

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>11 December 2013</b>		
<b>Application Number</b>	<b>13/03187/WCM</b>		
<b>Site Address</b>	<b>Units 3 To 5, 2 Porte Marsh Road, Calne, Wiltshire, SN11 9BN</b>		
<b>Proposal</b>	<b>Section 73 application: Temporary Change of Use to a Recyclables Management Facility with ancillary activities without compliance with condition 5 of N.11.03354 (to allow loading outside of the building)</b>		
<b>Applicant</b>	<b>Hills Waste Solutions Ltd</b>		
<b>Town/Parish Council</b>	<b>CALNE</b>		
<b>Electoral Division</b>	<b>Calne North</b>	<b>Unitary Member</b>	<b>Cllr Glenis Ansell</b>
<b>Grid Ref</b>	<b>400151 171991</b>		
<b>Type of application</b>	<b>Full Planning</b>		
<b>Case Officer</b>	<b>Jason Day</b>		

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### Reason for the application being considered by Committee

Councillor Glenis Ansell has requested that this application be determined by the Committee for the following reasons:

- Relationship to adjoining properties
- Environmental or highway impact
- Concern about why the alleged Health & Safety issue did not arise in the original application.

### 1. Purpose of Report

To consider the above application and to recommend that permission be GRANTED.

### 2. Report Summary

The main issues in the consideration of this application are as follows:

- Reasons for imposing Condition 5
- Noise and operating hours
- Impact on residential amenity and the local environment.

### **3. Site Description**

The application site is located within the established Porte Marsh Industrial Estate, located on the northern fringe of Calne. It comprises an existing building situated at the southern end of the Estate.

The external yard area is hard surfaced and provides adequate space for vehicle turning and parking. Fencing that once enclosed the front of the site has been removed and it would appear that others are making use of the yard for parking.

A mix of B2/B8 uses neighbour the application site, with areas of residential development and a school to the south. Access is from Porte Marsh Road, the main distributor/link road through the Industrial Estate, onto the A3102 which links to the A4 to the south.

The site has been operating in its current use since 2011 for the reception, sorting and distribution of plastic and cardboard waste from the council's kerbside collection service.

### **4. Relevant Planning History**

N/11/01816/WCM – Temporary Change of Use to a Recyclables Management Facility, with ancillary activities – approved September 2011.

N/11/03554/WCM - Section 73 application: Temporary Change of Use to a Recyclables Management Facility, with ancillary activities without compliance with condition 6 of N.11.01816 [to change operation hours] – approved 19 December 2011

### **5. Proposal**

The application has been made under section 73 of the Town and Country Planning Act 1990 to carry out the previously approved development of the Recyclables Management Facility without complying with condition 5 of permission ref:

N/11/03554/WCM in order to allow the loading of vehicles with sorted and baled plastic and cardboard recyclable waste outside of the building.

Condition 5 of the permission currently reads:

*No deposition, processing, handling or transfer operations shall take place on site outside the confines of the building hereby approved for this purpose and no loose waste materials shall be deposited or stored on the adjacent open area.*

The applicant seeks to amend the wording of condition 5 to read:

*No deposition of untreated materials or processing shall take place outside of the building hereby approved for this purpose and no loose materials shall be deposited or stored on the adjacent open area.*

## 6. Planning Policy

Wiltshire and Swindon Waste Development Control Policies DPD  
Policy WDC2: Managing the impacts of waste management

## 7. Consultations

Calne Town Council – Object. Members commented that Hills are already breaching some of the conditions placed on the earlier application. It was noted that the facility is operating outside of its agreed times with the doors open. Complaints have been received from residents in the vicinity. Members requested that a member of the enforcement team investigate these issues.

Members felt strongly that by moving the loading/unloading operations outside, the issues already experienced by local residents will surely worsen. There will almost certainly be an unacceptable increase in noise, pollution and littering.

Members felt strongly that if the facility cannot operate safely, in compliance with health & safety regulations as it currently does, then the building/site is not fit for purpose. Members strongly objected to this application on the following planning grounds; Local Plan 2011 – Core Policy C3 (iii), (ix) and NE18 Noise & Pollution - para 6.50

Environment Agency - no objections, in principle, to the proposed development but recommends that if planning permission is granted an informative be included advising that the proposed development may require a variation to its current exemption or Environmental Permit from the Environment Agency.

Strategic Landscape Team – No comment

Environmental Health – No adverse comments

## 8. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

11 letters of objection were received in response to the application and 1 response in support of the proposal.

