KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	**2022/70/90671/W0**
Site Address:	Emerald St HWRC, Fartown, Huddersfield, HD1 6BY
Description:	Variation of condition 2 (opening hours) on previous permission 98/92724 for formation of household waste disposal/ recyclying centre and a composting facility
Recommending Officer:	Farzana Tabasum

DECISION – Variation of Condition-Granted

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

David Wordsworth

AUTHORISED OFFICER

Date: 08-Jun-2022

Officer report

Site Description
The site known as the Emerald Household Waste Recycling Centre (HWRC) has been operated since 1999. The site is located in the locality of Bradley Mills which is situated approximately 1 kilometre north of Huddersfield within Kirklees Council. The site is accessed from Hillhouse Lane which connects to Leeds Road (A62) to the east of the site and Willow Lane East which connects to Bradford Road (A642) to the west.

The site is in a mixed use area. The land to the North, East and South is primarily industrial with residential land to the West. The closest residential dwellings are located approximately 155m to the north west on Hammond Street, Huddersfield.

Description of Proposal
This application has been prepared and submitted by SUEZ recycling and recovery UK, a subsidiary of the SUEZ Group and seeks to amend the operating hours of the Emerald Street HWRC. The current hours of operation and which are restricted to are as those specified in condition 2 of planning permission reference: 1998/62/92724/W0. Condition 2 states:

'(2) Unless otherwise agreed in writing by the Local Planning Authority the civic amenity site and
the composting area shall not be operated outside the following times:
07.30 - 18.00 Monday to Friday (including Bank Holidays) 07.30 - 16.00 Saturdays and Sundays.
***Reason:** To protect the amenities of local residents'*

It is now proposed that the site is open and operational between the hours of:

07:30 and 18:00 Mondays to Fridays and Bank Holidays
07:30 and 17:00 Saturdays and Sundays.

The suggested rewording of the condition is set out below:

"Unless otherwise agreed in writing by the Local Planning Authority the use hereby permitted shall not be operated outside the following times: 07:30 - 18:00 Monday – Friday (including Bank Holidays) and 07:30-17:00 Saturdays and Sundays.""

The proposals will result in an increase of 1 hour beyond the current opening hours on Saturday and Sunday evening taking the opening of the site up to 17:00.

History of negotiations/amendments received
24/05/22 - Revised planning statement as initial statement referenced incorrect historical permission. It was not considered necessary to allow a further period of publicity for the revised planning statement as the hours sought to be varied are not amended from the initial submission documents.

The revisions are to ensure the variations proposed are in reference to the accurate historical permission.

Other than an extension of time on the application, no negotiations were deemed necessary.

Relevant Planning History
1998/92724/W0 - Formation of household waste disposal/recycling centre and a composting facility – granted 20/04/1999

2007/93455/W0 - Change of use of composting pad to permit screening of inerts and shredding of wood waste in addition to green waste - granted 12/10/2007

Representations
The application was advertised as a major development via site notice and within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement

Final publicity date expired: 25/04/2022

No representations are received.

Consultation Responses
KC Environmental Health – no objections

KC DM Highways – acceptable on highway grounds

KC Strategic Waste – "*The facility is an existing permitted site ref HP3894ZJ/V005 that was granted a permit on 19/8/1999. The site is regulated by the Environment Agency in relation to amenity impacts.*

The Authority does not have any comments or objections to the extension of operations hours as detailed in the application from Suez Recycling and Recovery Kirklees Ltd as this has been negotiated as an element of the interim waste contract extension with Suez and will benefit the residents of Kirklees."

The Coal Authority – No specific comments to make (see assessment below)

The Environment Agency – no comments received

Planning Policy
Kirklees Local Plan (KLP)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The

statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

The site is unallocated on the Kirklees Local Plan and an accepted waste allocation on the Kirklees Local Plan

As the application relates to varying the hours of use/operation, the following LP Policies are relevant to the determination of this application.

