

DEVELOPMENT CONTROL AND REGULATION COMMITTEE
A report by the Acting Executive Director for Economy and Infrastructure

Application Reference No. 1/19/9005 & 1/19/9006

Application Type: Section 73 Application to Vary or Remove Planning Conditions

Proposal: Section 73 Variation of Condition 4 of Planning Permission reference 1/17/9018 to permanently extend the hours of operation on the site (not including operating times of waste carrying vehicles).

Section 73 Variation of Condition 2 of Planning Permission reference 1/17/9019 to permanently extend the hours of operation on the site (not including operating times of waste carrying vehicles).

Location: North West Recycling Ltd, Unit A, Unit B & Site K, Kingmoor Park, Rockcliffe Estate, Rockcliffe, Carlisle, CA6 4RW

Applicant: North West Recycling Ltd

Date Valid: 3 June 2019

Reason for Committee Level Decision: Objections received

1.0 RECOMMENDATION

1.1 That Planning Permission is Granted Subject to Conditions set out in Appendix 1 and Appendix 2 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought in relation to Section 73A to permanently increase the operating hours of Unit A and Unit B at North West Recycling Ltd, Kingmoor Park, Rockcliffe Estate, Rockcliffe, Carlisle, CA6 4RW.

2.2 North West Recycling wish to continue waste processing operations in Units A & B up to 10.45 pm. This follows a 12-month trial that was granted permission by the Development Control and Regulation Committee on 30 May 2018 and commenced shortly afterwards.

2.3 The proposed increase in operational hours relates to work being carried out within the buildings only. It does not propose the use of site K for processing inert waste; the delivery or removal of waste from the site nor the movement of waste between the two buildings in the evening.

3.0 SITE DESCRIPTION

3.1 The application site is located adjacent to the entrance of Rockcliffe Estate, Kingmoor, Carlisle. The site was formerly part of RAF Carlisle and the 14th Maintenance Unit (14MU). 14MU consisted of various industrial type buildings used for the storage and maintenance of equipment and associated office / administration buildings across a number of sites to the north of Carlisle. After the closure of 14MU, Carlisle City Council granted planning permission for B2 & B8 use of the site without restrictions on operating hours or intensity of use. The Rockcliffe Estate is now a mixed use estate containing both industrial and office

based businesses and includes two other waste related companies. Northwest Recycling operates from 3 areas of the estate linked by internal roadways. These are two buildings known as unit A and unit B, the subject of these applications and site K which is an area of open hardstanding used for inert waste recycling. Unit A operates under one planning permission and unit B & site K operate under a different planning permission. The company's head office and associated staff parking are also on the estate.

- 3.2 Unit A is surrounded by a concrete apron and a 3m high close board fence along the northern and western perimeters. Waste materials are stored along the southern elevation and waste is delivered to the unit via doors in the eastern elevation. Unit B is a large industrial building towards the back (eastern side) of the estate and site K in the south eastern corner, which is surrounded by substantial, landscaped, screening bunds.
- 3.3 The nearest residential properties are at Bank End Farm 180m to the south of Unit B; Crookdyke farm 420m to the North of Unit B; and Moss View & Melldrunk House which are around 430m to the North of Unit A. Rockcliffe village is approximately 600m to the North West of Unit A. To a greater extent the Rockcliffe Estate is screened from Rockcliffe Village itself by topography, mature trees and hedges. The farms and nearest houses are less well screened.

