

REGULATORY COMMITTEE
17th DECEMBER 2003

**BISHOPS CANNINGS: CHANGE OF USE TO HOUSEHOLD RECYCLING
CENTRE AND ANCILLARY DEVELOPMENT, WITHOUT COMPLIANCE
WITH CONDITIONS 1, 5, 7, 10 AND 11 OF PLANNING PERMISSION K.037116
DATED 24th SEPTEMBER 1999 FOR HILLS MINERALS AND WASTE LTD.
(Application No. K.46368)**

Purpose of Report

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

The Site

2. The application site is located on the eastern edge of Devizes, on the south side of the spine road (Hopton Road) through the Hopton Park Industrial Estate. To the east and north of the site are industrial units (Tamura Hinchley and Cross Manufacturing Company (1938) Limited respectively); to the west is Wiltshire and Swindon's Fire Brigade Training Centre and a vacant squash court building. To the south is a water storage pond beyond which lie seven residential properties and gardens, the nearest of which is 32 metres away from the edge of the proposed Household Recycling Centre (HRC) compound. The application site is approximately 0.4 hectares and is presently unused, with a relatively flat area of concrete hardstanding and scrub growth.
3. A site location plan is attached at **Appendix 1**.

Planning History

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

K.037116 Planning permission granted for change of use to household recycling centre and ancillary development - 24th September 1999

Proposals

5. This planning application seeks to vary a number of conditions of the existing planning permission for the HRC to allow changes to the site layout and the landscaping to the adopted.
6. A copy of the existing planning permission (K.037116) is attached at **Appendix 2**.

7. The conditions proposed to be varied are as follows:-

Condition 1 - approved details

It is proposed that Condition 1 be varied to permit the HRC development to be carried out in accordance with amended plans that detail changes to general layout and landscape details, rather than those plans submitted with the original planning application.

In respect of general layout, the proposed changes extend to a minor adjustment to the point of access, the relocation of the office building from the south-eastern corner of the site to the northern boundary and the realignment of the waste compactors.

In respect of landscaping, the proposed changes relate to revisions to the type and size of plant species and spacings.

Condition 5 - landscape works implementation

This condition requires the full implementation of the landscaping details as specified in Condition 1 of the existing planning permission.

It is proposed that Condition 5 be varied to substitute the reference to those plans submitted with the original planning application to that of the revised landscape details.

Condition 7 - provision of earth bund and acoustic fencing

This condition requires the construction of an earth bund and acoustic fencing in accordance with the details specified in Condition 1 of the existing planning permission.

It is proposed that Condition 7 be varied to substitute the reference to those plans submitted with the original planning application to that of the revised details for the bund and acoustic barriers.

The revised details propose minor changes to the construction of the earth bund, these being the provision of a retaining wall on the inside face of the bund over part of its length. A retaining wall would negate the need for an inside batter to the bund, releasing up to 3.5 metres of additional operational space for the HRC. No changes to the height or length of the earth bund are proposed. The associated acoustic barrier would however be extended in length by 5.0 metres along the southern boundary.

Condition 10 - planting maintenance

This condition requires an element of the previously approved landscape details to be maintained at a minimum height of 2.0 metres.

It is proposed that the HRC development take place without compliance with this requirement as it would be superseded by the revised landscaping details.

Condition 11 - additional planting

This condition requires the “avenue planting” of London Plane trees in addition to the previously approved landscape details.

It is proposed that the HRC development take place without compliance with this requirement as it would be superseded by the revised landscaping details.

Planning Policy

8. Policies W3 and W4 of the adopted Wiltshire Structure Plan 2011 (January 2001) are considered relevant to this proposal.
9. Policies 4 and 6 of the Wiltshire and Swindon Waste Local Plan 2011 Revised Deposit Draft (September 2002) are also considered relevant to this application.
10. All relevant planning policies are set out in the attached **Appendix 3**.

Consultations

11. **Kennet District Council** - no objection in principle, but considers that the landscaping specification is inappropriate for the site.
12. **Kennet District Council, Environmental Health Officer** - no objection, but anxious that the proposed variations to the acoustic bund and barriers are implemented in order to reduce the likelihood of site activities causing noise nuisance to the occupants of nearby residential properties.
13. **Bishops Cannings Parish Council** - no objection.
14. **Devizes Town Council** - no objection and expresses its full support.
15. **Roundway Parish Council** - no objection and looks forward to the early opening of the centre.
16. **Environment Agency** - advises that an application for Waste Management Licence has been received by the Agency.
17. **Local Highway Authority** - no objection.
18. **County Countryside Section** - considers the proposed landscaping changes acceptable in general, but has recommended some amendments to the distribution and spacing of plant species to create a more effective scheme.

