

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**29th AUGUST 2007**

**REPORT OF CORPORATE DIRECTOR  
OF DEVELOPMENT AND  
NEIGHBOURHOOD SERVICES**

**07/1774/ARC**

**Port Clarence Landfill Site**

**Application to vary Condition 11 of Planning Permission 94/1049/P (TDC94/065) to extend landfilling operating hours to 24 hours at Port Clarence landfill site for the disposal of waste transported by boat.**

**Expiry date: 10<sup>th</sup> September 2007**

### **Summary**

A planning permission has been submitted to vary Condition 11 of Planning Permission TDC/94/065 to allow 24-hour waste disposal for soils specifically transported by boat at Port Clarence Landfill Site. The site, is located near the banks of the River Tees at Port Clarence approximately 5km south east of Billingham, 3km south east of Billingham, 3km north east of Middlesbrough and 1400m east of the Clarences.

The site has planning permission for the disposal of hazardous and non-hazardous waste, and currently all wastes are delivered to the site by road.

Condition 11 has been 'varied' twice previously. In July 2003, temporary planning permission for a period of 3 months was granted to allow the site to accept non-hazardous chemical waste from Huntsman's Greatham Works. The Company justified this change because the chemical site is a 24-hour operation, which necessitates waste transfer at weekends comprising 10 loads on Saturday afternoon and a similar amount on Sunday mornings. The trial was successful and the Company then applied and were granted a permanent variation in 2004. The controlling condition in respect of working hours currently reads:

*"The hours for the deposit of waste at the site shall be between 0715 and 1800 hours Monday – Friday, 0745 hours and 1800 hours on Saturday and 0745 hours and 1300 hours on Sunday with no waste being deposited on Bank Holidays except with prior approval in writing of the Local Planning Authority or in an emergency; details of which shall be notified to the Local Planning Authority within 5 working days thereafter"*

The application has been advertised on site, in the local press and neighbours notified individually. One email has been received from Alistair Campbell of Petroplus Refining querying the proposed lorry route.

No objections have been received from consultees or neighbouring users. Councillor

J O'Donnell has "no problems" with the proposed development.

The principle of the use of the site for landfill has been established and is unaffected by this proposal. The proposal seeks to confine the transportation of the additional waste material specifically to the River Tees, which in accordance with national and local policy would not result in an increase in road traffic.

The material planning considerations outlined above indicate that the 'variation' to the hours of transportation, receipt, storage and deposit of waste via the method proposed are unlikely, given the location of the site and the haul route, to have an adverse impact on neighbouring uses. Indeed, the proposal would assist in the timely completion and restoration of the site. Wider site operations would continue to be controlled by the existing range of licences and permits administered principally by the Environment Agency. The concerns of the Environmental Health Unit regarding noise and lighting can be controlled by condition and therefore it is recommended that planning permission be granted for this 'variation' to planning permission 94/1049/P (TDC/94/065).

## **RECOMMENDATION**

***It is recommended that application 07/1774/ARC be approved subject to the following conditions:***

- 1. The permission hereby granted shall have the effect of varying condition No 11 of TDC/94/065 as follows:***

***"The hours for the deposit of waste at the site shall be between 0715 and 1800 hours Monday – Friday, 0745 hours and 1800 hours on Saturday and 0745 hours and 1300 hours on Sunday with no waste being deposited on Bank Holidays except with prior approval in writing of the Local Planning Authority or in an emergency; details of which shall be notified to the Local Planning Authority within 5 working days thereafter."***

***The hours for the deposit of waste transferred to the site via boat from the River Tees and then by vehicle to the site using the route shown as "wharf access route" on Drawing no AU/PC/06-07/13568 shall be 24 hours each day Monday to Sunday (inclusive)."***

***And imposing an additional condition as set out below:***

- 2. "Prior to installation, a scheme for the design and location of all fixed buildings, structure, plant and illumination, including a scheme for noise insulation of buildings, structure and plant, required in connection with the development shall be submitted to, for consideration and approval by the Local Planning Authority. The approved scheme shall thereafter be implemented in full and maintained for the life of the development hereby permitted unless, with the prior written approval of the Local Planning Authority. "***

