

REGULATORY COMMITTEE
10th MAY 2006

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 provide additional information relating to the issues raised by Members at a previous meeting of the Committee when considering the above retrospective application.

Background

2. At the meeting on 8th February 2006, Members resolved to defer consideration of the planning application in order for Officers to research responses to the following issues raised during the meeting:-
 - (i) The Officer report referred to dated comments and it would have been useful to have recent information on the views of local people and the Parish Council.
 - (ii) Whether the expansion of the site and change of use to a waste transfer station was in the interest of the rural area.
 - (iii) Further information on the use and condition of the public footpath that crosses the site should be provided.
 - (iv) Whether the height of the soil bund was adequate to reduce the visual impact of the site.
 - (v) Whether lighting erected at the site was appropriate.
3. The full report considered by the Committee at the previous meeting is attached at **Appendix A**.

Additional Information

4. Subsequent to the February meeting, Officers met with the Applicant and his planning advisor to discuss the issues set out above and it was agreed that the Applicant would submit further details to address the concerns of the Committee.
5. Further details in the form of an amended site plan and commentary was submitted on 3rd March 2006. These were forwarded to the Parish Council and those local residents who had commented on the planning application on 8th March. Comments on the further details were invited by 31st March.
6. The amended site plan and commentary submitted by the Applicant are attached at **Appendix B**.

Local Views

7. The Parish Council has submitted additional comments in relation to the planning application and wishes these to be presented to the Committee in full. These are attached at **Appendix C**.
8. Of the three local residents who commented on the application, only one has submitted further comment. In general, the resident finds the proposals to be much refined and more appropriate but has expressed the following concerns:-
 - (a) The density and type of planting would appear to be more in keeping with the local area, but the planting should be extended to the area south of the proposed 2.4 metres high fencing so as to complete the screening of the operation and the proposed lighting of the yard.

Officer comment: Agreed. The provision of such planting can be secured through a condition of any planning permission granted.
 - (b) The statement made by the Applicant that 'only one bonfire has been lit in recent times' is completely untrue. In the last 18 months there have been at least two other bonfires.

Officer comment: The District Council's Environmental Health Officer advises that although a report of regular bonfires at the scrap yard was received, officers visiting the site witnessed no bonfires. A condition of the Waste Management Licence for the site granted by the Environment Agency prohibits the burning of waste. Any allegation of waste burning would be investigated by Agency officers.
 - (c) The Applicant has consistently demonstrated little regard for operating within their planning permission, and if permission is granted on this occasion it will be seen as permission to do anything they like.

Officer comment: The site does not benefit from any previous grant of planning permission. The development carried out at the site has been done so without having first obtained the planning permission required for it. Any further development at the site would require a further specific grant of planning permission.
 - (d) The submitted commentary suggests that no complaints have been received by the Council's Planning Enforcement Section since July 2003. Questions relating to enforcement of the site were submitted in November 2004, January 2005 and March 2005.

Officer comment: The commentary is responding to the suggestion that the District Council's Enforcement Section had reason to visit the site on a weekly basis. The questions posed by the resident were submitted to the County Council.

- (e) There is little evidence of the current permissions for the site being enforced. What mechanisms are in place to ensure that if permission is granted they will be carried out as approved?

Officer comment: The submission of this retrospective planning application arose from the recent involvement of the County Council. Should planning permission be granted for the development that has taken place, the site would become subject to regular monitoring by Officers and any unauthorised development would be investigated and enforcement action taken as necessary.

Interests of the Rural Area

9. The site has operated as a scrap yard since the 1960s and the planning history of the site suggests that the applicant has operated a skip hire business alongside the scrap metal business since 1990. The application site should not therefore be viewed as a new 'greenfield' site.
10. Given the small scale nature of the development, Officers consider the use of the application site as a waste transfer station to be consistent with the relevant policies of the Adopted Waste Local Plan and acceptable. It is not considered that the development would 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.
11. If planning permission were to be refused, the site could revert to its certified lawful use as a scrap yard (and possibly a skip hire depot) pending enforcement action to address the unauthorised development that has been carried out. However, the Lawful Development Certificate issued by North Wiltshire District Council in 1993 is not subject to any limitations/conditions and it would be difficult to exert any planning control over that business. Moreover, the vehicular access would also revert to the substandard arrangement that previously existed.

Location of Footpath

12. Public Footpath No. 3 extends south from the B4069 Main Road at the point where the new vehicular access has been created. The alignment of the footpath is shown on the site plan attached at **Appendix B**. The footpath crosses agricultural fields and links to the network of footpaths that run to the east of Christian Malford. The footpath ends at Main Road where there is no footway or immediate connection to another public footpath. It is understood that Footpath No. 3 is little used, being mainly utilised by local residents for dog walking. Footpath users would have to cross the access road and the Applicant is proposing to erect warning signs and surface markings for the benefit of both walkers and drivers. The Council's Rights of Way Section raises no objection to the proposals.

Height of Soil Bund

13. The proposals provide for a bund along the southern boundary of the site. At its western end, alongside the skip yard, the bund would be constructed to a height of 1.5 metres. The bund would then reduce in height to 0.9 metre alongside the access track.

14. These dimensions are the result of negotiations between Officers and the Applicant following initial objections to the planning application from the Council's Landscape Officer. The submitted application proposed a bund of only 300 mm alongside the access road. The amended dimensions are considered to offer an effective solution and one that is appropriate to the size of this site. A bund of much larger dimensions would itself be visually intrusive and compromise the establishment of tree and shrub planting upon it.

Lighting

15. Four external lights have been erected on the south side of the building since the planning application was submitted. The necessity and appropriateness of installing the lighting in this position was discussed with the Applicant. It was agreed that whilst the lighting was required for site security, the location of the lights should be altered so as not to impact on local amenity. It is now proposed to erect the lighting on the southern boundary of the yard so that the lights shine inwards to the site, rather than across the field towards existing dwellings.

Additional planning conditions

16. To address other concerns expressed at the earlier meeting the following additional conditions have been added to those recommended in the original report. These new conditions are numbered 5, 9, 11 and 13.

Recommendation

17. In light of the additional information provided, it is recommended 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. The existing access to the dwelling at 28 Main Road shall be permanently and effectively closed to commercial vehicles within 28 days of the bringing into use of the new access.

Reason: *In the interests of highway safety.*

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

08.00 hours to 18.00 hours Monday to Friday
08.00 hours to 13.00 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.*

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. All plant or machinery shall be parked at ground level outside the hours of operation as specified in condition 6 above.
- Reason:** *In order to protect the visual amenities of the area and to regulate the use of the land.*
10. 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.*
11. Empty skips shall not be stacked/stored in excess of a height of 2.5 metres above existing ground level.
- Reason:** *In order to protect the visual amenities of the area and to regulate the use of the land.*
12. 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.*
13. The site noise controls outlined in paragraph 24 of the submitted Hylton Dawson Noise Assessment Report dated 6th July 2005 shall be implemented in full.
- Reason:** *To protect the amenity of local residents.*
14. 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.*
15. 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 with the submitted details and to protect the amenities of the area.*

16. 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.*

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

Consultation replies and correspondence