Kirklees Local Plan (LP):
LP21 – Highway and access
LP43 – Waste management hierarchy
LP45 – safeguarding waste management facilities
LP52 – Protection and improvement of environmental quality

National Policies and Guidance

National Policies and Guidance: National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20/07/2021, and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Most relevant to this application is the following:

Chapter 2 – Achieving sustainable development
Chapter 8 – Promoting healthy & safe communities (paragraph 93 (c)
Chapter 12 – Achieving well-designed places
Chapter 15 – Conserving and enhancing the natural environment

Other relevant national guidance and documents:
National Planning Policy for Waste 2014

Assessment
Scope of this application
Annex A of the Government guidance on “Flexible options for planning permissions”, details the S73 variation of condition process. It advises that local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

In this case, the most significant changes to policy since the granting of planning application 1998/92724/W0 is the adoption of the Kirklees Local Plan (adopted 27/02/2019) and the national policy and guidance set out in the National Planning Policy Framework (NPPF) 2021, published 20/07/2021 and the National Planning Practice Guidance.

As the proposals are seeking to increase the hours of use/operations at the site, the assessment of impacts on the amenity of nearby residents as well as highway safety, is necessary, taking into account the above listed Policies and guidance, where relevant.

Principle of development

The principal consideration with regard to this proposal is whether the proposed changes to the way the site operates are considered to be appropriate.

The household waste recycling operations at this site provides a valuable facility which encourages and supports the minimisation of waste production in line with the National Planning Policy for Waste and Policy LP43 of the Kirklees Local plan. Irrespective of the outcome of the application, the existing HWRC is not considered to be at risk from being safeguarded, in accordance with Policy LP45. Nevertheless, it is agreed with the applicant that "*extending the opening hours of the Emerald Street HWRC will improve the efficiency of the site by allowing a greater volume of waste to be recovered and recycled, therefore ensuring additional waste is moved further up the waste hierarchy*".

In summary, subject to there being no significant conflict with the afore mentioned policies and guidance, the increase in hours of operation would be acceptable in principle.

Impact on amenity

As stated above the site is remote from significant concentrations of residential properties, the nearest being on Hammond Street, to the north. These properties are separated from the application site by a railway line, wooded embankments on both sides of the railway line and the topography of the land between the two sites is such that these properties are unlikely to be significantly impacted on from operations at the household waste site.

The planning statement refers the environmental considerations and how the operations at the site are currently managed under a Site Management Plan (SMP) which is stated to be regulated by the Environment Agency. It goes onto say:

"*The SMP ensures the appropriate control of odour, windblown litter, dust and noise on site and is subject to review and continual improvement under the Environmental Permitting system".*

On review of the proposals, the Councils Environmental Health Officer's confirm that this is an established household waste recycling site with no noise sensitive receptors nearby. Furthermore, no representations are received. In summary, it is considered, the proposals to increase the hours of use/operation is as proposed is unlikely to give rise to any significant environmental health impacts and as such the proposals are supported and would not conflict with Kirklees Local Plan Policy LP52.

Highway issues

The application site is already served by a purpose built access which has served this site for many years. On review of the submitted information DM Highway officers state:

"This application is for variation of condition 2 (opening hours) of previous permission 1998/92724 at an existing household waste recycling centre with an access on to Vine Street, a 30mph two-way single carriageway access cul-de-sac of approximately 6.4m width with streetlighting and partial footways. Vine Street acts as an access to the HWRC and council depot and is located in a predominantly industrial area.
The proposal is to vary condition 2 to increase the operational times of the site to add an additional hour on Saturday and Sunday from 16:00 to 17:00.

This additional hour of operational time is not expected to have a severe impact on the operation or efficiency of the local highway network or on road safety. However, it should be noted that the change in timings now causes the opening times to clash with the final whistle (16:45) at the nearby Huddersfield Town football ground and so an increased pedestrian and vehicular movement profile should be expected on and around Leeds Road during this time when home matches are being played. With this we consider the application for the variation of condition 2 to be acceptable on highways grounds.".

Based on DM Highway Officers advice and given the site together with its access road and entrance is remote from any residential properties, the variation proposed to the hours of operation are not considered would give rise to a significant increase in vehicle movement nor impact on the amenities of nearby local residents.