***The decision to grant planning permission has been taken having regard to the policies and proposals in the Regional Spatial Strategy, Structure Plan and***

**Stockton on Tees Local Plan set out below:**

***Draft Revision - Regional Spatial Strategy policies 46 and 47***

***Adopted Stockton on Tees Local Plan policies GP 1, IN 5, EN 36, EN 37***

***Adopted Tees Valley Structure Plan policies W1, W2, EMP 10, ENV27 and ENV28***

***Planning Policy Statements 1 and 23 and Guidance Notes No 10 and 13***

**BACKGROUND**

1. The Port Clarence landfill site is located near the banks of the River Tees in the Borough of Stockton-on-Tees. The site is situated approximately 5km south east of Billingham and 3km north east of Middlesbrough. The nearest residential properties are at the Clarences some 1400m to the west.
2. In 1994, a planning application was submitted by H.J. Banks and Company Ltd (HJB) for use of the site as a landfill waste disposal site for household, industrial and commercial waste. The proposal was subject to formal Environmental Impact Assessment (EIA) the results of which were described in an Environmental Statement, which accompanied the application. The Teesside Development Corporation granted planning permission for the proposal in 1996, subject to a number of conditions. Condition 3 of the permission states that the development shall be carried out in accordance with the application details and Environmental Statement (ES). Following the granting of planning permission, the site was purchased by Zero Waste Ltd, and started to accept waste in October 2000. The major elements of the scheme include site infrastructure works, containment and phased deposited of waste using impermeable lining, creation of a raised landform, and management of landfill gas and leachate, capping and progressive restoration of site.
3. The restoration scheme comprises a combination of grassland, scrub, woodland, ponds and areas of marginal planting. The scheme is designed with nature conservation benefit but does contain a series of footpaths. The planning permission allows 16 years from the date of commencement to complete disposal operations i.e. by 2016.
4. The 1994 planning application stated that the site had capacity to accept 3.75 million cubic metres of waste, plus soils and stone etc, for engineering and restoration, resulting in a total input of 5 million cubic metres of material. However, the contours of the proposed landfill, shown on the drawings submitted with the application, indicated a landform that would have resulted from the import of 8.5 million cubic metres of material (i.e. to create the approved landform 3.5 million cubic metres of additional waste will be required). This mismatch was not detected during the planning or waste management licensing process, but was, in late 2001, discovered by Zero Waste Ltd. The company then chose to rectify the situation by submitting a planning application to vary condition 3 accompanied with additional information including a modified Environmental Statement. Planning permission (02/1987/P) was granted subsequently and the purpose is to ensure the scheme that is described matches the drawings previously submitted.
5. Condition 11 has been 'varied' twice previously. In July 2003, temporary

planning permission for a period of 3 months was granted to allow the site to accept non-hazardous chemical waste from Huntsman's Greatham Works. The Company justified this change because the chemical site is a 24-hour operation, which necessitates waste transfer at weekends comprising 10 loads on Saturday afternoon and a similar amount on Sunday mornings. The trial was successful and the Company then applied and were granted a permanent variation in 2004. The condition in respect of the deposit of waste currently reads:

*"The hours for the deposit of waste at the site shall be between 0715 and 1800 hours Monday – Friday, 0745 hours and 1800 hours on Saturday and 0745 hours and 1300 hours on Sunday with no waste being deposited on Bank Holidays except with prior approval in writing of the Local Planning Authority or in an emergency; details of which shall be notified to the Local Planning Authority within 5 working days thereafter"*

