

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 26th August 2009

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APPLICATION REF. NO:	09/00423/FUL
STATUTORY DECISION DATE:	2nd September 2009
WARD/PARISH:	CENTRAL
LOCATION:	The Old Steel Store, Albert Hill Industrial Estate, Dodsworth Street
DESCRIPTION:	Variation of condition 2 of planning permission 07/00340/FUL dated 21.9.2007 (for change of use of wood re-cycling unit to waste transfer station) to permit an extension of operating hours to 0600 – 2100 Monday to Friday; 0700 – 1600 on a Saturday and 0800 – 1200 on a Sunday, Bank Holiday and Public Holiday.
APPLICANT:	Albert Hill Skip Hire limited

APPLICATION AND SITE DESCRIPTION

The application site comprises a large industrial unit and associated external yard area located at the northern end of Albert Hill Industrial Estate. The site is occupied by Albert Hill Skip Hire Limited and operates as a waste transfer station. Access is gained via a new access road, which runs to the east of the Henry Williams site. The East Coast Main Line runs approximately 170 metres to west of the application site. To the north and east of the site is open land forming part of the River Skerne corridor, beyond which lies the residential areas of Inglewood Close, Littlebeck Drive and Riverside Way. The remainder of the Albert Hill Industrial Estate and the St Nicholas and Riverview Industrial Estates lie to the south of the application site.

Planning permission was granted for the change of use of the building from a wood recycling unit to a waste transfer station in September 2007. Permission was granted subject to a number of planning conditions, one of which related to the operating hours and which stated:

‘The business shall not operate, including the access and egress by HGVs, outside the hours of 0800 – 1800 Monday to Friday; 0900 – 1300 Saturday and not at all on Sundays, Bank Holidays and Public Holidays’.

This application has been received following an enforcement investigation into complaints that the business is operating outside of these hours, and seeks to vary the above condition to permit an extension of operating hours to 0600 – 2100 Monday to Friday; 0700 – 1600 on a Saturday and 0800 – 1200 on a Sunday, Bank Holiday and Public Holiday.

PLANNING HISTORY

95/00363/CU – Change of use for a general industrial use (B2) to use for the storage and distribution of tyres (B8) and reclamation/recycling of old tyres. REFUSED 19 October 1995

07/00270/FUL – Construction of an access road. GRANTED 4 June 2007

07/00340/FUL – Change of use of wood recycling unit to waste transfer station. GRANTED 21 September 2007

PLANNING POLICY BACKGROUND

The following policies of the Borough of Darlington Local Plan 1997 are relevant:

EP2.2 - Employment Areas (Albert Hill/Dodsworth Street)

EP17 – Waste Material Storage, Processing and Transfer

H15 – The Amenity of Residential Areas

E48 – Noise-Generating/Polluting Development

RESULTS OF CONSULTATION AND PUBLICITY

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Object to the application in the strongest possible terms. Complaints to Environmental Health regarding noise indicate that noise is already an issue with the operation of this site. To have noisy operations so close to residential housing from so early in the morning to so late at night is quite unreasonable in our opinion. Apart from a negative effect on residential amenity such noise will be detrimental to the health and well being of residents affected. Respectfully request this application be refused.

Eight letters of objection have been received which raise the following issues:

- *Have spent a few years complaining about the noise and dust coming over from their site and am not impressed by their request.*
- *Worried about pollution of the river as the fence surrounding the site is in a poor state of repair. There is a conservation area near here and the river should be preserved, not strewn with waste, dust and vermin.*
- *The hours applied for are totally unacceptable due to the level of noise generated by the plant. As I work long hours I feel entitled to have some relaxation in my own home.*
- *Due to the levels of dust created by the plant the working hours they already have should be reduced, as I believe they could pose a real risk to my physical and mental health through sleep deprivation and stress. At present I have a noise meter in my house courtesy of the Environmental Health team who are investigating the noise levels.*
- *The company cannot adhere to the working hours they already have which makes me wonder if, they are given an extension, will this give them further scope to push the boundaries still further to possibly working 24/7.*
- *Saturdays, Sundays and Bank Holidays and Public Holidays are days for enjoying time with my family and friends, I am unable to have any social events in my garden due to extensive noise and the dust levels.*
- *Should it be necessary, I am willing and able to get a petition up to back my objection as I understand from my neighbours there have been many complaints/objections relating to*

this company now and in the past which are in the main unresolved – working hours and noise levels.

- *We are woken very early on a morning with noise generated by machinery operated at the site and also experience considerable noise levels on an evening and often during the night. The use continues not only during weekdays but also throughout the weekend.*
- *We have found that nearly every night we are woken from our sleep and this is now having an effect on our physical well being and is starting to affect our concentration during our working day as we are constantly tired.*
- *I start work at 6am and because I've been awake most of the night due to banging noises from the site, I am only getting about 3 hours sleep.*
- *We cannot have the windows open and in this warm weather it is both unhealthy and annoying that due to this firm's lack of interest in other people's lives, we are being made to suffer.*
- *I get one day off a week on a Sunday and yet again my day off is ruined by the extreme noise levels from this so-called factory.*
- *At this moment in time, they are working outside the agreed times, the noise from the wood shredding machine, wagons tipping, reversing alarms, smells, smoke, dust and the general disturbance we find totally unacceptable.*
- *The working hours quoted were arrived at to give some relief to residents in the area from noise. It could be worse if other unknown, unregulated substances from skips and demolition sites. Are these materials being dumped here from other areas, which don't want them?*

PLANNING ISSUES

The application has been submitted following an enforcement investigation into a number of complaints that the business is operating outside of the approved hours. In considering the application to extend the hours of operation, the main issue for consideration is whether the proposed extension in operating hours of the waste transfer station would have an adverse impact on the amenities of nearby residential properties to the north and east of the application site.