Summary of key relevant points raised:

- The temporary arrangement has been in operation now for approximately two years, with Hills Recycling seeming to manage adequately so far and we question the need to alter the existing arrangements.
- The facility has been operating past 22:30 hours causing a noise nuisance.
- The existing operations already cause a noise nuisance, including when the doors are left open.
- The prospect of allowing longer operating hours, combined with the inevitable increase in noise and detritus generated by outside loading will be intolerable

- This recycling operation, although of arguably inert materials, does already generate considerable smells from contaminated milk bottles; this was very evident to passersby and local residents during the hot weather this summer.
- The site operates close to residential properties, schools and amenities
- The proposal would result in an increased risk of litter, dust, odour, flies, rats and gulls.
- The existing planning permission requires the site to operate with doors closed
- Loading/handling of loose waste outside the building will considerably increase the risk of a litter problem on the adjacent public highway, especially during high winds
- Concern was expressed that permission being granted without particular conditions being attached and also rigorously enforced would really mean "carte blanche" for the applicant to do as suits them best without regard for the local environs or residents.
- It has been the cleanest and best organized on the estate. However in going past it virtually every night it seems to be running at virtually the physical limit of the factory now. Any increase in or outside will need the excellent management its got now with no slippage or fall in standards as very very quickly chaos would result.
- Since the arrival of Hills we have seen a steady deterioration to the immediate environment with increased rubbish on roads, smell, traffic noise, an increase in the seagull population and the damage to the road infrastructure
- increased health risks, such as our children developing Asthma and other lung disease as a result of dust pollution.

## **9. Planning Considerations**

This is an application under Section 73 of the Town and Country Planning Act 1990. This section provides for applications to be made for planning permission without complying with conditions applied to a previous permission. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation.

The section 73 procedure for such applications requires the planning authority to consider only the question of the condition(s) subject to which planning permission should be granted. If it is decided permission should be granted subject to conditions differing from the previous permission the planning authority may grant planning permission accordingly. Alternatively, if the planning authority decides that permission should be granted subject to the same conditions as in the previous permission, then it should refuse the application.

In determining this application, it will be necessary to consider the condition, the reason for it, its function, the degree to which it makes the development acceptable, and therefore whether the variation would in this context be acceptable.

The Porte Marsh Recyclables Management Facility currently operates under a conditional planning permission granted in December 2011 (ref. N/11/03554/WCM). Condition 5 of that permission requires that all operations associated with the Facility take place inside the confines of the building. This application proposes the 'variation' of condition 5 to allow outside loading of processed and baled plastic and

cardboard waste onto lorries for transportation to off-site reprocessing facilities for recovery or recycling.

### 9.1 Reasons for imposing Condition 5

Condition 5 reads *“No deposition, processing, handling or transfer operations shall take place on site outside the confines of the building hereby approved for this purpose and no loose waste materials shall be deposited or stored on the adjacent open area”*.

The reason given for imposing the condition is *“to ensure an acceptable form of development is achieved in the interests of the appearance of the site and local amenity.”*

The reason is supported by policy WDC2 of the Wiltshire and Swindon Development Control Policies DPD which seeks to control significant adverse impacts of waste management development on, among other matters, amenity, visual aspects of development, vibrations, noise and light.

The applicant considers that the proposal would address health and safety concerns associated with loading operations that are currently required by the existing planning permission to take place within the building.

The health and safety concerns have arisen due to the Council’s municipal plastic and cardboard collection service proving to be more successful than anticipated, leading to more cramped working conditions.

It must therefore be judged firstly whether there would be any adverse impact associated with outside loading and secondly if so whether the impact would be significant to the degree that it would outweigh the need to address the health and safety concerns.

### 9.2 Noise and operating hours

Calne Town Council and some members of the public that have responded to the planning application are of the view that the current planning permission restricts operating hours for the facility and requires the doors to remain shut. However, there are no requirements to keep the doors closed during operation.

The only related restrictions to the running of the facility are imposed by condition 6 which imposes restrictions on the days and times deliveries of waste to the site and the dispatch of materials may take place. Outside loading would be related to the dispatch of waste and consequently would be restricted to take place within the delivery and dispatch hours imposed by condition 6, should planning permission be granted.

The dispatch vehicles would be loaded using a forklift truck. Given that the context for the site is an industrial estate, where the use of forklift trucks for loading and unloading is commonplace and where HGVs will continue to arrive and depart from the site, it is considered extremely unlikely that the loading of vehicles outside of the

facility as proposed, within the hours imposed by condition 6 would result in an excessive noise impact on sensitive receptors.

### 9.3 Impact on residential amenity and the local environment

The Town Council and members of the public have raised concerns about the potential for dust, odour, littering and the encouragement of vermin that would be caused by allowing operations to take place outside of the building.

Additional details submitted by the applicant show that outside loading of vehicles would take place two or three times per day. The loading activity would last 45 minutes to 1 hour. No changes are being proposed to the internal operations of the building. All deposition of plastic and cardboard when it arrives at the facility and all processing would still be carried out inside the confines of the building.

