

**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:	2023/70/92408/E0
Site Address:	Thornhill Road, Dewsbury, WF12 9QR
Description:	Variation of condition 20 (opening hours) of previous permission 2022/90726 (variation of condition 20 of previous permission 99/92630 for erection of integrated waste management facility comprising a transfer loading station and a household recycling waste recycling centre) to allow for additional opening hours to the Transfer Loading Station
Recommending Officer:	Farzana Tabasum

DECISION – Variation of Condition – Approve

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.

Victor Grayson

AUTHORISED OFFICER

Date: 04-Mar-2024

Officer report

Site Description

The site is served from Weaving Lane, off Thornhill Road, and is stated to be operational as a Transfer Loading Station since 2000. The application site occupies an area of approximately 3.5 ha. and is located 1.4km to the southwest of Dewsbury Town Centre within an area which has a mixed residential/commercial character.

Residential properties are located to the west and southeast of the site and other commercial activities are concentrated to the north of the site, with the river Calder running parallel to the southern boundary.

Description of Proposal

The applicant seeks to vary the wording of condition 20 of planning permission 2022/90726, specifically for the Transfer Loading Station (TLS), and states the hours for the Household Waste recycling centre are to remain unchanged. The supporting statement sets out that the additional hours are to allow vehicles to exit the site only and no loading operations would occur until 07:00hrs, in the interest of residential amenity impact

The current wording of condition 20 of planning permission 2022/90726 is:

“(20) No activities, including the delivery and removal of waste materials and the maintenance of plant and machinery, shall take place on the site other than between the following hours:

Household Waste Recycling Centre

Mondays to Fridays 07.30 and 18.00

Saturdays and Sundays 07.45 and 17.00 08.00 and 17.00

Bank or Public Holidays (unless holiday falls on Saturday or Sunday when normal weekend times shall apply)

Transfer Loading Station:

Mondays to Fridays 07.00 and 19.00

Saturdays 07.00 and 17.00

Sundays 08.00 and 17.00

Bank or Public Holidays 08.00 and 17.00 (unless the holiday falls on Saturday or Sunday when normal weekend times shall apply)

Reason: *To safeguard the amenities of nearby residents.”*

The accompanying supporting statement states that the proposed additional hour would only be applicable for Monday to Saturday, with no change to the Sunday times. However, it was also noted that an additional 2hrs was proposed on Bank or Public Holidays as set out in both paragraphs 5.6 and 5.8 of the supporting statement. The initial variations proposed were as highlighted in bold below.

- **06:00** to 19:00hrs Mondays to Fridays
- **06:00** to 17:00hrs Saturdays
- 08:00 to 17:00hrs Sundays
- **06:00** to 17:00hrs Bank or Public Holidays

The proposals as now amended, are to vary the hours for the Transfer Loading Station as set out below, with Bank /Public Holiday hours to remain as they are:

Transfer Loading Station:

Mondays to Fridays 06.00 and 19.00

Saturdays 06.00 and 17.00

Sundays 08.00 and 17.00

Bank or Public Holidays 08.00 and 17.00 (unless the holiday falls on Saturday or Sunday when normal weekend times shall apply)

History of negotiations/amendments received

Following consultations with KC Environmental Health, concerns were raised in relation to the two additional hours proposed for Bank and Public Holidays. To address these concerns, the applicant was advised a noise impact assessment would be required, to consider the potential impact on residential amenity from the two additional hours on Bank and Public holidays.

The applicant has confirmed in an email dated 18/12/2023 that they are happy to proceed with no changes to the TLS hours for Bank and Public Holidays. Therefore, no noise impact assessment is required.

Relevant Planning History

2022/90726 – Variation of condition 20 (relating to opening hours for the Household Waste Recycling Centre only) on previous permission 99/92630 for erection of integrated waste management facility comprising a transfer loading station and a household recycling waste recycling centre – granted 30/05/2022.

2017/92688 – Non material amendment to previous permission 99/92630 for erection of integrated waste management facility comprising transfer loading station and household waste recycling centre – granted 05/09/2017.

1999/62/92630/E0 – The erection of an integrated waste management facility comprising a transfer loading station, and a household waste recycling centre – granted 22/02/2000.

Representations

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

Final publicity date expired: 26/10/2023.

No representations were received.

Ward Councillors were notified. To date no comments were received from Councillors.