4.0 SITE PLANNING HISTORY

- 4.1 Conditional planning permission for Unit A was granted on 19 March 2009 (ref 1/09/9002) for a change of use from an industrial building (B8 use) to the development and operation of a materials recycling facility to enable the sorting and recycling of waste materials (sui generis use). An application was made in 2011 to vary conditions 17, 19 and 20 of planning application ref: 1/09/9002. This was conditionally approved on 22 June 2011 (ref 1/11/9001). A further amendment to the approved layout plan and associated conditions was granted permission on 18 July 2017 (1/17/9008).
- 4.2 Planning permission for waste management operations in unit B and on site K was granted on 17 February 2016 (ref 1/15/9006). On 8 December 2017, planning permission was granted for the installation of a biomass fuelled boiler and drying plant along the northern elevation of unit B (ref 1/17/9014). The planning permission for the boiler and drying plant has not yet been implemented.
- 4.3 Planning permission references 1/17/9018 & 1/17/9019 were granted on 30 May 2018. These allowed working within the two buildings between 07.00 & 22.45 on weekdays for a 12-month trial period. Two additional conditions were added, one requiring the submission and implementation of a complaints recording system and the other requiring the submission of a noise monitoring scheme. Both of these schemes have been submitted and approved.

5.0 CONSULTATIONS AND REPRESENTATIONS

- 5.1 Carlisle City Council Planning Department: comment that in overall terms the principle of the continued use of the site is acceptable; however, would recommend the imposition of conditions ensuring: control of operation hours; the retention of the complaints procedure; and compliance noise investigation scheme.

- 5.2 CCC Highway Authority: No objection
- 5.3 CCC Lead Local Flood Authority: No objection
- 5.4 Carlisle City Council Environmental Health Department: comment that both the complaints and noise environmental noise report is satisfactory.
- 5.5 Environment Agency: No objection, although comment that the operator should be mindful of maximum quantities of waste that can be treated per day as set out in their Environmental Permit
- 5.6 Rockcliffe Parish Council: Object for the reasons set out in their previous objection. [This related to the submission of details for the complaints and noise monitoring schemes.] They add that they have concerns about Light Pollution; “Abuse of presently agreed operating hours”; the rights of residents in relation to the Human Rights Act; a lack of monitoring of waste types handled at the site; noise levels and the effect of night time working on migrating birds and nocturnal animals associated with the SSSI, Solway Coast, AONB and the Solway Firth MCZ.
- 5.7 Longtown ED - Mrs Val Tarbitt has not commented on the application
- 5.8 Dalston & Burgh ED - Mr T Allison has not commented on the application
- 5.9 One representation has been received. This relates to noise from the operations during the daytime and in particular the “*unremitting bleep bleep of vehicles*” and to crashes and bangs. They further comment that “*the original planning approval for the creation of the plant stipulated that all vehicles should be fitted with neutral noise type backing alarms. I understand that they claim that the reversing alarms heard belong to vehicles belonging to outside contractors. As these are heard constantly all day it makes a mockery of the intention of the original planning condition.*” No other representations have been received.

6.0 PLANNING POLICY

- 6.1 [Section 38\(6\)](#) of the [Planning & Compulsory Purchase Act 2004](#) provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.
- 6.2 The [Cumbria Minerals and Waste Local Plan 2015-2030](#) was formally adopted on 6 September 2017. The key policies relevant to the determination of this planning application are considered to be:
- Policy SP1 - Presumption in Favour of Sustainable Development
 - Policy SP14 - Economic Benefit
 - Policy SP15 - Environmental Assets
 - Policy DC2 - General Criteria
 - Policy DC3 - Noise
 - Policy DC6 - Cumulative Environmental Impacts
 - Policy DC9 - Criteria for Waste Management Facilities
- 6.3 The [Carlisle District Local Plan 2015-2030 \(CDLP\)](#) - adopted 8 November 2016.

- Policy SP1 - Sustainable Development
- Policy CM5 - Environmental and Amenity Protection

6.4 [The National Planning Policy Framework](#) (NPPF) was published in a revised form in July 2018. The national online [Planning Practice Guidance](#) (PPG) suite was launched in March 2014 and is continually updated. Both are material considerations in the determination of planning applications.

7.0 PLANNING ASSESSMENT

7.1 The proposal does not fall within any category of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. There is no requirement therefore, to screen the proposal.

7.2 I consider the key planning issues relevant to the proposed schemes are considered to be:

Would extending operating hours increase any negative impact on amenity caused by the site?

