

WILTSHIRE COUNTY COUNCIL

AGENDA ITEM NO.

REGULATORY COMMITTEE  
8<sup>th</sup> FEBRUARY 2006

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**CHRISTIAN MALFORD: CHANGE OF USE FROM SCRAP YARD TO WASTE  
TRANSFER STATION; CONSTRUCTION OF WASTE SORTING BAY;  
NEW VEHICULAR ACCESS; SKIP STORAGE AREA AND LANDSCAPING  
(RETROSPECTIVE) - LAND AT 28 MAIN ROAD, CHRISTIAN MALFORD,  
FOR MR J.D. PORTER  
(Application No. N.05.07003)**

**Purpose of Report**

1. To consider the above retrospective application and to recommend that conditional planning permission be granted.

**The Site**

2. The site is that of an existing scrap yard and adjoining agricultural land situated in open countryside to the east of Christian Malford and abutting the south side of the B4069 Main Road. No. 28 Main Road is a residential property and forms the western boundary the site. Further residential properties lie to the west and north of the site, with agricultural fields extending to the south. To the east of the site runs Friday Street, along which are situated other dwellings and businesses.
3. A location plan is attached at **Appendix 1** and a site layout plan is attached at **Appendix 2**.

**Planning History**

4. In brief, the planning history of the site is as follows:

<u>N.93.0526</u>	Certificate of Lawful Use (for continued use of site as a scrap metal business) granted by North Wiltshire District Council on 28 <sup>th</sup> July 1993.
<u>N.04.0486</u>	Application for a Certificate of Lawfulness (for use of land as a scrap yard for the hiring and storage of skips and for the sorting and processing of waste) refused by Wiltshire County Council on 9 <sup>th</sup> December 2004.
<u>N.04.0487</u>	Planning application for extension to existing site for the storage of waste skips and formation of new vehicular access withdrawn by applicant on 31 <sup>st</sup> January 2005.

**Background**

5. In May 2003 the County Council received a complaint alleging that Porters Metals & Skip Hire had broken through a hedge and extended waste operations onto an adjacent field. Initial enquiries made of North Wiltshire District Council found that its enforcement officers had been pursuing the company since July 2002 over matters relating to the storage of skips and commercial machinery on agricultural land to the rear of the scrap yard and the creation of a new access onto Main Road, but that this had not led to any formal action being taken.

6. In June 2003, a local firm of planning consultants contacted the County Council to confirm that they had been instructed by Porters Metals & Skip Hire to prepare and submit a planning application to regularise the formation of the new access and the creation of an area for the storage of empty skips. It was agreed that these works related to a 'waste' use and so any planning application would fall to be determined by the County Council.
7. Discussions between Officers and the Agent established that the applicants' family had operated from the site from the mid-1960s without the benefit of a planning permission, but had in 1993 obtained a Certificate of Lawfulness for an Existing Use from North Wiltshire District Council. This certified the continued use of the site as a scrap yard was lawful for planning purposes, but also determined the operation of a skip hire business from the site was not lawful because evidence showed this use had only been carried out for about three years. Despite this decision, the District Council did not take any subsequent action in relation to the unauthorised skip hire business. Moreover, in 2000 the District Council advised Porters Metals & Skip Hire that use of a small part of the yard to transfer and sort waste from skips would be permissible. In 2002, the company purchased part of the field lying to the south of the yard and proceeded to extend the business onto this land.
8. In light of these discussions, the Agent submitted two applications (ref: N.04.0486 and ref: N.04.0487) in February 2004 to regularise the breaches of planning control that had occurred. The first application (N.04.0486) sought to establish that the mixed use of the site as a scrap yard, skip hire depot and waste transfer station was lawful for planning purposes. This application was refused by the Council as the mixed use was found to be materially different from the 1993 certified scrap yard use and there was no evidence to demonstrate that such material change occurred more than ten years ago. Given that decision, the Agent withdrew the second application (N.04.0487) which related to the extension of the site and the new access and submitted the retrospective application which is the subject of this report.