Consultation Responses

KC Environmental Health – Support subject to no variations to the Bank and Public Holidays hours for the TLS.

KC DM Highways – No objections.

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 application relates to a waste safeguarded site in 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.

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), published December 2023, 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 and 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 1999/62/92630/E0 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) 2023 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

In this instance the principle of development has already been established under the previous extant permission to use the site as a household waste recycling facility with a transfer loading station. Therefore, 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.

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

Impact on amenity

The site is sufficiently separated with existing buffers in the form of a railway line and other development from the nearest residential properties on Mavis Street and West Vale.

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".

In addition, it is acknowledged that conditions 23 and 24 of the 99/92630 permission restricts noise levels when measured at nearby sensitive noise receptor locations.

On review of the proposals, KC Environmental Health raised concerns in relation to the initial variations to the hours for Bank and Public Holidays as no evidence, in the form of a noise impact assessment, was submitted to demonstrate that there would be no detrimental impact on the amenities of occupiers of the nearby residential properties.

The applicant was given the opportunity to submit a noise impact assessment. However, the applicant advised that they were happy to proceed with the variations to the hours for Monday to Sundays only for the TLS, with no amendments to the hours for Bank and Public Holidays.

The proposals would result in an increase of one additional hour Monday to Saturday in the mornings, to allow vehicles to exit the site earlier, with no changes to the loading operations. It is considered the proposed increase of one additional hour in the morning to allow vehicles to leave the site earlier, would not give rise to significant environmental impacts for the surrounding development, particularly the nearest residential properties as mentioned above. In summary, the proposals can be supported and are considered to accord with the requirements of Policy LP52 of the Kirklees Local Plan.

Highway issues

The proposals have been considered by DM Highways Development Management officers who raised no objections from a highway safety aspect.

In summary, the proposed variation to the hours of operation which is essentially one hour in the early mornings Monday to Saturday for the TLS are supported given there is unlikely to be a significant increase in vehicle movement nor impact on the amenities currently enjoyed by nearby local residents.

Other matters

Conditions

Whilst the development should be operated in all other respects in accordance 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 for this section 73 application would differ (to the previous approval) in respect of condition 20 only. For clarity, it restates the conditions imposed on the earlier permission that continue to have effect except for condition 2 which is omitted, in light of the development having been implemented. It is recommended that teference/links be included on the decision notice to relevant planning permissions 1999/62/92630/E0 and 2022/90726.

Application 1999/62/92630/E0 was granted with 28 conditions.

Climate Change

On 12/11/2019, 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

A small part of the site falls within a high risk coal referral area. As such consultations were carried out on the 2022/90726 application with the Coal Authority, who confirm at the time:

“Our records indicate that a very small part of the site falls within an area of likely historic unrecorded coal workings at shallow depth.

It is noted that this current variation of condition relates to a consent granted in 2000 and is for a variation to the opening times imposed. I can confirm that the Planning team at the Coal Authority have no specific comments to make on the variation of Condition 20.

As the current proposals are again to vary the operational hours of the TLS, 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: 2022/92408

Decision Authorisation: Delegated Powers

Officer Recommendation: Grant variation of condition 20

Conditions and Reasons

(1) This permission relates to the erection of a Transfer Loading Station and a Household Waste Recycling Centre only. No part of the site shall be used for shredding, screening or composting of green wastes.

Reason: To safeguard the amenities of nearby residents

(2) [no condition].

(3) The development shall not be occupied/brought into use until the areas to be used by vehicles including parking, loading and unloading areas together with the access road and its junction with Thornhill Road have been surfaced, sealed and drained in accordance with details which shall have received the prior written approval of the Local Planning Authority and thereafter retained.

Reason: In the interests of the free and safe use of the highway.

(4) A scheme to prevent the deposit of mud and/or waste materials on the public highway during the construction of the development hereby permitted and during its operation shall be submitted for the prior written approval of the Local Planning Authority and the approved scheme shall be implemented as soon as construction commences.

Reason: In the interests of the free and safe use of the highway.

(5) Unless otherwise agreed in writing by the Local Planning Authority hours of work on site preparation and construction (including deliveries) shall be restricted between the hours of 07.30 and 18.00 Mondays to Fridays and 08.00 and 13.00 on Saturdays. There shall be no site preparation or construction works on Sundays or Public Holidays.

Reason: To safeguard the amenities of nearby residents.