## **THE PROPOSAL**

6. The application seeks to 'vary' Condition 11 of planning permission TDC/94/065 (latterly varied by 04/1066/ARC) to allow deposit of waste at any time 24 hours a day, seven days per week, but only for wastes delivered to the site via boat along the River Tees and then to the site along an internal road.
7. The applicant seeks to justify this change on the grounds that the company now has the opportunity to accept waste, principally contaminated soils, delivered in the first instance to the wharf by boat, and then onwards to the landfill site by lorry. The waste would be transferred to lorry by a 'V' shaped conveyor and transported via internal roads to the landfill site. At this point, if the soil element of the waste were found to be recyclable, it would be stockpiled to be processed during normal working hours. Any unsuitable material would be landfilled immediately.
8. The applicant envisages that the importation of waste and disposal in this way would be sporadic, dependent on contracted projects and the unloading of the boat could take place at any time of day or night and at any day of the year. However, the applicant estimates that at a maximum of 130 lorry loads would be required and this would take approximately 23 hours to complete (10 minutes to fill a lorry). However, more realistically, the applicant envisages a 12-hour turnaround (5 minutes to fill a lorry). The boat would use an existing wharf, which is of an adequate specification to allow this use without further physical improvements.
9. Night working is not permitted at the site, and therefore additional infrastructure such as lighting may need to be installed, and this as requested by the Environmental Health Unit in respect of noise and light pollution, can be adequately controlled by condition.
10. The remaining conditions of the parent permission are unaffected by this proposal.

## **PUBLICITY**

11. The application has been advertised on site, in the local press and

neighbours notified individually. One email has been received from Alistair Campbell of Petroplus Refining querying the proposed lorry route.

## **CONSULTATIONS**

12. The following consultees were notified and any comments made are set out below:

### Environment Agency

13. There are no technical issues arising from this proposal and the existing waste management licence will continue to fulfil its function of protecting the environment, amenity etc. therefore the Agency has no objection to this application.

### Head of Technical Services

#### *Highways*

14. There are no objections to this proposal provided it can be conditioned that 24 hour operation is not available for Heavy Goods Vehicles (HGVs) visiting the landfill site from the highway network and that the existing hours of operation for HGVs using the highway network the remain in place.

#### *Landscape*

15. No objection to proposals as landscape not affected.

#### *Built Environment Comments*

16. No comment.

### PD Ports Limited

17. PD Ports do not object to the proposed variation to Condition 11, but as the variation would allow importation of waste to the site by boat, PD Port, as the Harbour Authority would wish the applicant to confirm that the method of transfer of contaminated soil from the boat to the wharf is carried out in a controlled manner to ensure that no spillage of soil occurs thus contaminating the River.

### Health and Safety Executive

18. We have no further comments on the planning application.

### Environmental Health Unit

19. Further to your memorandum regarding the above, I have no objection in principle to the development, however, I do have concerns regarding the following environmental issues and would recommend the conditions as detailed be imposed on the development should it be approved.

- **Noise disturbance from plant**  
Before the plant is brought into use the buildings, structure and plant shall be insulated against the emission of noise in accordance with a scheme to be approved by the Local Planning Authority. Such noise insulation shall be thereafter maintained to the satisfaction of the Local Planning Authority. Any new plant installed subsequent to the approval shall not increase background levels of noise as agreed without the agreement in writing of the Local Planning Authority.
- **Light Intrusion**  
Adequate screening shall be provided to protect properties from light intrusion from the development.  
The lighting provided shall be arranged so as not to shine directly towards any dwelling and shall be shielded to prevent light spillage beyond the boundary of the property.

Councillor J O'Donnell

20. Comments "No problems with this one "

Middlesbrough Borough Council

21. No response received.

## **PUBLICITY**

22. The application has been publicised by individual notification letters, site notice and in the local press. One letter has been received from Alistair Campbell of Petroplus querying the impact of the development on the road A178 Seaton Carew.

## **PLANNING POLICY CONSIDERATIONS**

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case the relevant Development Plans are the Regional Spatial Strategy (RSS), Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP).

## **National Planning Policy**

Waste Strategy 2007

24. In May 2007 the Government published its Waste Strategy 2007. This waste strategy and its Annexes, together with Planning Policy Statement 10 *Planning for Sustainable Waste Management* (PPS10) is part of the implementation for England of the requirements within the Framework Directive on Waste, and associated Directives, to produce waste management plans. These are the national level documents of a tiered system of waste planning in England, which together satisfies the requirements of the various Directives. At regional level there are Regional

Spatial Strategies (RSSs), and at local level, development plan documents<sup>3</sup>.