7.3 Policy DC2 of MWLP sets out general criteria for assessing minerals and waste related developments. It requires appropriate assessments to be undertaken and it sets out a number of considerations that are relevant to this development. These include the proximity of sensitive receptors; hours of operations; appropriate routes and volumes of traffic and other mitigation measures. CDLP policy CM5 states that *“Development will not be permitted where it would generate or result in exposure to, either during construction or on completion, unacceptable levels of pollution (from contaminated substances, odour, noise, dust, vibration, light and insects) which cannot be satisfactorily mitigated within the development proposal or by means of compliance with planning conditions”*.

7.4 I take the concerns of the Parish Council and the representation made very seriously. However, they appear to relate to other operational matters and the principle of this recycling operation at this site rather than the question of extending operations into the evening. If this application is refused the site would continue to operate to the existing conditions.

7.5 Of the specific concerns raised by the Parish Council that are relevant to this application: -

- There is no proposed change in the current lighting arrangements, which are for security and the safety of site personnel. I consider the impact of the flood lighting at the nearby railway marshalling yard likely to have a much greater impact on dark skies than the dozen or so downward pointing lights attached to Units A & B.
- There have been no complaints about working on the 18 bank holidays since April 2017 when the only complaint recorded about working on a bank holiday (i.e. out of normal hours) was received.
- The application of the Human Rights Act in relation to land use planning has been scrutinised by the courts and is well understood by planning authorities. Notwithstanding the lack of evidence to support the Parish Council’s

assertions, the law allows limited impacts on human rights if they are proportionate to the wider needs of society.

- Waste types handled at the site are not a planning matter. These are regulated by the Environment Agency and in effect controlled by the “Duty of Care” imposed by section 34 of the Environment Protection Act 1990. The EA take breaches of this very seriously. If there is *evidence* that waste that is not allowed on site is being routinely managed at the site, this should be reported to the EA.
- The noise monitoring scheme is in accordance with recognised industry standards and has been reviewed by experts at the City Council Environmental Health Office. Contrary to the comments of the Parish Council, the scheme proposes that the night time background level is established at 3am when noise should be at a minimum.
- Evening operations have been and would be confined to the buildings. I can see little difference with respect to the impacts of nocturnal or migrating species or other interest features of the SSSI, AONB, and MCZ between this operation and any other industrial type process being undertaken inside a building in the area.

7.6 Similarly, I note the concerns of the local resident, and are sympathetic to them. However, as the proposal specifically excludes the external movement of vehicles and confines works to within the buildings, it is difficult to reasonably refuse the application on the basis of daytime noise nuisance that would not be present during the evening. Furthermore, whilst I acknowledge that a lot of the noise on Kingmoor Rockcliffe industrial estate can be attributed to North West Recycling, Cubby Constriction operate a depot that undertakes inert waste recycling in the open and Andidrain operate a fleet of vehicles from the Kingmoor Rockcliffe estate.

7.7 I note that, no complaints have been received about evening working during the 12 month trial period. As there have been no complaints I have not had reason to visit the site during the evening to provide my own subjective opinion as to noise impacts. However, I am confident that with the establishment of proper baseline conditions for noise monitoring there would be an objective way of assessing any noise problem should it be reported in the future.

7.8 I can therefore only conclude that extending the working hours for operations wholly contained within the building into the evening would not have a negative impact on local amenity.

Would a further trial period be an option?

7.9 Although not requested, I have considered whether there is any justification for extending the trial period approved last year. National Government’s Planning Practice Guidance states: “*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area*” it continues; “*It will rarely be justifiable to grant a second temporary permission... Further permissions can normally be granted permanently or refused if there is clear justification for doing so*”. Given the lack any complaints, it follows that I do not believe that extending the trial period would accord with national planning practice and therefore is not an option in this case.

