

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 27 August 2008**

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<b>APPLICATION REF. NO:</b>	<b>08/00429/CU</b>
<b>STATUTORY DECISION DATE:</b>	<b>10 July 2008</b>
<b>WARD/PARISH:</b>	<b>CENTRAL</b>
<b>LOCATION:</b>	<b>Alexander Le Skerne, Unit 37 Cleveland Trading Estate</b>
<b>DESCRIPTION:</b>	<b>Change of use to processing ferrous and non ferrous metals</b>
<b>APPLICANT:</b>	<b>Mr Billy Ward</b>

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**APPLICATION AND SITE DESCRIPTION**

In normal circumstances, this application would have been determined under the Assistant Chief Executive's delegated powers. However, Councillor Hartley, as the Ward Councillor has requested that the application be "called in". The reason given for this is that Councillor Hartley considers that the relocation of the Ward Bros Steel operation from its existing site to the application site will have significant benefits to the residents of the dwellings on Albert Hill.

The application site measures approximately 1.4 hectares and is located on the south east corner of the Cleveland Industrial Estate. The site consists of a large three bay general industrial building measuring 7200m<sup>2</sup>; a site office and an open yard area. There are two accesses into the yard area.

The applicant, Ward Bros Steel, wish to move their existing operation from their Albert Hill site, adjacent to the application site, to the Alexander Le Skerne building. The floor area of the existing building would be reduced to 4800m<sup>2</sup> by the demolition of one of the bays. A new elevation would be constructed from brickwork and horizontal cladding.

The proposal involves the change of use of the site from a general industrial use (Class B2) to a premises used for the processing of ferrous and non ferrous metals, which is a sui generis use ie. a use which does not fall within a use class. Generally speaking, ferrous metals are magnetic metals derived from iron or steel, products made from ferrous metals include appliances, furniture, containers and packaging like steel drums and barrels. Non ferrous metals are nonmagnetic metals such as aluminium, lead and copper.

The Trading Estate is an area in predominately commercial and industrial uses with the East Coast mainline forming the eastern boundary. The Area has seen a great deal of regeneration take place in recent years, with improved access and new modern buildings.

**PLANNING HISTORY**

None relevant

**PLANNING POLICY BACKGROUND**

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

- EP2 Employment Areas
- EP5 Other Uses in Employment Areas
- EP17 Waste Material Storage, Processing and Transfer

**RESULTS OF CONSULTATION AND PUBLICITY**

Five letters of objection have been received which can be summarised as follows:

- *The use will create unacceptable amounts of large commercial vehicle movements causing nuisance to accessing Units 1 to 8 Forge Way*
- *Traffic congestion;*
- *The applicant's existing site is frequently on fire, and this site would be at a similar risk;*
- *Debris would be dropped on the roads from the vehicles entering and leaving the site;*
- *Conditions placed on other units (Unit 26 Forge Way) by the Council that scrap vehicles or rubbish cannot be stored on site.*
- *The findings of the Transport Statement are not correct;*
- *Noise report is not complete and does not take into account certain commercial neighbouring units;*
- *Concerns over dust and other airborne pollutants;*
- *The Estate is now becoming attractive with more firms wanting to relocate to the area. New units have replaced the old style industrial units. This application would be a big step backwards*
- *To allow the development would directly contravene the Local Plan*
- *The development would create smells, be dirty, noisy and potentially dangerous*
- *The outdoor space could be used to create a "Scrap Mountain" like the one at the existing Edward Street facility*

**Northumbrian Water**

Northumbrian Water have raised no objections

**Environment Agency**

The Environment Agency has no objections and commented as follows:

*" The site will require an Environment Protection Permit and as such, all site operational issues will be addressed during permit application process. A member of our Environmental Protection Team will arrange a meeting with the applicant to discuss any relevant issues "*

**PLANNING ISSUES**

The main issues to be considered here are whether or not the proposed change of use is acceptable in the following terms:

**Planning Policy**

The applicant states in their Supporting Statement, *“that the relocation of the Ward Bros Steel business has a number of wider benefits for the area. The existing site is much larger than the proposed site and the existing operation will be consolidated and made more efficient. The relocation would allow for the existing site to be redeveloped and decontaminated. The proposed site will allow for the business to operate in a more efficient way, which has associated environmental benefits. In addition to this the majority of sorting will be conducted indoors on the new site whereas on the existing site, the majority of work is conducted outdoors”*. The Statement continues *“It’s difficult to envisage a more appropriate location for such a use as this in the Darlington area. The proposed development will essentially compact the Ward Bros operation into a smaller efficient site, therefore reducing its visual/environmental impact”*.