25. There is a particular requirement in the Waste Framework Directive for the waste management plans to identify suitable disposal sites or installations. PPS10 sets out relevant national policies for waste management facilities, including location criteria to inform local planning policy and planning decisions. Local Planning Authorities in England have an obligation under the Waste Management Licensing Regulations 1994 to produce detailed policies in respect of suitable disposal sites or installations for waste management purposes when producing local development documents, and also to have regard to national policies and to this strategy. PPS10 provides that local planning authorities should, among other things, identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas, and, in particular, allocate sites to support the pattern of waste management facilities set out in the RSS (in accordance with the broad locations identified in the RSS).
26. This White Paper replaces the previous waste strategy for England (*Waste Strategy 2000*).
27. National Planning policies are set out in Planning Policy Guidance Notes (PPG) and the newer Planning Policy Statements (PPS).
28. Relevant to this application are:
  - PPS 1 "Delivering Sustainable Development"
  - PPS 10 "Planning for Sustainable Waste Management"
  - PPGN 13 "Transport"
  - PPS 23 "Planning and Pollution Control"

### **Regional Spatial Strategy**

29. The draft revision to the Regional Spatial Strategy and the proposed changes by the Secretary of State issued May 2007 gives consideration to sustainable waste management. It includes a number of relevant policies – policies 46 (Sustainable Waste Management) and 47 (Waste Management Provision)

#### **Policy 46 – Sustainable Waste Management**

Strategies, plans and programmes, and planning proposals should give priority to initiatives, which encourage behavioural change through:

- a) Developing and implementing waste minimisation plans and schemes;
- b) Implementing waste awareness and education campaigns,
- c) Developing reuse schemes; and
- d) Minimising the use of primary construction materials and the production of waste,

And should be based on the following key principles:

- a) The waste hierarchy with minimization at the top, then reuse, recycling, composting, waste to energy and landfill,
- b) Enable waste to be disposed of in one of the nearest appropriate installations;
- c) Ensuring communities take more responsibility for their own waste.

## Policy 47 – Waste Management Provision

Strategies, plans and programmes should provide the management capacity for the annual tonnage of waste arisings set out in Table 3 & 3A. The type and number of facilities should reflect local circumstances within the strategic framework established by RSS policies and will be based on:

- Household Waste – to increase recycling and composting to 33% by 2015
- Municipal Solid Waste – to increase recovery to 72% by 2016
- Commercial & Industrial – to increase recovery to 73% by 2016
- Construction & Demolition – to increase recycling to 80% by 2016

### **Adopted Tees Valley Structure Plan (February 2004)**

30. The Tees Valley Structure Plan indicates the development is in an area broadly identified for potentially polluting or hazardous industrial development (Policy EMP 10 and sets out environmental controls in policies ENV 27 and ENV 28).

Other relevant policies include:

31. Policy W1 that states the Tees Valley Authorities will approve proposals for waste management facilities, which reduce the levels of waste production and increase the re-use recycling and recovery of resources, including materials and energy from waste.
32. Policy W2 which states “proposals for waste management facilities will be considered against the need to achieve regional self-sufficiency. A suitable range of facilities should be maintained in the Tees Valley for the effective handling, treatment and disposal of waste. The proximity principle will be applied to discourage the movement of waste over long distances and the Best Practicable Environmental Option (BPEO) will need to be established in each case”.
33. The Council jointly with other Tees Valley Council’s are preparing Development Plan Documents to outline the planning policies for Waste (and Minerals) in accordance with the Government’s strategy. An issues and options report has recently been published for public comment, the consultation period for which has now ended, and all parties are now working towards a preferred options paper.