Other Planning Policy and Material Considerations

- 7.10 MWLP policy DC6 requires minerals and waste development proposals to be assessed in light of other land uses in the area. The policy states “*Where appropriate, considerations will include: all environmental aspects including habitats and species, visual impact, landscape character, cultural heritage, noise, air quality, ground and surface water resources and quality, agricultural resources and flood risk*” in this case, with the exception of a depot that has planning permission to crush and screen inert waste, the neighbouring land-uses are classed as industrial and agricultural. Although these do not have set operating times, they are generally not operating plant and machinery in the open air outside normal working hours. With respect to lighting, as noted above, I consider the external lighting of Units A & B to be low key particularly as compared to the lighting of the railway marshalling yard. I do not consider a cumulative impact likely. Therefore, I cannot identify any land-use that, in combination with this proposal could lead to a cumulative environmental impact
- 7.11 Policy SP14 of the MWLP relates to Economic Benefit. This requires proposals to demonstrate “*...how they would realise their potential to provide economic benefit. This may include such matters as the number of jobs directly or indirectly created or safeguarded and the support that proposals give to other industries and developments.*” It goes on to say “*Relevant adverse economic impacts on other industries, or on regeneration and development initiatives, will be weighed against the overall economic benefits of the proposal.*”. In this case, the proposal is made so that the business can operate closer to the maximum capacity already allowed through the existing planning permissions and environmental permit. It would provide economic benefit in allowing the business to produce greater quantities of higher value outputs from the wastes already managed on the site. It would also directly support two additional full time jobs in the recycling plant. No adverse economic impacts on other industries or regeneration initiatives have been identified.
- 7.12 The site is around 400m to the east of the River Eden SAC & SSSI. With respect to the European site / SSSI, the development has previously been considered acceptable and there are no changes to the development that would cause additional or cumulative impact that would warrant Habitats Regulations Assessment as required by Policy SP15 of the MWLP. Similarly, although the site lies within the visual impact zone of the Hadrian’s Wall World Heritage Site, the proposal does not include any built development or lead to changes that have not been assessed through the planning process and previously considered acceptable.
- 7.13 As noted above, traffic routing is not relevant to these proposals and no other mitigation measures have been identified.

8.0 CONCLUSION

- 8.1 The representations received from the Parish Council and one of the nearby residents suggest that the waste recycling operations at Kingmoor Rockcliffe Estate have an impact on amenity. Without specific details it is difficult for the operator or the County Council & Environment Agency as regulators to try to address these impacts. I was disappointed that at the recent site liaison meeting nobody from the Parish Council came despite being specifically invited. I am also disappointed that despite being aware of the complaints procedure and my long

standing and often repeated request for them to pass my contact details on to any resident that has a complaint about the operation, no complaints have been received to justify the response made.

- 8.2 I have no evidence that the trial period of evening working within the buildings only has had an impact on amenity. Without such evidence, and in light of the noise monitoring scheme and complaints recording process, I consider the proposed variation of operating hours to be acceptable.
- 8.3 In summary, I consider the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. It is therefore recommended that this application be granted subject to conditions.

Human Rights

- 8.4 The proposal may have a limited impact on residential amenity. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1 of the Human Rights Act 1998) are minimal and proportionate to the wider social and economic interests of the community.

Angela Jones

Acting Executive Director for Economy and Infrastructure

Contact: Mr David Hughes

Electoral Division Identification:

Mrs Val Tarbitt - Longtown

Mr Trevor Allison – Dalston and Burgh

Appendix 1 - PROPOSED PLANNING CONDITIONS – Ref 1/19/9005

1. The development shall be carried out in accordance with the approved documents, hereinafter referred to as the approved scheme. The approved scheme shall comprise the following:
 - a) The submitted Application Form – dated 11 December 2017
 - b) Report ENW103 - dated January 2009
 - c) Great Crested Newt Method Statement V 2_dated April 30th 2009
 - d) Lorry routeing agreement – dated 4 August 2009
 - e) Supporting Statement – dated 14 December 2010
 - f) Assessment of Environmental Noise prepared by Cirrus Environmental Solutions dated 4 October 2018
 - g) Complaints procedure revision 1.1 dated July 2018
 - h) Plans numbered:
 - i. E ENW103/3/01- Site Location Plan
 - ii. P.01. C-j- A2 Units A and B – Site plan rev 1.07
 - i) This Decision Notice

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

2. All plant, machinery and vehicles used on site shall be effectively silenced at all times in accordance with the manufacturer's recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.

