variation of the hours of operation Condition (10) to allow 10 pre-loaded vehicles to leave the site between 0600-0700 is also considered acceptable as there is no evidence that the noise created by vehicles passing residential units in the vicinity of the site would be detrimental when considered above existing road noise within this hour. Furthermore, it is noted that that the proposal also includes an earlier closure of 1400 on Saturdays (instead of 1600).
- 9.5 Therefore Officers agree to the variation of Conditions 10 (hours of operation), Condition 16 (weight of waste materials), 17 (vehicle movements) and seek to impose an additional condition to cease vehicle movements out of the site during school drop off and pick up times.
- 9.6 There are no technical issues that would prevent the development from proceeding and no issues that cannot be mitigated against through the use of conditions. Accordingly it is considered that the proposal represents a sustainable form of development which complies with the National Planning Policy Framework, together with relevant policies within the Telford and Wrekin Local Plan.
- 9.7 For clarification, the result of consent will be an entirely new planning permission which will bring forward all the conditions attached on the previously approved application with the inclusion of the amended conditions and any new conditions as considered necessary on this application.

## 10.0 RECOMMENDATION

10.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION** to Vary Conditions 10, 16 and 17 subject to the following:

- A) A contribution of £40,000 towards the installation and maintenance of a VAS system. The s.106 will contain a clause that any unspent money after this has been installed and maintenance sum + indexation has been deducted, will be returned to the applicant.

A contribution of £36,000 towards carriageway resurfacing along Waterloo Road in the vicinity of the site access. Contribution to be split into 3 phased payments of £12,000, the first payment being 12-months on from commencement of operations on site with a further two payments after another 12-months and 24-months respectively.

- C) The following additional Condition (with authority to finalise Conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):
1. During school term times at the adjacent Newdale and Meadows Primary Schools there shall be no HGV movements leaving the site during the hours of 0800-0900 and 1430-1530.