

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 25 August 2010

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APPLICATION REF. NO:	10/00443/CU
STATUTORY DECISION DATE:	17 August 2010
WARD/PARISH:	LINGFIELD
LOCATION:	Former Taylor Woodrow Site, Lingfield Way
DESCRIPTION:	Change of use to waste transfer/recycling facility (Revised Scheme).
APPLICANT:	Mr A Foreman

Context

This application represents a re submission of a previously submitted application following the refusal of planning permission. This scheme is modified to include fewer processes than previously proposed.

In addition, the sole objector to the previous submission has modified their position following further negotiation with the applicant. Members are requested to reconsider their previous decision in the light of these changed circumstances.

APPLICATION AND SITE DESCRIPTION

The application site is situated on the western side of Lingfield Way and forms part of the former Taylor Woodrow Construction premises. The site lies to the rear of the now vacant two-storey office building, which fronts Lingfield Way. It comprise an area of approximately 0.84 hectares

And is occupied by two industrial style buildings one being much larger with the other incorporating integral offices. The remainder of the site consists of a large hard standing area. Vehicular access is achieved via an access road on the southern boundary, which serves both the two-storey office building fronting Lingfield Way and the application site itself.

A number of workshop units and offices adjoin the site including the Orange call centre operation.

The application is for the establishment of a waste transfer/ recycling facility at the site. Members may recall that a similar proposal (App Ref: 09/788) was refused by the Planning Committee in April this year. An appeal has been lodged against this decision, which is still being considered by the Planning Inspectorate. That application consisted of both the sorting and

processing of hazardous and non hazardous waste. The range of waste products included some scrap metals and construction, demolition and excavation wastes.

The current application involves the removal of certain waste products included with the previous application. The applicant no longer wishes to import the following wastes onto the site: -

- Putrescible Waste
- Scrap Metal
- Glass
- Construction, Demolition and Excavation Waste
- Mixed Household Waste

In addition the applicant does not propose to process hazardous waste at the site. The revised proposals still seek to import hazardous waste into the site, however only the non-hazardous waste is proposed to be processed. The hazardous waste would only be imported, stored under cover, bulked into lorry loads and exported from the site.

The revised application comprises of the following: -

The importation, sorting, processing and export of: -

- Cardboard
- Paper
- Plastics
- Wood
- Waste Electronic and Electrical equipment

The import, storage and distribution (no processing) of: -

- Liquid waste (oils, oily water, intercept pit waste, thinners, inks, solvents).
- Dry Waste (oil contaminated rags, oil contaminated PPE, solvent contaminated PPE and solvent contaminated rags, paint tins)
- Aerosols.

It is proposed that processing and sorting will be carried out within the largest of the industrial buildings on the site (identified as building A on the site location Plan). The hazardous waste would be stored in the other industrial building (identified as building B) prior to dispatch from the site.

In terms of plant and machinery the proposed operation would involve the use of a baler system, forklift truck (x2) operations and the loading and unloading of wagons.

It is proposed to operate the facility during the following times: -

Monday to Friday: 0600 -1830

Saturday: 0700 – 14:30

Sunday: Closed

Bank Holiday Closed

It should be noted that the waste transfer/recycling facility is currently in operation.

The application is accompanied by the following documents: -

- Planning Statement
- Noise Assessment
- Revised Desk Top Study Contamination Report

The development is one that falls within the thresholds set out in Schedule II of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulation 1999 (SI/1999/293) (the “1999 Regulations”). As required by the 1999 Regulations, the Local Planning Authority is required to adopt a formal opinion as to whether or not an Environmental Impact Assessment (EIA) is required for the development. This process has been undertaken and, having taken into account the criteria set out in Schedule 3 to the 1999 Regulations, the Local Planning Authority has determined that the proposal does not constitute EIA development.

It should be noted that the applicant will require a separate Environment Protection Permit from the Environment Agency for the processes that are proposed to be carried out on the site.

PLANNING HISTORY

The site has an extensive planning history relating to the former use by Taylor Woodrow Construction and other than the most recent application mentioned above there are no relevant planning entries.

PLANNING POLICY BACKGROUND

The following policies in the Borough of Darlington Local Plan are relevant: -

E48 - Noise Generating/Polluting Development

EP2 - Employment Areas

EP17 – Waste Material Storage, Processing and Transfer

T12 - New Development-Road Capacity
T24 - Parking and Servicing Requirements for New Development

National Planning Policy

PPS10 – Planning for Sustainable Waste Management.