Publicity

19. The application has been publicised in the local press and by site notices. A neighbour notification exercise was also carried out. Three letters of representation have been received. The concerns raised are outlined below:-
- (i) The siting of a HRC in a prestigious business park development is totally inappropriate.
 - (ii) A waste recycling centre, however well run, cannot operate without a detrimental impact on businesses in close proximity to it.
 - (iii) This application is a disguise to dilute the necessary conditions imposed on the original permission.
 - (iv) The changes are for cost saving purposes and little to do with operating efficiency.
 - (v) The omission of “avenue planting” will detract from the general ambience of the industrial estate.
 - (vi) There is a 3.0 metre easement strip to sewers along on the eastern boundary which sterilises the land in terms of planting.
 - (vii) The landscaping proposals are inadequate to protect the residential amenities of nearby property.
 - (viii) The acoustic bund is inadequate.
 - (ix) The palisade fence should have the same high standard close-boarded appearance for the whole perimeter of the site.
 - (x) The bund planned for the south of the site should be moved to the east of the compound and amendments made to the design and traffic flow of the site.
 - (xi) Conditions should be imposed to specify the type of lighting columns.

Planning Considerations

20. Applications to ‘vary’ the conditions attached to a planning permission are properly an application under Section 73 of the Town and Country Planning Act 1990. Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a previous planning permission.
21. The planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue. It is therefore possible to apply for conditions to be struck out, or for their modification or relaxation. The original planning permission will continue to subsist, whatever the outcome of the application under Section 73.

22. Consequently, if the planning authority does decide that some variation of conditions is acceptable, a new alternative permission will be created. It is then open to the applicant to choose whether to implement the new permission or the one originally granted.
23. An application made under Section 73 is an application for planning permission and the planning authority's duty in deciding planning applications is to have regard to both the development plan and to any other material considerations.
24. The practical consequences of varying the conditions from those subject to which the previous permission was granted must be a material consideration in the determination of this application. Accordingly, the degree to which each condition makes the HRC development acceptable, and therefore whether the proposed variation would in this context be acceptable, needs to be considered. The detailed considerations are set out in **Appendix 4** and are summarised below.

Condition 1

25. The proposed variation seeks minor changes to both the general layout of the site in order to improve operational efficiency and the way in which it is to be landscaped.
26. The main change to the layout is the realignment of the waste compactors from an east-west axis to a north-south axis to cater for improved vehicle circulation and parking and easier access for service vehicles. A plan of the revised layout is attached at **Appendix 5**.
27. Other changes to the layout, including relocation of the office and site access, will not affect how the site operates or its impact on surrounding land uses. There have been no objections to these proposed changes. Officers are satisfied that the proposed variation of this element of the condition is acceptable.
28. Proposed changes to the type, size and spacing of plant species attracted comment from Kennet District Council. The District Council felt that it would not provide an adequate level of screening. The County Council's Countryside Officer (Landscape), however, considered the proposed changes to be acceptable provided further minor amendments were made to the spacing of plants. Subsequently, the applicant has submitted a revised landscaping specification with a more random planting pattern.
29. Officers consider that the further revised details will achieve an effective level of screening on the site, in an aesthetically acceptable manner appropriate to its location in an industrial estate. Consequently, the proposed variation to this condition is considered acceptable.

Condition 5

30. The proposed modification to this condition requiring the implementation of the revised landscaping specification, rather than its predecessor, affects an easement strip of land along the eastern boundary of the site underlain by surface and foul sewers. An objector to the application considers that this would sterilise the land in terms of planting. However, the revised landscaping details address this issue in that planting along this boundary would be adjusted to accommodate Wessex Water's requirements. Since, in overall terms, the revised landscaping details are considered suitable, the proposed variation of this condition is therefore acceptable.

Condition 7

31. Revised details have been submitted for the construction of the earth bund and acoustic fencing along the southern boundary of the site. Whilst there is no change to height or length of the bund, it is proposed to reduce the width of the base by 3.5 metres along part of its length by replacing the inside batter with a retaining wall. The revised details make provision for the lengthening of the associated acoustic barrier by 5.0 metres along the southern boundary.
32. An objection has been received stating that the bund is inadequate and should be on the eastern not the southern boundary of the site. Since this would result in the loss of visual and acoustic screening to the residential properties to the south of the site, it is assumed that the objector has misread the revised plans.
33. The proposed changes to the bund and acoustic fencing will not reduce their ability to minimise the noise from the HRC to acceptable levels. Consequently, the proposed variation of this condition is considered acceptable.

Condition 10

34. The original requirement to maintain a hedgerow along the northern boundary of the site has been superseded by the revised landscaping details. Consequently, the applicant now wishes to proceed with the development without complying with this condition. There have been no objections to this. Officers are satisfied that the deletion of this condition is acceptable.

Condition 11

35. The original requirement for the "avenue planting" of London Plane trees has been superseded by the revised landscaping details. Consequently, it is now proposed that the development proceeds without compliance with this condition. Again, no objections have been received in respect of this proposed change. Officers are satisfied that the deletion of this condition is acceptable.