Other matters

Conditions

Whilst the development should be operated in all other respects with the details approved in accordance with the extant permission, a permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. This new permission therefore sits alongside the original planning permission, which remains intact and unamended.

Consequently, the decision notice sets out the variation to condition 2 only it restates all other conditions imposed on the earlier permission that continue to have effect

Application 1998/92724/W0 was granted with 20 conditions.

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been

incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Uncontrolled release of greenhouse gasses from traditional waste disposal methods are inextricably linked to climate change. Crucially, in order to adapt to and mitigate against climate change impacts, the management of waste will need to be considered further up the waste hierarchy before consideration of disposal through landfill, which is the least sustainable way to manage waste. In this instance the household waste recycling operations at this site provides a valuable facility which encourages and supports waste being moved further up the waste hierarchy and contributes towards carbon reduction.

High risk coal area
As the site falls within a high risk coal area on the Council's geographical system, consultations were carried out with the Coal Authority. The following comments are received:
"Our records indicate that the site is in an area of likely historic unrecorded coal
workings at shallow depth. There is also a recorded mine entry within 20m of the site
boundary. These features pose a potential risk to surface stability and public safety.
It is noted that this variation of condition relates to a 2007 consent, and that this
current proposal is for variation of condition 3 which relates to opening hours only. I
can confirm that the Planning team at the Coal Authority have no specific comments
to make on this submission".

No further action is required on this matter

Representations
None received

Conclusion
The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Application Number: 2022/90671
Decision Authorisation: Delegated Powers
Officer Recommendation: grant variation of condition

Conditions and Reasons
(1) The proposed boundary fence to the civic amenity site, the entrance gate off Emerald Street to the civic amenity site and the entrance gate to the civic amenity site from the proposed composting area, all indicated with a green line on approved drawing No. K02/01/04 shall be constructed of steel palisade railings in accordance with a scheme submitted for the prior approval in writing of the Local Planning Authority, painted brown 'Medium Dark Brown' (BS 480008 B29) and maintained thereafter.
Reason: In the interests of local visual amenity**.**

(2) The household waste recycling centre shall not be operated outside the following times:
07.30 - 18.00 Monday to Friday (including Bank Holidays)
07.30 - 17.00 Saturdays and Sundays
Reason: To protect the amenities of local residents

(3) Unless otherwise agreed in writing by the Local Planning Authority green waste shall be shredded only:
- between 09.30 hours and 16.30 hours on weekdays (excluding bank holidays) and 10.00 and
12.30 hours on Saturdays and not at all on Sundays or Bank Holidays.
- for no longer than 6 hours maximum during the working day with 1 hour minimum break between 12.00 hours and 14.00 hours.
Reason: To protect the amenities of local residents

(4) Unless otherwise agreed in writing by the Local Planning Authority the green waste shredding machine shall not be operated more than a maximum of 250 hours on the site per calendar year.
Reason: To protect the amenities of local residents

(5) During the shredding of green waste, the discharge end of shredding machine shall at all times be pointed away from the Abbey Road and Hammond Street residential area unless otherwise agreed in writing by the Local Planning Authority.
Reason: To protect the amenities of local residents

(6) Unless otherwise agreed in writing by the Local Planning Authority noise levels arising from the operation of the civic amenity and green waste composting excluding the green waste shredder shall not exceed the following noise levels at any nearby residential premises at the following times, viz, Weekdays 52 dB(A) (LAeq)(1hour) freefield Saturdays 52 dB(A) (LAeq)(1hour) freefield Sundays 48 dB(A) (LAeq)(1hour) freefield
Reason: To protect the amenities of local residents

(7) Unless otherwise agreed in writing by the Local Planning Authority noise levels arising from the operation of the green waste shredding on the site shall not exceed 55 dB(A) (LAeq)(1hour) freefield at any nearby residential premises.
Reason: To protect the amenities of local residents