### **Proposal**

9. This retrospective application seeks planning permission for the following development: -
  - Change of use from a certified scrap yard to a waste transfer station
  - Construction of a waste unloading/sorting/loading bay
  - Extension of the yard to provide a skip storage area
  - Improvement of an existing agricultural access to form a new vehicular access to the B4069 and
  - Construction of screening bunds and landscaping

### **Planning Policy**

10. Policies W3 and W4 of the Adopted Wiltshire Structure Plan 2011 are considered relevant to this application.
11. Policies 1, 2, 4, 6 and 11 of the Adopted Wiltshire and Swindon Waste Local Plan 2011 are considered relevant to this application.
12. All relevant planning policies are set out in the attached **Appendix 3**.

## **Consultations**

13. **North Wiltshire District Council** - raises no objection subject to the imposition of conditions to restrict the use of the site to waste transfer only to:
  - restrict hours of operation to 0800 to 1800 Mondays to Fridays and 0900 to 1400 Saturdays
  - ensure the provision of suitable landscaping along the southern boundary and
  - retain all other existing trees and vegetation.
14. **North Wiltshire District Council Environmental Health Officer** - advised that several complaints have been received concerning the site and so recommended a noise impact study be undertaken to assess the impact of the development on nearby houses.
15. **Christian Malford Parish Council** - asks that operations at this site be restricted to 0800 to 1800 hours to prevent undue noise nuisance outside normal working hours.
16. **Environment Agency** - no objection and advises that the site is controlled by a Waste Management Licence which is to regularise the activity on the site.
17. **Local Highway Authority** - no objection subject to imposition of conditions relating to the specification of the new vehicular access.
18. **Countryside Section** – no objection. Considers the visual impact resulting from the removal of trees and vegetation along the southern boundary to be adequately mitigated by the proposed landscaping scheme.
19. **Rights of Way Section** - no objection.

## **Publicity**

20. The application has been publicised by way of the local press and by site notice. Three letters of representations have been received. The concerns raised are as follows:
  - since waste sorting started at the site there has been an increase in noise and disturbance
  - skips and waste are stored so high they can be seen from afar
  - the development described in the application does not represent the owners intended use of the site – the site will continue to expand
  - the site operator has not complied with planning regulations and so extension of the site should not be allowed
  - site should be landscaped and the hours it operates be restricted.

## **Planning Considerations**

21. This retrospective application is for the change of use of a scrap yard and its extension and the formation of a new vehicular access. The planning history of the site suggests that the applicant has operated a skip hire business alongside the scrap metal business since 1990, but only recently extended operations to include waste transfer.

22. Whilst the development has already been carried out, the Council is required to consider the application in the same way as an application for proposed development. Therefore, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
23. The main issue to be considered with regard to this application is whether the use of the site as a waste transfer is suitable and whether the unauthorised development can be made acceptable by the imposition of planning conditions.

#### Sustainable waste management

24. In the context of this application, waste transfer enables the applicant to collect together relatively small amounts of waste, and segregate different materials, until sufficient quantities are accumulated to merit transportation onwards to the relevant waste treatment or disposal option. As such, the proposals can be said to assist in achieving a more sustainable waste management system as elements of the waste stream can be recovered and diverted from landfill.
25. Whilst the Adopted Waste Local Plan does not identify the application site as a preferred area/location for the development of local waste management facilities (e.g. waste transfer stations), the Plan does make provision for waste development to be permitted outside of Preferred Areas subject to meeting the requirements of the relevant criteria. Of particular relevance are Policies 4 and 11.
26. Policy 11 of the Adopted Waste Local Plan allows for waste transfer stations to be permitted at locations such as the application site provided the proposal meets the criteria of Policy 4. Officers are satisfied that the proposals accord with the relevant criteria of Policy 4, as the sustained operation of the skip hire business is meeting a local requirement.
27. There is general policy support for this type of development and the location of the application site is considered suitable for such a use.