Impact on adjacent land uses

36. As with the 1999 planning application, two businesses adjacent to the application site have expressed concerns over whether the siting of a HRC in a “prestigious business park development” is appropriate. As it was pointed out at that time, Hopton Park is an industrial estate not a hi-tech business park. It should also be noted that since planning permission was granted for a HRC at this same site in 1999, the emerging Wiltshire and Swindon Waste Local Plan has subsequently identified the Hopton Park Industrial Estate as a preferred area for the development of Local Waste Management Facilities, such as household recycling centres.

Conclusion

37. This application is made under Section 73 of the Town and Country Planning Act and so the County Council must consider only the question of the conditions subject to which planning permission should be granted.
38. Officers have therefore considered the practical consequences of granting planning permission for the HRC subject to conditions differing from those subject to which the previous permission was granted.
39. It is considered that the proposed variations of condition are acceptable in that such changes would not prejudice the ability of the conditions to control and mitigate the impact of the HRC on adjacent land uses and the amenities of local residents.

Recommendation

40. That planning permission be granted subject to the following conditions:-
1. No development shall be carried out other than in accordance with the Approved Drawing Numbers DHRC-01 dated July 2003 and DHRC-04 Rev. A dated November 2003.
 2. The development hereby permitted shall commence within five years from the date of this permission.
 3. No operations or activities authorised or required by this permission shall be carried out and no vehicle shall enter or leave the site other than during the following times:-

07.00 - 19.00 hours	Mondays to Saturdays
10.00 - 17.00 hours	Sundays and Public Holidays
10.00 - 19.00 hours	Sundays which are followed by a Public Holiday
 4. The site shall be open to the public for not longer than seven hours on any one day within the operational times specified in Condition 3.

5. The landscaping scheme shown on Drawing Number DHRC-04 Rev. A dated November 2003 shall be carried out in full and in the first available planting season coinciding with or immediately following completion of the development. Within a period of five years of the planting, any trees or shrubs that die, become diseased, are removed or damaged will be replaced in the first available planting season with other of similar size and species.
6. No development shall take place until a scheme for the fencing of the eastern boundary of the site has been submitted to and approved in writing by the Waste Planning Authority. The scheme as approved shall be carried out in full prior to the use hereby approved commencing.
7. The works comprised in the construction and laying out of the development hereby permitted shall not be commenced before the works comprised in the construction of the earth bund and associated acoustic fencing as shown on Drawing Number DHRC-01 dated July 2003 has been completed. Thereafter the site shall not open to the public until the 1.8 metres high acoustic fencing around the containers has been installed in accordance with the details shown on Drawing Number DHRC-01 dated July 2003.
8. During the permitted working hours the free-field equivalent continuous noise level attributable to the operation of the Household Recycling Centre shall not exceed 55 dB LAeq, 1 hour at the nearest inhabited residential property.
9. No plant, machinery or vehicles shall be used on the site unless fitted with silencers maintained in accordance with the manufacturer's recommendations and specification.
10. There shall be no open stockpiling of waste or reclaimed materials within the site.
11. The site access and hard surfaced areas used by vehicles shall be watered or treated with an approved dust-laying agent to suppress dust at such times as may be necessary to prevent dust nuisance arising from the site.
12. No development shall commence until a scheme for the provision and implementation of surface water drainage has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include detailed proposals in respect of surface water drainage arrangements. The scheme/works shall be constructed and completed in accordance with the approved plans.
13. No exterior floodlighting or other illumination shall be installed at the site until full details of such lighting has been submitted to and approved in writing by the Waste Planning Authority. These details shall include the height of the floodlighting posts, intensity of the lights (specified in Lux levels), spread of light in metres, any measures proposed to minimise the impact of the floodlighting or disturbance through glare (such as shrouding) and the times when such lights will be illuminated. Development shall be carried out in accordance with the approved details.

14. Full details of the proposed site office building shall be submitted to and approved in writing by the Waste Planning Authority prior to its construction/provision at the site. These details shall include the design and external appearance of the building. Development shall be carried out in accordance with the approved details.
15. No development shall commence until full details of the construction of the site entrance have been submitted to and approved in writing by the Waste Planning Authority. The site entrance shall be constructed in accordance with the approved details.
16. The access road and entrance shall be fully constructed in accordance with the approved details prior to the commencement of the use hereby approved.
17. No development shall commence until a scheme of advance and local signing has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of the location and form of the signs and shall provide for signs at either end of Hopton Road and signs at the entrance of the private track off the roundabout on A361 to the south of the site. The use shall not commence until the scheme approved has been implemented.

GEORGE BATTEN

Director of Environmental Services

Report Author

JASON DAY

Principal Planning Officer (Development Control)

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

Consultation replies and correspondence