3. Stockpiles of aggregate intended for sale or other disposal outside the site shall not be stocked except where shown on the approved plan Site Plan rev 1.07. Stockpiles of aggregates shall not exceed 4m in height when measured above existing ground levels

Reason: To minimise the visual impact of the development in accordance with CMWLP Policy DC2

4. The operation of plant and machinery and other waste management operations inside the Unit A building shall not take place outside the hours of:

07:00 to 22:45 hours Mondays to Fridays
07:00 to 15:00 hours Saturdays

No operations, including the loading or unloading or other movement of materials or operation of plant or machinery outside the Unit A building shall take place on site outside the hours:

07.00 to 18.00 hours Mondays to Fridays
07.00 to 15.00 hours on Saturdays

There shall be no operations on Sundays and on Bank or Public holidays.

However this condition shall not operate so as to prevent the carrying out, outside these hours, of essential maintenance to plant and machinery used on site.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

5. All vehicles used to transport materials from the site onto the public highway shall be sheeted or otherwise covered.

Reason: In the interest of local amenity and highway safety and to prevent release of litter on to neighbouring properties

6. All vehicles under the site operators control that are fitted with reversing alarms shall only use a white noise type.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site

7. Any litter arising outside the building within land controlled by the applicant shall be cleared up daily

Reason: In the interest of local amenity and to prevent release of litter on to neighbouring properties.

8. The 3m high close boarded wooden fences on the western and northern boundaries of the site shall be retained for the duration of operations on site and any damage repaired within 1 month of being reported.

Reason: In the interests of visual amenity

9. No waste or skips shall be stacked or stored externally on the site to a height greater than 4 metres above the level of the ground on which they are placed..

Reason: To minimise the visual impact of the development in accordance with CMWLP Policy DC2

10. Baled materials shall not be stored except where shown on the approved plan Site Plan rev 1.06. External storage of baled materials shall not exceed 3m in height as measured above existing ground levels.

Reason: To minimise the visual impact of the development in accordance with CMWLP Policy DC2.

11. Notwithstanding conditions 9 and 10, external storage of waste materials shall not exceed 4m or take place except where shown on the approved plans (P.01.C-j-A2 Units A and B – Site plan rev 1.07)

Reason: To minimise the visual impact of the development in accordance with CMWLP Policy DC2.

12. The doors to the waste reception area on the east elevation shall be closed following each waste delivery unless a further waste delivery is scheduled to arrive within the following 30 minutes.

Reason: To minimise the impact of odour from the development in accordance with CMWLP Policy DC2

Appendix 2 - PROPOSED PLANNING CONDITIONS – Ref 1/19/9006

The development shall be carried out strictly in accordance with the approved documents, hereinafter referred to as the approved scheme. The approved scheme shall comprise the following:

- a. The submitted Application Form – dated 11 December 2017.
- b. Planning statement – dated November 2015
- c. Emissions statement – NWR-5.3/17
- d. Odour management plan – revision 3.02
- e. Flood risk assessment – dated 8 September 2014
- f. Transport statement – July 2015
- g. Great Crested Newts (*Triturus Cristatus*) Habitat Assessment – October 2015
- h. Great Crested Newts (*Triturus Cristatus*) Method Statement – V2. April 2009
- i. Site access instructions
- j. Lighting impact of Rockcliffe Estate
- k. A technical design note covering the provision of a sustainable drainage system to treat surface water
- l. Plans numbered and named:
 - i. P.01 – site plan
 - ii. P.02 – location plan
 - iii. P-01-L – Landscaping
 - iv. P-01-ES – External storage
 - v. 64600? – Silt removal traps
 - vi. 646001 – Proposed key drainage areas
 - vii. 646002 – Proposed scheme
 - viii. 646003 – Conceptual design of intel and settlement pond 1
 - ix. P-01-TM – Traffic management plan
- m. Schemes approved on 15 June 2016 named
 - i. NWR 5.3/15 Pest and Scavenger Control
 - ii. NWR 5.3/0 Daily Inspection and Reporting
 - iii. NWR 5.3/14 Emissions Control – Dust
 - iv. NWR 5.3/15 Emissions Control – Noise and Dust
 - v. Appendix E to EMD – Odour Management Plan (OMP) Odour
- n. Scheme approved 2 June 2017 named
 - i. Maintenance Plan 2
 - ii. Unit K planting plan 20 04 17
- o. Assessment of Environmental Noise prepared by Cirrus Environmental Solutions dated 4 October 2018
- p. Complaints procedure revision 1.1 dated July 2018
- q. The details or schemes approved in accordance with the conditions attached to this permission