(6) Prior to the commencement of development a scheme for protecting nearby residents and commercial properties from noise and dust arising from construction or site preparation works shall be submitted to and approved in writing by the Local Planning Authority and such works shall be carried out thereafter strictly in accordance with the approved scheme.

Reason: To safeguard the amenities of nearby residents.

(7) No development shall take place until plans, or samples where appropriate, detailing:

- (a) the colour, type and texture of materials to be used for the buildings;
- (b) the extent of tree planting and the species to be planted (notwithstanding the details shown on drawing P2353/01/04A);
- (c) the treatment of the area hatched red on approved drawings P2353/01/01, P2353/01/03 and P2353/01/04A; and
- (d) the screening and security fencing

have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

(8) A scheme to minimise the emission of noise, dust, odours and windblown materials from the site and to prevent flying insects from becoming a nuisance to adjoining occupiers shall be submitted for the written approval of the Local Planning Authority and such scheme shall be implemented as soon as the facility is brought into use.

Reason: To safeguard the amenities of nearby residents.

(9) Prior to the commencement of development, details of any audible warning devices to be used on site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents.

(10) No waste or other materials shall be burnt on site.

Reason: To safeguard the amenities of nearby residents.

(11) Unless otherwise agreed in writing by the Local Planning Authority no building or other obstruction shall be located over or within 5 metres of the diverted water mains within the site.

Reason: In order to allow sufficient access for maintenance and repair work, in the interests of the satisfactory drainage of the area.

(12) Unless otherwise agreed in writing by the Local Planning Authority no building or other obstruction shall be located over or within 6 metres of the lines of the sewers which cross the site.

Reason: In order to allow sufficient access for maintenance and repair work, in the interests of the satisfactory drainage of the area.

(13) The site shall be developed with separate systems of drainage for foul and surface water, with all clean roof and surface water being kept separate from foul water.

Reason: In the interests of the satisfactory drainage of the area.

(14) No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details which shall have received the written approval of the Local Planning Authority before development commences.

Reason: In the interests of the satisfactory drainage of the area

(15) There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, in particular the River Calder, whether direct or via soakaways.

Reason: To prevent pollution of the water environment.

(16) Prior to being discharged to any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme submitted to and approved in writing by the Local Planning Authority before the development commences. Roof water shall not pass through the oil interceptor.

Reason: To prevent pollution of the water environment.

(17) Roof drainage downwater pipes shall at all times be sealed at ground level to prevent the ingress of any contaminated water/run off.

Reason: To prevent pollution of the water environment.

(18) 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 surrounded by impervious bund walls to form a bunded compound. 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 and sight glasses shall be located within the bunded compound. The drainage system from the bunded compound shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and shall be protected from

accidental damage. All filling points and tank overflow outlets shall be detailed to discharge downwards into the bunded compound.

Reason: To prevent pollution of the water environment.

(19) Unless otherwise agreed in writing by the Local Planning Authority the floor level of the Transfer Loading Station and any other areas upon which waste materials are stored shall be no lower than 40.46 A.O.D.

Reason: To prevent pollution of the water environment.

(20) No activities, including the delivery and removal of waste materials and the maintenance of plant and machinery, shall take place on the site other than between the following hours:

Household Waste Recycling Centre:

Mondays to Fridays 07.30 and 18.00

Saturdays and Sundays 07.45 and 17.00

08.00 and 17.00 Bank or Public Holidays (unless holiday falls on Saturday or Sunday when normal weekend times shall apply)

Transfer Loading Station:

Mondays to Fridays 06.00 and 19.00

Saturdays 06.00 and 17.00

Sundays 08.00 and 17.00

Bank or Public Holidays 08.00 and 17.00 (unless the holiday falls on Saturday or Sunday when normal weekend times shall apply)

Reason: To safeguard the amenities of nearby residents.

(21) The existing stone wall along the site's south-western boundary shall be restored to its original condition and retained for the duration of the development hereby permitted.

Reason: In the interest of visual amenity.

(22) Before the development hereby permitted commences, details of all external floodlighting and other illumination proposed at the site including during construction shall be submitted to and approved in writing by the Local Planning Authority. These details shall include: height of the floodlighting posts, intensity of the lights (specified in Lux Levels), spread of light including approximate spillage to the rear of floodlighting posts (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.

Reason: In the interests of visual amenity and to prevent glare to occupiers and users of nearby land.