The site is used for the reception, sorting and bulking up of plastic and cardboard waste. No recycling of cardboard or plastic takes place at the site and no putrescible waste is received at the site. The plastic and cardboard would be compacted and baled inside the building. The bales would then be taken from inside the unit by forklift truck and loaded straight onto a lorry. Consequently the proposal to load vehicles outside is not considered to present a risk of an increase in vermin or flies and would be extremely unlikely to result in the creation of significant or excessive amounts of dust, litter or odour.

Given that there will be vehicles arriving and departing from the site during the same times that the loading would be taking place it is highly unlikely that the proposal to load vehicles outside would result in an excessive or significant impact on the visual appearance of the site or the privacy of neighbouring uses.

Although it does not appear to be intentional, the variation to the wording proposed by the applicant would (potentially) allow for the deposition and storage of materials outside of the building for prolonged periods. This flexibility and scope for using the outside hard standing as a storage area for reclaimed/baled materials is considered unnecessary to achieve the objective of addressing health and safety concerns. It could potentially also impact on the appearance of the local area.

It is considered that the loading of vehicles inside the building now presents a health and safety risk to site staff, and that this consideration should carry significant weight. However, whilst the anticipated impact of the proposed outside loading is considered negligible, this should not outweigh the need to maintain the visual appearance of the site when loading is not taking place, where it can be avoided. The time that the materials are outside of the building should therefore be restricted to those periods when loading is taking place, thereby minimising potential impact on residential amenity. It is therefore considered the wording proposed by the applicant should be amended so the condition reads as follows:

*Except for the loading of reclaimed baled materials onto vehicles for dispatch, no deposition, processing, handling or transfer operations shall take place on site outside the confines of the building hereby approved for this purpose, and no loose waste materials shall be deposited or stored on the adjacent open area.*

## 10. Conclusion

The changes to the Council's municipal waste collection service, to include separate plastic and cardboard collections, have been more successful than originally anticipated and is resulting in the building at Porte Marsh being operated to its limits. This has raised health and safety concerns for staff loading vehicles. Within the context of the Porte Marsh Industrial Estate, the loading of vehicles outside using a forklift is not out of keeping with the site surrounds. Any adverse impact associated with outside loading is considered to be negligible and would not outweigh the health and safety benefits achieved from doing so.

### **Recommendation:**

#### **Planning Permission be granted subject to the following conditions:**

1. The use hereby permitted shall be discontinued and the site cleared of any plant, machinery or materials associated with the use on or before 31 October 2014, unless before that date, planning permission has been applied for and granted for a longer period of use.

REASON: To ensure the development is carried out in accordance with submitted application and approved details.

2. The site signage shall be retained in accordance with the approved scheme titled Discharge of Conditions 2 and 3: Site Signage and Lorry Routing Plan v 2.1, dated 15.09.2011, with the signage being maintained thereafter at the site exit for the duration of the development hereby permitted

REASON: In the interests of safeguarding local amenity.

3. The routing of HGVs to and from the site shall be in accordance with the approved Lorry Routing Plan, titled Discharge of Conditions 2 and 3: Site Signage and Lorry Routing Plan v 2.1, dated 15.09.2011. The approved Plan shall be implemented for the duration of the development hereby permitted.

REASON: In the interests of safeguarding local amenity.

4. No waste other than those waste materials defined in the application details shall enter the site.

REASON: Waste material outside of the aforementioned would raise alternate additional environmental concerns, which would need to be considered afresh.

5. Except for the loading of reclaimed baled materials onto vehicles for dispatch, no deposition, processing, handling or transfer operations shall take place on site outside the confines of the building hereby approved for this purpose, and

no loose waste materials shall be deposited or stored on the adjacent open area.

REASON: To ensure an acceptable form of development is achieved in the interests of the appearance of the site and local amenity.

6. Deliveries of waste to the site and dispatch of materials, inclusive of movement of vehicles to and from the site, shall be confined to between the hours of:

07.00 to 18.00 Mondays to Fridays

07.00 to 13.00 on Saturdays

07.00 to 18.00 on Saturdays that follow Public/Bank Holidays

No waste shall be delivered or accepted or dispatched on Sundays or Bank or Public Holidays, other than as indicated below:

07.00 to 18.00 Good Friday, Easter Monday, Early May Bank Holiday, Spring Bank Holiday and Summer Bank Holiday, plus any special bank holidays announced in a particular year by HM Government;

13.00 to 18.00 on Saturdays immediately following the Christmas Day and Boxing Day Holidays; and

13.00 to 18.00 on two consecutive Saturdays that immediately follow New Years Day.

Operations shall not take place on Sundays or on Christmas Day, Boxing Day or New Year's Day.

REASON: In the interests of limiting the effects on local amenity.



# Appendix 1: Site Location Plan