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

2. The operation of plant and machinery and other waste management operations inside the Unit B building shall not take place outside the hours of:

07:00 to 22:45 hours Mondays to Fridays
07:00 to 15:00 hours Saturdays

No operations, including the loading or unloading or other movement of materials or operation of plant or machinery outside the Unit B building or on Site K shall take place on site outside the hours:

07.00 to 18.00 hours Mondays to Fridays
07.00 to 15.00 hours on Saturdays

There shall be no operations on Sundays and on Bank or Public holidays.

However, this condition shall not operate so as to prevent the carrying out, outside these hours, of essential maintenance to plant and machinery used on site.

Reason: To ensure that no operations hereby permitted take place outside normal working hours which would lead to an unacceptable impact upon the amenity of local residents.

3. No waste or skips shall be stacked or stored externally on the site to a height greater than 4 metres above the level of the ground on which they are placed.

Reason: To minimise the potential for there to be any adverse visual impact arising in accordance with Policy DC2 of the CMWLP.

4. No more than 52 HGV's (104 movements) shall enter and leave the site each day between Monday and Friday and no more than 14 HGV's (28 movements) shall enter and leave the site on a Saturday. A record of loads entering the site shall be maintained and produced on request to the Local Planning Authority.

Reason: To minimise the potential for conflict with any other uses in the area and minimise the potential for noise generation from operation of the site in accordance with Policy DC2 of the of the CMWLP

5. All plant, machinery and vehicles used on site shall be effectively silenced at all times and be maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.

6. All vehicle loads used to transport materials into or from the site onto the public highway shall be securely sheeted or otherwise covered.

Reason: In the interest of local amenity and highway safety and to prevent release of litter on to neighbouring properties.

7. No vehicles shall leave the site in a condition that would give rise to the deposit of mud, dust or other debris on the public highway.

Reason: In the interests of highway safety.

8. All HGV's leaving the site shall be instructed to turn left onto the C1016 (Rockcliffe/Cargo to Kingmoor road) and connect directly onto the CNDR, unless travelling to local sites which cannot reasonably be accessed by that route.

Reason: To reduce the amount of heavy goods vehicles on rural roads in the vicinity of Rockcliffe village in the interest of highway safety.

9. The operator shall maintain on site at all times a water bowser or other dust suppression system together with an adequate supply of water to suppress dust arising on the access road, haul roads, working areas, plant area and stockpiling areas with water in order that it does not constitute a dust nuisance outside the site.

Reason: To safeguard the amenity of local residents by ensuring that dust does not constitute a nuisance outside the boundaries of the site in accordance with Policy DC2 of CMWLP

10. No fuels, oils, or any other potentially polluting liquids shall be stored within the site except in a tank or multiple tanks set within an impervious bund set on an impervious base and with a capacity of not less than 110% of the tank or tanks if there is multiple tankage. Any fill and draw valves shall be sited within the bund and directed to discharge downward into the bund.

Reason: To prevent any incident of ground or water pollution in accordance with Policy DC20 of the CMWLP.

Appendix 3 - PLAN OF SITE LOCATION/EXTENT