(8) Unless otherwise agreed in writing by the Local Planning Authority any facilities for the storage of oils, fuels, chemicals or liquid wastes shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the largest tank or the combined capacity of interconnected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bunded area. The drainage system of the bunded area shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge
downwards into the bunded area.
Reason: To prevent against pollution of soils and surface or underground acquifers

(9) Drainage from areas likely to be contaminated by petrol, oil or waste materials shall be passed through a suitable petrol/oil interceptor before discharge to sewer.
Reason: To prevent against pollution of soils and surface or underground acquifers
(10) A scheme to prevent emissions of dust, odours and windblown material from the site shall be submitted for the approval of the Local Planning Authority and the approved scheme implemented as soon as the facility is brought into use.
Reason: To protect the amenities of local residents.

(11) No waste or other materials shall be burned on the site.
Reason: To protect the amenities of local residents.

(12) All signage on the permitted site and the Emerald Street access road shall be in accordance with a scheme submitted for the prior approval in writing of the Local Planning Authority prior to development commencing. The submitted scheme shall provide details of the location, size, colour, font and construction materials. Signage installed in accordance with the scheme approved by the Local Planning Authority shall be maintained.
Reason: In the interests of local visual amenity.

(13) A scheme for preventing the deposit of waste on Emerald Street during or outside operational hours shall be submitted for the approval of the Local Planning Authority prior to the site being brought into use and the approved scheme be implemented in the development and subsequent operation of the site.
Reason: In the interests of local visual amenity.

(14) Prior to development commencing a scheme for the management of traffic on Emerald Street including signage shall be submitted for the approval in writing of the Local Planning Authority and the approved scheme implemented in the operation of the site.
Reason: To ensure satisfactory access to the site and other premises accessed off Hill House Lane via Emerald Street in the interests of the free and safe use of the public highway

(15) Unless otherwise agreed in writing by the Local Planning Authority the landscaping proposals in the application shall be implemented within 12 months of development commencing in accordance with a scheme submitted for the prior approval in writing of the Local Planning Authority and subsequently maintained. The submitted scheme shall detail species to be planted, method of planting, density of planting, location of planted species and aftercare proposals. All trees, shrubs or other botanical species that fail within 4 years of initial planting shall be replaced in the next planting season.
Reason: In the interests of local visual amenity

(16) Fixed external lighting provided on the application site shall meet current design standards for the prevention of light pollution and in particular fixed external lighting shall not be provided on the green waste composting area unless otherwise agreed in writing by the Local Planning Authority.
Reason: To prevent light pollution and in the interests of local visual amenity

(17) The development shall not be brought into use until the access shown on the approved amended drawing KO2/00/01A including the proposed amendments shown on approved additional drawing No. KO2/01/14 have been provided.
Reason: To ensure satisfactory access to the site and other premises accessed off Hill House Lane via Emerald Street in the interests of the free and safe use of the public highway

(18) The development shall not be brought into use until the areas to be used by vehicles including parking, loading and unloading areas have been laid out, surfaced, sealed and drained.
Reason: In the interests of the free and safe use of the public highway.

(19) The height of winrowed green waste and stockpiles of compost shall not exceed 3 metres unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interests of local visual amenity.

(20) The land within the green line shown on approved amended drawing No. KO2/00/01A shall be modelled and landscaped to provide a noise baffle and be tree planted all in accordance with a scheme submitted for the prior approval in writing of the Local Planning Authority.
Reason: To protect the amenities of local residents.

NOTE:

Conditions 1 and conditions 3 to 20 (i.e. those conditions that have not been sought for variation as part of this application) were originally imposed on approval of 1998/62/92724/W0. They are reproduced on this notice to provide you with a complete record of all conditions, regardless of whether some may have already been discharged. Where the details pursuant to the above conditions in accordance with reference 1998/62/92724/W0 already been submitted for discharge and approved by the Local Planning Authority and there is no change to the details required by that condition, a further discharge of condition application pursuant to this application reference will not be necessary.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Application form			24 Feb 2022
Location plan			24 Feb 2022
Revised supporting planning statement	Dated February 2022		24 May 2022

Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance no negotiations were deemed necessary.

Report Dated: 25/05/22