(23) Unless otherwise agreed in writing by the Local Planning Authority the level of noise emitted from the site shall not exceed the following levels as measured at the following noise receptor locations (shown on Fig 7.1 of the Environmental Statement):

Monday to Friday

LOCATION NOISE LEVEL

N1 Mavis Street 49 dBLAeq

N2 The Gate Public House 43 dBLAeq

N3 Island View 52 dBLAeq

Weekends

LOCATION NOISE LEVEL

N1 Mavis Street 43 dBLAeq

N2 The Gate Public House 40 dBLAeq

N3 Island View 48 dBLAeq

Reason: To safeguard the amenities of nearby residents

(24) Unless otherwise agreed in writing by the Local Planning Authority the following shall apply in respect of the noise levels set out in condition 23 above. All noise levels shall refer to measurements taken at 1.2m above ground level under free field conditions and at wind speeds no greater than 3 metres per second. The reference time period for measurement (t) shall be 1 hour.

The precise measurement positions shall be:

N1 Mavis Street - on the access road at the front of No. 22 Mavis Street or at a similarly representative position in the vicinity.

N2 The Gate Public House - in the beer garden at the side of the public house to the rear of houses on Thornhill Road or at a similarly representative position in the vicinity.

N3 Island View - at a point on the access road to the north west of Nos 2, 3, 5 and 6 Island View or at a similarly representative position in the vicinity.

Reason: To safeguard the amenities of nearby residents.

(25) Prior to the commencement of development, a scheme detailing noise monitoring and recording procedures to be carried out by the applicant shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall include arrangements for the provision of monitoring results to the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents.

(26) All HGV traffic carrying waste materials into and out of the site shall be covered so as to prevent spillage or loss of such materials at the site or on the public highway.

Reason: To prevent the discharge of substances onto the adopted highway in the interests of highway safety.

(27) No handling, deposit, processing, storage or transfer of waste shall take place on site outside the confines of the building or areas approved for this purpose and no loose waste materials shall be deposited or stored on the adjacent open areas.

Reason: To safeguard the amenities of nearby residents.

(28) In the event of the use of the facility hereby permitted ceasing for a period in excess of 6 months, all waste materials, skips, waste receptacles, plant and machinery shall be removed from the site

Reason: So as to ensure the satisfactory appearance of the development on completion and to safeguard the amenities of nearby residents.

NOTE:

Condition 1, 3 to 19 and conditions 21 to 28 inclusive (i.e. those conditions that have not been sought for variation as part of this application) were originally imposed on approval of 2022/90726. 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 planning permissions 2022/90726 and 1999/62/92630/E0 have 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.

NOTE:

See link below for planning permission 1999/62/92630/E0 and 2022/90726:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=99%2f92630>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90726>

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Application form			11/08/2023
Applicants email dated 18/12/2023			18/12/2023
Location plan	Tnh-LOC-0622-01		11/08/2023
Location plan Pursuant to planning permission 2022/90726			01/03/2022
Revised planning statement Pursuant to planning permission 2022/90726			26/05/2022
Site Location Pursuant to planning permission 99/92630/E0	P2535/00/01		September 1999
General Layout Pursuant to planning permission 99/92630/E0	P2353/01/01		September 1999
TLS Plan and Section Pursuant to planning permission 99/92630/E0	P2353/01/02A		September 1999

HWRC/Composting Site Plan and Section Pursuant to planning permission 99/92630/E0	P2353/01/03		September 1999
Landscaping and Surfacing Plan Pursuant to planning permission 99/92630/E0	P2353/01/04A		September 1999
Drainage Layout Plan Pursuant to planning permission 99/92630/E0	P2353/01/05		September 1999
Architectural Plans and Elevations Pursuant to planning permission 99/92630/E0	P2353/01/06		September 1999
Environmental statement Pursuant to planning permission 99/92630/E0	Dated September 1999		September 1999
Supporting statement Pursuant to planning permission 99/92630/E0	Dated 19/08/1999		September 1999
Further information Pursuant to planning permission 99/92630/E0			26/11/1999 and 02/12/1999

Pursuant to article 35 (2) of the Town and Country Planning (Development Management 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. The applicant was given the opportunity to submit additional evidence/information to address concerns and issues raised during the course of the application. An extension of time was also sought and agreed.

Report Dated: 01/03/2024