#### Traffic and access

28. The new vehicular access onto the B4069 has been created to address the applicant's long held concerns over the poor visibility at the existing point of access. This new point of access is used by all commercial traffic, with the existing access now only serving the residential property.
29. The Local Highway Authority raises no objection in relation to the location of the new access, but requires that the specification of the access be improved to meet current design standards. In particular, the loose stone currently forming the driveway onto the carriageway would need to be removed and the ground properly consolidated and hard-surfaced.
30. The small number of vehicles operated by the applicant (two skip lorries and one container lorry) does not present any adverse highway safety or capacity issues.
31. Officers consider replacement of the existing poor access arrangement offers a significant improvement with safer conditions and should be given positive weight. Implementation of the required improvements to the new access point can be achieved by planning condition.

### Noise

32. Local residents have commented that since waste sorting operations began at the site the level of noise and disturbance has increased. Previously, it appears the site caused little disturbance to its neighbours. At the recommendation of the District Council's Environmental Health Officer, the applicant was requested to commission a noise impact study to assess the impact of site operations on nearby noise sensitive properties. The applicant duly appointed an independent acoustic consultant and a noise assessment report has been submitted to the Council.
33. The noise study found that the dominant noise source in the area is traffic travelling along the B4069 and this overwhelmed all other sources, including operations at the application site. Therefore, data from similar waste transfer operations was used to calculate noise levels at sensitive properties. The results were assessed in accordance with the methodology set out in BS4142 which considers the likelihood of complaints by subtracting the measured background noise from the noise from the sources under consideration. A difference of +10dB or more indicates that complaints are likely, with a difference of +5dB being of marginal difference. The assessment concludes that noise from the site is only around 1dB above background levels.
34. The Environmental Health Officer has reviewed the submitted noise assessment report and is satisfied with both the methodology employed and the results obtained by the noise consultant. The noise impact study does not therefore support the local residents perception that noise from the site has increased or is unacceptable.
35. However, Officers feel that there may be some link between the perception that noise has increased and the hours the site has been operating. Local residents have noted that operations often commence before 8.00 am and continue after 6.00 pm. These are the times that traffic levels along the B4069 are likely to be lowest. Without traffic noise to mask site operations, activities at the site become noticable. It is also the case that a section of boundary fencing along the northern boundary of the site had been missing allowing noise to 'break-out' from the yard. The fencing has since been repaired.
36. Officers consider that restricting the hours of operation would provide a good standard of control to protect residential amenity. The imposition of a noise limit for site operations would not be appropriate in this case.

### Visual impact

37. Having acquired the land to the south of the scrap yard, the applicant removed existing trees and vegetation which formed the southern boundary of the scrap yard. The removal of such vegetation and the extension of the yard has resulted in the site becoming highly visible to properties lying to the south along Friday Street and from the public footpaths that cross adjacent fields.
38. The applicant originally sought to address this visual intrusion by providing a soil bund along the boundary of the skip yard and a 300mm grassed soil bund alongside the new access road. Such measures were considered by the Countryside Team to be insufficient to perform the task of screening the site. Therefore the applicant produced a revised scheme which Officers are now satisfied will provide an adequate screen to the site. The scheme provides for a 0.9 metre high soil bund along the southern boundary of the site which will be grassed and planted with trees and shrubs of native species.

39. As well as screening the site visually, the soil bund and planting will provide a physical boundary to the site.

### **Conclusion**

40. It is considered that, given the small scale of the development, the use of the application site as a waste transfer station is acceptable and would not be so detrimental to local amenity as to warrant a refusal of planning permission. There is broad policy support for the development and the operation of the site can be controlled satisfactorily by the imposition of suitable planning conditions.

### **Recommendation**

41. That planning permission be granted subject to the following conditions:

1. Within three months of the date of this permission the site access road, its junction with the public highway, the visibility splays and the parking and manoeuvring areas shall be laid out, constructed and surfaced in accordance with details which shall have first been approved in writing by the Waste Planning Authority. These areas shall thereafter be retained and kept available for these purposes for the duration of the development. The visibility splays shown on Drawing No. 1206/01/A dated May 2005 shall be provided and maintained free of all obstruction to visibility at or above 600mm above the nearside carriageway level.

**Reason:** *In the interests of highway safety.*

2. Within three months of the date of this permission the screening mound as shown on Drawing No. 1206/01/A dated May 2005 shall be constructed in full and to a height of 900mm.