PPS23 – Planning and Pollution Control

PPG24- Planning and Noise

RESULTS OF CONSULTATION AND PUBLICITY

A letter of representation has been received on behalf of Orange and the following comments are made: -

- We welcome the clarification of the processes which will be undertaken on site.
- The results of the noise assessment accompanying the application appear to show that no adverse effects would be likely Orange's premises. We understand that if, acceptable an appropriately worded planning condition could be secured relating to the need of a noise management plan.
- We also welcome clarification that no odorous materials will be exposed on the site and we understand that this will be secured through an appropriately worded planning condition relating to an odour management plan.
- A planning condition relating to a dust action plan should also be secured.
- We make these comments on the assumption that the conditions set out in the Council's appeal statement related to the earlier application at the site will form the basis of any decision relating to this planning application. In addition we would wish to see the proposed screening to southern and western boundaries secured through planning condition. Orange would wish to be involved in any discussion in respect of screening design. We would encourage a solution which is permanent and solid in form, which deals with visual and litter/dust concerns.
- A temporary planning permission should be considered for a period of 18 months.
- It has been questioned why the Council has not taken any enforcement action against the current unauthorised operation.

Environment Agency has no objection, in principle to the proposed development but recommend the imposition of conditions relating to contamination.

The Council's Highways Engineer has advised that the latest proposals will not affect the original predicted traffic flows and therefore his comments remain the same. These are set out below: -

"Though the 'Traffic Impact Assessment' contained within the Operational Plan is not quite what I expected and does not follow the guidance on provision of Transport Assessment it does seem that traffic impact of the proposed development will be minimal. Also the type of traffic generated by the proposed use will be very similar to the previous use. There are certain measures in regard to vehicle control indicated in the TIA and I would recommend that a planning condition is included with an approval requiring that these measures are formalised by provision of an on site traffic management plan.

Conditions in regard to pedestrian access and cycle parking should also be included with an approval. There is an existing overgrown footpath to the south of the building fronting onto Lingfield Way, this however does not link directly to the footway on Lingfield Way. The condition must therefore include for provision of a link to the footway on Lingfield Way and for improvements to the existing footpath in order to provide for a safe pedestrian link from the adopted highway to the site (this link to include for dropped crossings). A condition requiring provision of secure cycle parking should also be included.

Provided the above conditions are included with an approval I would raise no highway objection to the proposal."

PLANNING ISSUES

The main issues to be considered in the determination of this application are: -

- Planning Policy
- Impact on the amenity of the area
- Highway Implications

Planning Policy

Policy EP2 of the Borough of Darlington Local Plan identifies the application site as being within an Employment Area. This policy states that permission will be granted for B1 (Business) uses within the Area and B2 (General Industry) and B8 (Storage or Distribution) uses providing they do not harm the amenity of the area or nearby residential areas.

The proposed use is a Sui Generis use and therefore is not addressed in the policy EP2. However there are other policies in the Local Plan that relate to the provision of other uses in employment areas.

Policy EP5 (Other Uses in Employment Areas) states that development will be permitted in policy E2 areas only to the extent that it accords with the policies applicable to it and forms part of comprehensive proposals for development or redevelopment within B1, B2 or B8. The proposal does not form part of a wider proposal for development that is B1, B2 or B8 uses therefore for the purpose of assessing this proposal, the other policy that is applicable is EP17.

Policy EP17 (Waste Material Storage, Processing and Transfer) is the policy that will determine whether the proposals are in accordance with the other policies EP2 and EP5 as the proposal is for a use other than B1, B2 or B8. The policy provides guidance on the location, appearance and operation of activities, which are generally unsightly, and can cause problems even in industrial areas. The policy states that permission may be granted where:

- 1) There are no adjacent class B1 uses.
- 2) The storage or processing of any material in the open is not visible from the main or branch line railways, the main road network, the line of the cross-town route or residential property.
- 3) There is adequate screening of the site by a fence, wall or other means of enclosure.
- 4) There is no material adverse impact on the amenity of the surrounding areas.

BI Office Uses

The majority of the properties in the locality of the application site fall under B2 and B8 uses. However, The Orange Call Centre operation adjoins the site which is a Bi use. This means that the proposal does not accord with the first criteria point.