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 proposals are for a change of use to the processing of ferrous and non-ferrous metals, this does not fall under a use class and is therefore Sui Generis. Although the proposals are Sui Generis the processes that will take place on the site are definitively industrial in nature. The overwhelming industrial nature of the process outlined in the application means that the most suitable location for the use would be on established employment land. However as the Sui Generis use is not addressed in the policy EP2 there are other policies 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.

With regard to point 1), the majority of the properties in the locality of the application site fall under B2 and B8 uses. However, Cleveland House and Cleveland Hall, both situated adjacent to the application site, are in B1 use. Charter Self Drive on Forge Way, also adjacent to the application site is a B8 use with an ancillary B1 use. Forge House, which is on the opposite side

of the access road leading into the Estate, contains B8 and B1 uses (particularly in the section of the building closest to the application site). This means that the proposal does not accord with the first criteria point.

From the information supplied the yard area would be screened by a 3m high solid perimeter fence/wall. The applicant would also consider further screening along the East Coast Main line boundary with fencing or trees and hedgerows. The application site is not close enough to the main road network or the line of the cross town route to be seen from these routes. The nearest dwellings are on the Albert Hill, approximately 70m to the south east of the application site. The East Coast Main line acts as a physical boundary between the two areas and although more information would be required as to the exact location of any open storage areas and the nature of the boundary treatment, it would be justified to say that any open storage of material would not be visible from the dwellings. The proposal would accord with Points 2) and 3) subject to the imposition of suitable planning conditions.

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

### **Traffic**

The site has two existing accesses, with the northern access used by HGVs bringing and removing materials to the site. Staff and visitors to the site would use the western access. A Transport Statement accompanied the application and it concludes “ *conditions on the highway network will be improved with the proposed development...the propose development will generate fewer trips than that which are currently generated from the Alexander le Skerne Works site. Secondly it is evident that with the removal of the existing site across the road, conditions will also be improved locally on the highway network*”

The Council’s Traffic Manager has stated that the traffic generated by the development would already be on the main highway network at this point and therefore no highway objections have been raised. If planning permission is granted, planning conditions have been requested relating to improvements to the access road; provision of dropped crossings and the provision of secure cycle parking areas.

### **Land Contamination**

A Phase 1 Desk Top Study accompanied the application, which concluded that due to the past industrial uses of the site, a Phase 2 investigation is required to allow a full assessment of the contaminative setting of the site can be ascertained. The Council’s Environmental Health Officer has requested the imposition of a planning condition requesting that a Phase 2 investigation is carried out prior to the commencement of the development. Further conditions have been requested for drainage systems; and a working plan for the handling of the metals.

### **Noise**

A Noise Assessment accompanied the application, which has been inspected by the Council’s Environmental Health Officer. It is stated in the Assessment that 50% of the proposed operations will be indoors with the metal segregation (ferrous) being done outside. The hours of operation would be 0900 – 1700 Monday to Friday and 0930 – 1300 on Saturdays.

As previously mentioned, there are some B1 office uses adjacent to and within the locality of the application site. It is a concern that these offices are not adversely affected by noise from both internal and external activities of the proposed development. Also, by partially demolishing the

existing building, its potential to act as a sound barrier to the dwellings on Albert Hill could be affected. The Environmental Health Officer has been critical of the Noise Assessment in terms of the data provided and the lack of information to show that the proposed use would not have an adverse impact in terms of noise and a number of requests were made by Officers to the applicant to provide further information to attempt to satisfy this concern.

The applicant has not been willing to provide this additional information and would prefer the issue to be dealt with by a planning condition. However, Officers consider that recommending approval for this development is not appropriate, when the potential impacts it may have on the surrounding areas, which is a very important and a material-planning consideration, have not been satisfactorily accounted for.

Despite fulfilling points 2) and 3) of Policy EP17, it does not fully accord with the policy as it is contrary to points 1) and 4).

### **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**

One of the benefits mentioned by the Applicant and the Ward Councillor of granting this application is that the relocation from the existing site would result in the cessation of the use and remove any impacts upon the dwellings on Albert Hill. It is understood that the Ward Councillor has received comments over the height of the piles of materials, which get stored externally. Whilst these comments are noted, officers consider that until further work on how the development will impact upon the surrounding areas has been carried out to the satisfaction of the Local Planning Authority it is not appropriate to recommend approval for the change of use

### **RECOMMENDATION**

**PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:**

The application site is within close proximity to B1 office uses and there are residential dwellings in the locality on Allan Street, however, insufficient information has been submitted with the application to establish whether or not the proposed change of use would have an adverse impact upon these surrounding areas in terms of noise. Without the submission of a comprehensive noise assessment the Local Planning Authority is unable to establish the impacts on the surrounding areas and the possible degree of mitigation works that may be required.