Local Plan Policy E48 (Noise-Generating/Polluting Development) states that planning permission will not be granted for development which, by reason of the emission of noise or other pollutant, would be materially harmful to the amenities of existing or proposed residential or other pollution-sensitive areas. Policy H15 (The Amenities of Residential Areas) also states that permission will not be granted for the establishment, enlargement or material intensification of non-residential uses which would unacceptably conflict with the amenities of surrounding areas having a predominantly residential character or with the quiet enjoyment of dwellings and gardens in particular.

The nearest residential properties are located on Inglewood Close (approximately 103 metres), Littlebeck Drive (approximately 158 metres) and Riverside Way (approximately 240 metres) to the north and east of the application site. The site is on an elevated, heavily landscaped area of ground and the roof of the building is slightly visible over the trees. Prior to planning permission being granted for the waste transfer use in September 2007, the site previously operated as a wood-recycling unit and following complaints regarding this use, it was considered that the use of the site as a wood-recycling unit did not require planning permission (the use was considered to fall within the site's original B2 (General Industry) permission). As such the Local Planning Authority did not have any control over such issues as the hours of operation,

height of stockpiling etc. The hours of operation condition relating to the waste transfer station use was subsequently imposed at the request of the Council's Environmental Health Section, when planning permission was granted for the waste transfer station, in order to bring the operation of the site under the control of the Local Planning Authority, to protect the amenities of the occupants of the residential properties to the north and east of the site.

The Council's Environmental Health Officer has commented on the current application. These comments are set out in full as follows:

Environmental Health cannot recommend approval of this application. This is due to a history of complaints regarding noise from the site, in particular at night and early morning noise and also due to ongoing complaints, which are still being investigated.

Following previous investigations into noise complaints a statutory noise nuisance was proven to exist and the then site operators Just Wood (North East) were issued with a noise abatement notice on 16 May 2005 limiting the hours of the wood chipping machine to 08:00hrs to 18:00hrs Monday to Friday and 09:00hrs to 13:00hrs on a Saturday, with no working on bank holidays or Sundays. A further notice required noise from the chipping machine not to exceed the background noise level by more than 5dBa at Inglewood Close or Riverside Way. These two latter notices had to be re-served on 23 September 2005 due to a change in name of the Company to JW Recycling Ltd. The change of company name (now known as Albert Hill Skip Hire Ltd) appears to have taken place a couple of times around the time the notices were served and it was felt that the condition on the planning permission was a more permanent way of addressing noise problems being experienced by early morning/evening and night time activities. The time restrictions placed on the planning permission also enabled the control of other types of noise from the site in particular vehicle movements and impact noises, which were and continue to be a source of complaint. The situation is made worse due to the location of the site. The yard is located on land above the residential properties, with any noise travelling down onto the houses with no buildings/natural screens to attenuate the noise, therefore, it is important to have controls to minimise the times residents are affected.

This application has been submitted following noise complaints by local residents that the company was operating outside of the permitted hours in the planning permission. These noise complaints are still ongoing.

The Environmental Health department is currently investigating complaints from nearby residents regarding noise from general activities at the site during early morning and late at night. Should a statutory nuisance be confirmed as a result of the investigation then a Noise Abatement Notice, requiring certain steps to be taken to abate the nuisance, would be served. This investigation and course of action is taking place separately to consideration of the planning application.

A total of eight letters of objection from occupants of properties in Littlebeck Drive, Inglewood Close and Riverside Way have been received in connection with the application. These letters express concerns regarding the impact of the business operating outside of the approved hours in terms of disturbance from noise and dust arising from the use of the premises and the resultant impact on their living conditions. The application provides no supporting information to explain how the impact of the proposed extension of operating hours on the amenities of these properties may be mitigated against.

The Highway Engineer has commented on the application and raises no highway objection to the proposal.

In view of the letters of objection and the comments of the Environmental Health Officer it is considered that the extension of the approved hours of operation would have an unacceptable, adverse impact on the living conditions of these properties and it is recommended that planning permission be refused. Should Members be minded to refuse planning permission, then Officers would seek authorisation to pursue enforcement action to secure compliance with the approved hours of operation condition.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The proposed extension of the approved hours of operation is considered to have an unacceptable adverse impact on the amenities of residential properties to the north and east of the application site, in terms of noise, nuisance and disturbance. The proposal is therefore considered to be contrary to Policies E48 (Noise-Generating/Polluting Development) and H15 (The Amenities of Residential Areas) of the Borough of Darlington Local Plan 1997.

RECOMMENDATION

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:

1. The proposed extension of the approved hours of operation is considered to have an unacceptable adverse impact on the amenities of residential properties to the north and east of the application site, in terms of noise, nuisance and disturbance. The proposal is therefore considered to be contrary to Policies E48 (Noise-Generating/Polluting Development) and H15 (The Amenities of Residential Areas) of the Borough of Darlington Local Plan 1997.