The Storage or Processing of Materials

Situated to the rear of the existing former Taylor Woodrow office building and adjoined by other business operations on the other three sides of the site the open part of the site would not be readily visible from any public highways or other public vantage points. The applicant has stated that there is no intention to process materials externally on the site and would be willing to accept a restrictive condition to that effect.

The proposed application would accord with the second criteria point.

Screening

The site is in the main enclosed by tall, open, metal fencing, other than a 2m high (approx) concrete sectional wall which extends along the eastern boundary. As previously mentioned the site is well screened from the public road network and therefore the development would not result in any adverse effects on the visual appearance of the wider environment. The proposed application would accord with the third criteria point. Nevertheless the applicant acknowledges that the external storage of materials will be visible from external areas of adjoining business operations and is willing to provide additional screening around the northern, western and southern boundaries of the site either by way of landscaping or screen fencing which can be made conditional to any approval. In addition the applicant is agreeable to a condition restricting the height of the external storage of materials (following processing) to no more than 2m above ground level.

Amenity

The fourth criterion refers to any material adverse impact on the amenity of the surrounding area. Possible impacts, in this instance are traffic impacts; visual appearance land contamination and noise.

In terms of traffic impact the Council's Highway's engineer considers that this would be minimal and that the type of traffic generated by the development would be similar to the previous use and therefore has no objection to the proposal. However conditions are sought to secure a site traffic management plan, provision of a footpath link, to include dropped crossings and cycle parking.

A phase 1 Desk Top Study for Land Contamination which accompanies the application concludes that further site investigations need to be undertaken and therefore the Council's Public Protection Division has requested the imposition of an appropriate condition to ensure that the recommendations of the report are undertaken.

In terms of noise nuisance the Public Protection Division are satisfied that the machinery, plant and equipment to be used in the processing of materials (which will be carried out within the building) are unlikely to adversely affect sensitive receptors such as the nearby Orange offices or the nearest residential properties, along McMullen Road, situated some 530 m to the west of the site. However, they advise that it would be prudent to attach a condition to any approval to control the introduction of any other plant and equipment that may propose in the future. Conditions requiring the submission and approval of a Noise Management Plan (in respect of general working operations), Dust Action Plan and Odour Management Plan are also deemed to be appropriate in order to provide satisfactory mitigation measures. Subject to these conditions it is not considered that the use would have any adverse impacts on amenities of the locality.

Other Matters

In the letter of representation which has been received on behalf of Orange it has been questioned why the Council has not taken any enforcement action against the current operation. As mentioned previously there is currently an outstanding appeal against the previously refusal of planning permission. Furthermore no complaints have been received regarding the operation. Therefore, in the circumstances, officers consider it unreasonable to take any action until the outcome of the planning appeal is known.

On balance, it is considered that the proposed change of use, along with the associated external alterations and mitigation measures, would be acceptable in this location

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The proposed change of use would comply with criteria points 2), 3) and 4) of Policy EP17 (Waste Material Storage, Processing and Transfer) of the Borough of Darlington Local Plan, but it does not comply with the first criteria point, as there are B1 uses adjacent to the site. However, noise impact reports have been submitted with the application which indicate, that subject to specific mitigation measures secured by planning conditions, the proposed development would not create any unacceptable noise levels to the detriment of the nearby buildings. Similarly the proposal is unlikely to result in any dust or odour problems subject to the imposition of appropriate conditions to address these issues. On balance, it is considered that the proposed change of use would be acceptable in this location.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS: -

1. A3 – Implementation Limit (Three Years).
2. B5 - Detailed Application
3. Within 6 calendar months of the date of this permission a phase 2 site investigation shall be carried out in accordance with the recommendations set out in the revised report on the Phase 1 Desk Top Study by GEOINVESTIGATE Ltd. Dated November 2009.

REASON – To safeguard the amenities of the area.

5. No plant or machinery other than that detailed in the Planning Statement by England & Lyle dated June 2010 shall be permitted on site without the prior written approval of the Local Planning Authority.

REASON - To prevent nuisance from noise in the interests of amenity

6. Within two calendar months from the date of this permission a Noise Management Plan shall be submitted to the Local Planning Authority. The Noise Management Plan shall include details regarding the management of fire exit doors, roller shutter doors, vehicle reversing alarms and drop heights (where applicable) for waste materials being handled on site. The approved Waste Management Plan shall be implemented within 28 days from the date of

any approval given and shall not be carried out otherwise than in accordance with the approved details.

