

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 7 APRIL 2010**

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<b>APPLICATION REF. NO:</b>	<b>09/00788/CU</b>
<b>STATUTORY DECISION DATE:</b>	<b>13 January 2010</b>
<b>WARD/PARISH:</b>	<b>LINGFIELD</b>
<b>LOCATION:</b>	<b>Former Taylor Woodrow Site, Lingfield Way</b>
<b>DESCRIPTION:</b>	<b>Change of use to waste transfer/recycling facility</b>
<b>APPLICANT:</b>	<b>Mr A Foreman</b>

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**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 comprises 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. Recyclable waste will include: cardboard; paper, plastic, metals, waste electronic, and electrical equipment, liquid waste which will include, oils, oily water, interceptor pit waste, and oil contained rags.

The details provided with the application indicate that the sorting and processing operations will take place within the larger of the two buildings, with the small building used for storage purposes. It is proposed to store some scrap metal externally, within the hard standing around the building.

The application indicates that the materials will be sorted on site and dispatched on a daily basis for sale to reprocessors.

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

Monday to Friday: 0600 -1830  
Saturday: 0700 – 14:30  
Sunday: Closed

The application is accompanied by the following documents: -

- A business Plan
- Operational Plan
- Noise Survey
- Desk Top Study Contamination Report

During the consideration of the application further noise impact reports have been submitted following extensive discussions with the Council's Public Protection Division.

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 .

## **PLANNING POLICY BACKGROUND**

The starting point for considering the proposal is the statutory development plan. The relevant parts in respect of the proposed development are as follows:-

*RSS: The North East of England Plan, Regional Spatial Strategy to 2021:*

Policy 2 - Sustainable Development  
Policy 7 - Connectivity and Accessibility  
Policy 12 – Sustainable Economic Development  
Policy 37 – Air Quality  
Policy 46- Waste Management Provision

*Saved Policies of the Borough of Darlington Local Plan:*

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**

Two letters of objection have been received to the application as originally submitted, from adjoining business operations, and a further letter of objection has been received following the submission of additional information by the applicant.

The grounds of objection are as follows: -

- It would pose an environmental and health hazard
- It would result in a long term effect of trying to let our workspace
- A perceived health and environmental hazard on Lingfield Way could seriously jeopardise any future inward investment in the area, having a detrimental effect to the local community and economy.
- There is a lack of evidence to support the development, in respect of potential traffic impact. If the Council are minded to approve it is requested that a Traffic Statement be submitted to allow the consideration of the potential traffic impact prior to the commencement of the operation. In addition a condition should be attached limiting the number of vehicle movements to an appropriate level to be set out within the submitted and approved Traffic Statement.
- There is no confirmation that this facility will operate as a commercial recycling unit or whether the existing highway infrastructure has the capacity to accommodate all of these movements.
- No information has been provided to confirm whether the necessary licences required for the handling of waste have been obtained. An informative should be attached to any permission to provide assurances that such provisions are necessary and are required to have been considered by the applicant.
- We note that significant progress has been made in consideration of noise impact. We request that the noise outputs, as set out within the EMAT documents are maintained in perpetuity.
- Concerns are raised in respect of odours from the site. In respect of “oily rags” and other “liquid hazardous waste” we would request that that storage on site is not permitted prior to the installing wash/odour extraction facility and obtaining the necessary processing permissions.
- The applicant has not submitted any information in relation to air/ odour mitigation measures. Despite comments made within the Operational Plan, we would advise that a more detailed assessment of the air quality and odour impacts is required prior to any works commencing on site.

- The applicant has offered to install a water bowser to limit the dust emission on site. We would request that a condition be imposed requiring this equipment to be installed prior to the commencement of operations on site and that it be maintained in perpetuity.
- There is no indication within the submitted documentation that the buildings on site would be suitable for the intended use, both in terms of operational suitability and the capacity to screen noise/ odour and air emissions.
- It is stated that some storage of metals will be outside of the buildings, however, the frequency and intensity of this operation is not clarified. In order to ensure that this is controlled we would advise that further clarification is sought over the intensity of this operation and any amenity/ design implications arising.
- With areas such as the application site, Policy EP2 states that general industrial (Class B2) and warehousing (Use Class B8) uses will be permitted where they do not harm the amenity of the area. We remain of the opinion that, in the absence of sufficient information, the proposals do not accord with this policy.

**Environment Agency** has no objection, in principle to the proposed development but recommend the imposition of conditions relating to contamination. In addition the Agency has requested the attachment of a number of informatives, including advising the applicant of the need to obtain an Environmental Permit from the Agency for the operations.

**The Council's Public Protection Division** has advised that following further submissions of details reading noise impact from the proposed operation, together with additional information concerning odours and dust, the Division is satisfied that subject to a number of mitigation measures, which can be secured by way of conditions, the development is unlikely to give rise to any adverse impacts.

**The Council's Highways Engineer** has made the following comments: -

*“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***

The application indicates that most of the material to be brought onto the site will be stored within the buildings and all of the processing operations will take place within them. However it is proposed to store scrap metal within concrete bays within the external compound. 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 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 it is considered that any additional screening would serve no further purpose. The proposed application would accord with the third criteria point.

**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 accompanied the application, which concluded that further site investigations need to be undertaken and therefore the Council's Public Protection Division has requested the imposition of the standard contamination condition to any approval.

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 are situated some 530 m to the west of the site. However this is based on the details of machinery and equipment identified in the application and they have therefore requested a condition that any additional or replacement noise generating machinery or equipment shall only be used with the prior approval of the Council. 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.

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. J2 - Contamination
4. Only the noise generating machinery, plant and equipment shown in the documents accompanying the application shall be used on site. Any additional or replacement noise generating machinery, plant or equipment shall only be used on site with the prior approval of the Local Planning Authority. Full details of any such noise generating machinery, plant or equipment, including an updated Noise Impact Assessment, shall be submitted to, and approved by, the Local Planning Authority prior to its installation and use on site.

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

5. Operations shall not commence on site until a Noise Management Plan has been submitted to, and approved by, 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 Waste Management Plan shall be implemented on the commencement of the operation 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.

6. Prior to operations commencing on site a dust action plan shall be submitted to, and approved by the Local Planning Authority. The approved dust action plan shall be implemented on the commencement of the operation 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.

7. Prior to operations commencing on site an odour management plan shall be submitted to, and approved by the Local Planning Authority. The approved odour management plan shall be implemented on the commencement of the operation 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.

8. 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.

9. Notwithstanding anything indicated in the application, precise details of the external storage areas, shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of the operation. The development shall not be carried out otherwise than in accordance with the approved details.

REASON – To ensure that the proposed development does not prejudice the amenities of the locality.

10. Notwithstanding Condition (9) above no industrial or storage activity shall be carried on outside the buildings without the prior written consent of the Local Planning Authority.

REASON – To ensure that the proposed development does not prejudice the amenities of the locality.

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, and approved by, the Local Planning Authority prior to the commencement of development. The works shall be implemented prior to the commencement of the development and 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 in the interests of highway safety.

13. Notwithstanding anything shown on the approved plans precise details of secure covered cycle parking provision shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of development. The development shall not be carried out otherwise than in accordance with the approved details and the cycle parking provision shall be made available prior to the use commencing.

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

## **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: -

***RSS: The North East of England Plan, Regional Spatial Strategy to 2021:***

Policy 2 - Sustainable Development  
Policy 7 - Connectivity and Accessibility  
Policy 12 – Sustainable Economic Development  
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Policy 46- Waste Management Provision

***Saved Policies of the Borough of Darlington Local Plan:***

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***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.