### **Adopted Stockton on Tees Local Plan (June 1997)**

34. There are a number of policies within the adopted Stockton on Tees Local Plan, which are relevant to the present proposal and site. These include Policy IN5, which permits the North Tees area, potentially polluting or hazardous industrial uses provided that they not significantly affect the amenity of nearby uses or discourage the development of adjacent sites. Policies EN 1(a) and EN 1(b) states proposals in or likely to affect an SSSI or European (SPA) or Ramsar site will be subject to a special or rigorous scrutiny and examination to safeguard their integrity. No development will be permitted that has a significant adverse effect unless the benefits outweigh the costs and no other sites that are available. Policies EN34 and EN35



relate to development of sites that are either contaminated or in the vicinity of contaminated sites and establish criteria against which such developments will be permitted. ,

## **MATERIAL PLANNING CONSIDERATIONS**

35. The principle of landfill at this site has been previously established, via the parent permission and conditions granted in September 1996, a Section 106 and subsequent amendments. The reason given for the original restriction on the hours of operation was to protect the amenity currently enjoyed by residents within the vicinity of the site”, and that remains the principle concern. However, two previous extensions of tipping time have not given rise to complaint and the nearest residential properties are some 1400m away.
36. Because of this distance, any noise or odours from the additional disposal operations should not impact on their amenities. The issues identified the Environmental Health Officer reflect your Officer’s views in terms of additional lighting and noise from plant and equipment, and these impacts can be controlled by condition.
37. Haulage vehicles associated with the extended operations would not use the existing highway network, and therefore the amenity of the occupants of the residential properties in the vicinity of the site would not be adversely affected by an increase in any road noise, dust or vibration and there are no implications for highway safety and access considerations. A condition can be attached to any permission granted which would restrict the extended hours to those loads received solely by waterborne transport and route indicated on Drawing No. AU/PC/06-07/13568. All other traffic routeing, beyond the scope of this application, is controlled by the existing permission and Section 106 legal agreement.

## **Residual Matters**

### PD Ports – Contaminated Soils

38. PD Ports have queried the transfer method of soils from boat to lorry, and have been informed of the information set out above. No further response has been received. Given that the use of self-unloading boats appears to be common practice and that the conveyor would be set in a ‘v’ shaped boom, it is highly unlikely that contaminated materials would be lost to the river.

### Petroplus – Lorry Movements and Route

39. Mr Campbell of Petroplus has been advised of the likely lorry movements and the route from the Wharf, and now considers that the proposal raises “no issues”.

## **CONCLUSIONS**

40. The principle of the use of the site for landfill has been established and is unaffected by this proposal. The proposal seeks to confine the transportation of the additional waste material specifically to the River Tees, which in accordance with national and local policy would not result in an increase in

road traffic.

41. The material planning considerations outlined above indicate that the 'variation' to the hours of transportation, receipt, storage and deposit of waste via the method proposed are unlikely, given the location of the site and the haul route, to have an adverse impact on neighbouring uses. Indeed, the proposal would assist in the timely completion and restoration of the site. Wider site operations would continue to be controlled by the existing range of licences and permits administered principally by the Environment Agency. The concerns of the Environmental Health Unit regarding noise and lighting can be controlled by condition and therefore it is recommended that planning permission be granted for this 'variation' to planning permission 94/1049/P (TDC/94/065).

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer Jane Hall**  
**Telephone No 01642 528556**  
**Email address jane.hall@stockton.gov.uk**

**Financial Implications**

As report

**Environmental Implications**

As Report

**Legal Implications**

As report

**Community Safety Implications**

As Reported

**Human Rights Implications**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

**Background Papers**

- Planning Application Files TDC/94/065 (94/1049/P), 02/1987/, 03/1368/P, 04/1066/ARC and 17/1774/ARC
- Planning Policy Statements 1, 10 and 23 and Guidance Note No 13
- Waste Strategy 2007
- Regional Spatial Strategy for the North East – The Secretary of State's Proposed Changes to the Draft Revision by the North East Assembly (May 2007)
- Adopted Tees Valley Structure Plan (February 2004) policies W1, W2
- Adopted Stockton on Tees Local Plan (June 1997) policies GP 1, EN1(a) and EN1(b), EN35 and EN 36

<b>Ward</b>	Billingham South
<b>Ward Councillors</b>	Councillor J O'Donnell Councillor M Smith