REASON - To prevent nuisance from noise in the interests of amenity.

7. Within two calendar months from the date of this permission a dust action plan shall be submitted to, and approved by the Local Planning Authority. The approved dust action plan shall be implemented within 28 days from the date of any approval given and shall not be carried out otherwise than in accordance with the approved details.

REASON - To ensure that nearby premises are not adversely affected by dust.

8. Within two calendar months from the date of this permission an odour management plan shall be submitted to, and approved by the Local Planning Authority. The approved odour management plan shall be implemented within 28 days from the date of any approval given and shall not be carried out otherwise than in accordance with the approved details.

REASON - To ensure that nearby premises are not adversely affected by odours.

9. The hours of operation of the site shall be 06:00hrs to 18:30hrs Monday to Friday, 07:00hrs to 14:00hrs, Saturdays, and not at all on Sundays or Bank Holidays.

REASON - In order to allow the Local Planning Authority to retain control over the Development in the interests of the amenity of the area.

10. Screen fencing shall be erected along the northern, southern and western boundaries of the site details of which shall be submitted to the Local Planning Authority within two calendar months from the date of this permission. The approved fencing shall be erected within 28 days from the date of any approval given (or any such later time as may be agreed in writing with the Local Planning Authority). The screen fencing shall not be erected otherwise than in accordance with the approved details.

REASON – To minimise any adverse visual effects upon the adjoining business premises.

11. External storage of materials shall not exceed a height of 2m above ground level.

REASON - To minimise any adverse visual effects upon the adjoining business premises.

12. A footpath link shall be provided to the footpath on Lingfield Way, including improvements to the existing site footpath and dropped crossing points, details of which shall be submitted to the Local Planning Authority within two calendar months from the date of this permission. The approved scheme of works shall be implemented within 28 days from the date of any approval given (or any such later time as may be agreed in writing with the Local Planning Authority). The work shall not be carried out otherwise than in accordance with the approved details.

REASON – In order to provide a safe pedestrian access to the site inn the interests of highway safety.

13. Within two calendar months from the date of this permission precise details of secure covered cycle parking provision shall be submitted to the Local Planning Authority. The approved cycle parking shall be provided within 28 days from the date of any approval given (or any such later time as may be agreed in writing with the Local Planning Authority). The cycle parking provision shall not be carried out otherwise than in accordance with the approved details

REASON - To ensure that adequate cycle parking provision is provided to promote access and accessibility

14. To minimise the likelihood of wind blown letter there shall be no storage of loose material outside the buildings and the site shall be kept free of litter able to be carried by the wind off the site.

REASON – In the interests of the amenity of the area.

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The proposed change of use would comply with criteria points 2), 3) and 4) of Policy EP17 (Waste Material Storage, Processing and Transfer) of the Borough of Darlington Local Plan, but it does not comply with the first criteria point, as there are B1 uses adjacent to the site. However, noise impact reports have been submitted with the application which indicate, that subject to specific mitigation measures secured by planning conditions, the proposed development would not create any unacceptable noise levels to the detriment of the nearby buildings. Similarly the proposal is unlikely to result in any dust or odour problems subject to the imposition of appropriate conditions to address these issues. On balance, it is considered that the proposed change of use would be acceptable in this location. Therefore the proposed development is considered to comply with the policies in the development plan and Government planning policy set out below: -

Borough of Darlington Local Plan 1997

E48 - Noise Generating/Polluting Development

EP2 - Employment Areas

EP17 – Waste Material Storage, Processing and Transfer

T12 - New Development-Road Capacity
T24 - Parking and Servicing Requirements for New Development

National Planning Policy

PPS10 – Planning for Sustainable Waste Management.

PPS23 – Planning and Pollution Control

PPG24- Planning and Noise

INFORMATIVES TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

- The applicant is advised that contact must be made with the Assistant Director: Highways and Engineering (contact Ms. P. Goodwill 01325 388743) to discuss naming and numbering of the development
- The proposed development will require an Environmental Permit from the Environment Agency to operate the waste transfer and recycling centre and is advised to contact the Agency on this matter.
- The applicant is also advised that a waste carriers licence will be required for the transport of waste and again contact should be made with the Environment Agency on this issue.