**Reason:** *The provision and maintenance of a satisfactory degree of landscaping is considered essential in the interests of visual amenity and to define the site boundaries.*

3. Within three months of the date of this permission a detailed scheme for the landscaping of the site shall be submitted to the Waste Planning Authority for approval. Such scheme shall provide full details of the indicative scheme shown on Drawing No. 1206/01/A dated May 2005 and include:

- (a) The positions, species, density and initial sizes of all new trees and shrubs
- (b) The programme of implementation of the scheme
- (c) The arrangements for subsequent maintenance

The scheme as approved shall be carried out in full.

**Reason:** *The provision and maintenance of a satisfactory degree of landscaping is considered essential in the interests of visual amenity.*

4. The scheme of landscaping as approved under condition 3 above shall be carried out in the planting season coinciding with or immediately following its approval by the Waste Planning Authority. Within five years of planting any trees, shrubs or other plants that die, become diseased, are removed or damaged shall be replaced in the first available planting season with others of a similar size and species in accordance with the details of the approved scheme.

**Reason:** *The provision and maintenance of a satisfactory degree of landscaping is considered essential in the interests of visual amenity.*

5. Operations authorised by this permission, including vehicles entering and leaving the site, shall be restricted to the following periods:

0800 hours to 1800 hours Monday to Friday  
0800 hours to 1300 hours Saturday

and shall not take place on Sundays or Bank or Public Holidays.

**Reason:** *To protect the amenities of local residents and visitors to the area.*

6. The development hereby permitted shall be used only for waste transfer and sorting and for no other purpose in Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order.

**Reason:** *In order to protect the amenity of the area and of local residents and to regulate the use of the land.*

7. No waste transfer operations shall take place on site outside the confines of the building approved for this purpose and no loose waste materials shall be deposited or stored on the adjacent open areas or outside the waste receiving bay or the salvaged/reclaimed materials storage bays.

**Reason:** *In order to protect the visual amenities of the area and to regulate the use of the land.*

8. The height of any stockpiles or stacks of reclaimed or salvaged materials shall not exceed the height of the walls of the bays in which it is to be stored/deposited.

**Reason:** *In order to protect the visual amenities of the area and to regulate the use of the land.*

9. The storage of skips at the site shall be confined to that area indicated on Drawing No. 1206/01/A dated May 2005.

**Reason:** *To ensure that the development is carried out in accordance the submitted details and to regulate the use of the land.*

10. Access to and from the site for any purpose in connection with the development hereby approved shall only be gained via the point of access shown on Drawing No. 1206/01/A dated May 2005 and no other point.

**Reason:** *In the interests of highway safety.*

11. There shall be no screening, shredding and crushing of any material on the site at any time.

**Reason:** *In order to protect the amenities of the area and to regulate the use of the land.*

12. Steps shall be taken to ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other detritus on the highway. Efficient means shall be installed, maintained and employed for cleaning the wheels and chassis of all lorries leaving the site.

**Reason:** *To ensure that mud and other detritus is not carried onto the public highway in the interests of highway safety.*

13. No external floodlighting or other illumination shall be erected or installed at the site without the prior written approval of the Waste Planning Authority.

**Reason:** *To ensure that the development is carried out in accordance the submitted details and to protect the amenities of the area.*

14. All existing trees, shrubs and hedges within the site and those immediately adjoining the site where this land is in the control of the applicant shall be retained for the duration of the development unless shown on the approved drawings as being removed and shall not be damaged, destroyed, uprooted, felled, lopped or topped without the previous written approval of the Waste Planning Authority. Any such trees removed without permission or dying or being seriously damaged or diseased during that period shall be replaced in the following planting season with trees of such size and species and in such locations as may be approved by the Waste Planning Authority.

**Reason:** *To ensure the continuity of amenity afforded by existing trees, shrubs or hedges.*

**GEORGE BATTEN**

Director of Environmental Services

Report Author

**JASON DAY**

Principal Planning Officer

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**The following unpublished documents have been relied on in the preparation of this Report:**

Consultation replies