

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2017/0942	<u>DATE:</u> 03/10/2017
PROPOSAL:	Variation of Condition 4 of Planning Permission P2011/0136 to allow for the processing of waste materials within the existing RRF building on a 24 hour, 7 days a week basis.
LOCATION:	Derwen Plant Ltd Neath Abbey Wharf, Neath Abbey Wharf Access Road, Skewen, Neath SA10 6BL
APPLICANT:	Derwen Recycling Ltd.
TYPE:	Vary Condition
WARD:	Coedffranc Central

BACKGROUND INFORMATION

Cllr Arthur Davies requested on 3rd November 2017 that the application be heard at Planning Committee on the grounds that he has concerns over the impact of the development operating over a 24 hour period, primarily relating to noise and disturbance, the absence of sound attenuation in the design of the building, and traffic generation/ highway safety.

The “committee call-in panel” subsequently agreed to the request for the application to be heard by Planning Committee.

SITE AND CONTEXT

The application site measures 4ha in area, and is located at Neath Abbey Wharf. The site is bounded by the railway line to the south, the Tennant canal to the west, the River Neath to the east, and an area of overgrown scrub to the north. The site is one of four industrial operations located on the area of land located bounded by the River Neath, the A465 and railway line and is identified as existing employment land in the Local Development Plan under Policy EC2. Access to the site is gained via the B4290 and through the existing industrial/business park highway network.

It is important that Members are made aware that there are a number of industrial activities located immediately to the south of the application site including: Fenestration Recycling who recycle double glazed units,

Aggregate Industries Express Asphalt and Sims Metal Management scrap metal merchants.

The site consists of two main areas of operation, to the north is the aggregate crushing and cleaning operation which was previously a long established coal storage and washing facility and does not form part of this application. To the south is located the Resource Recovery Facility (RRF) building to which the present application relates.

The application for the extension of working hours relates specifically to operations carried out within the Resource Recovery Facility (RRF) building. This building measures approximately 80 metres in length by 38 metres in width and is of steel portal frame construction with profile steel cladding to the east west and south elevations and mesh cladding to the north. There are two large doors located to the north and south elevations and a mechanical extraction fan located high on the north elevation which is recognised by the applicant as being a present source of background noise.

It is noted that the building was originally approved under application ref. P2005/1861 (see planning history below) in October 2016, with a subsequent application ref. P2011/0136 (approved on 6/7/2011) approving a change to condition to allow for the receipt and handling of the following waste: Municipal and household waste, Asbestos, Batteries, Oil, Waste from Electrical and Electronic Equipment (WEEE), Tubes and Lamps, Fridges, Tyres, Gas Cylinders, Hair, Gully Emptying's and Paint.

There are no changes proposed under this application to the types of waste to be recycled.

Members are made aware that this industrial process is also the subject of an Environmental Permit issued and regulated under the Environmental Permitting Regulations (EPR) by Natural Resources Wales. The applicant has confirmed that the plant is currently operating below half of its permitted capacity, both in terms of waste processing and storage and the numbers of HGV movements. It is made clear this application does not seek to increase waste processing or storage capacity above existing consented levels nor does it seek to increase HGV movements stipulated within that consent.

DESCRIPTION OF DEVELOPMENT

The current application seeks permission for the variation of condition 4 of the planning permission (ref. P2011/0136) which currently states:

(4) Unless otherwise agreed in writing by the Local Planning Authority operations other than maintenance of plant or machinery, at the site indicated in red on Plan EJA/174/01 shall only occur between:

07.30 to 19.00 hours Mondays to Fridays

07.30 to 13.00 hours on Saturdays

No such work shall occur on Sundays, Bank Holidays or Public Holidays.

Reason

To protect the amenity of local residents.

The applicants have submitted an application under section 73 of the Town and Country Planning Act 1990 (as amended) to vary the wording of condition 4 to enable the facility to process waste materials within the existing RRF building 24 hours a day 7 days a week.

As the application seeks permission to vary the wording of condition 4 of the existing planning permission, the appraisal will focus upon the impacts associated with the rewording of this condition, and not the principle of the development or the wider site, as these were established by the determination of applications P2005/1861 and P2011/0136.

For purposes of clarification Members are made aware that the reason for the application is to allow the applicant to process waste materials within the existing RRF building, the only other operations permitted during operating hours would be the maintenance of plant and machinery. In addition the applicant has confirmed that:

- No deliveries /dispatches will occur outside of currently consented hours
- All bulking, transfer or treatment of wastes shall be undertaken within the confines of the RRF which has an impermeable surface and a sealed drainage system.

- The storage bay within the building provides sufficient space to accommodate any wastes to be segregated during extended operating hours.
- No activity external to the building including HGV movements, processing, movement of wastes would be undertaken during the extended hours.
- The application does not seek to increase waste processing or storage capacity over and above consented levels, nor does it seek to increase HGV movements above consented levels.
- The extended hours are sought in order to achieve greater recycling rates, which requires lower throughputs being used on existing equipment to permit increased segregation of waste materials for recycling. Furthermore, the extension of operating hours is necessary to provide additional flexibility to operate outside of current hours in order to catch up following planned and unplanned maintenance and to remain compliant with permitting requirements for maximum waste storage times.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

NEGOTIATIONS:

Officers within the Planning and Environmental Health teams have engaged with the applicants in respect of noise assessment and local concerns. In response, the applicant has submitted further details to which Environmental Health has responded with no objections subject to conditions.

PLANNING HISTORY

The application site has the following relevant planning history: -

- Application P2004/0002 – Construction of industrial/Office – Approved 24/2/2004
- Application P2004/0002 – Dust suppression scheme – Approved 14/12/2004
- Application P2005/1861 – Alterations and extension to storage shed, including materials sorting plant – 31/10/2006

- Application 2010/0037 – To modify list of wastes for recycling to include bonded asbestos and WEE Under C14 of P2005/1861- Withdrawn
- Application P2011/0136 - Variation of condition 14 of Planning Permission P2005/1861 (Approved on the 31/10/2006) to allow for the receipt and handling of the following additional waste: Municipal and household waste, Asbestos, Batteries, Oil, Waste from Electrical and Electronic Equipment (WEEE), Tubes and Lamps, Fridges, Tyres, Gas. – Approved 5/7/2011.

CONSULTATIONS

Coedfranc Central Ward: Members will note that the application has been brought to Committee at the request of the local Ward Member, Arthur Davies, who has objected to noise from the plant and HGV's, lack of attenuation in the building, traffic generation, flood risk and contamination. Councillor Rebecca Aubrey has also noted local concerns.

Coedfranc Community Council – Objects to the increase in working hours noise levels already affects the Coedfranc area, and odours the building is not suitable, doors left open and building has no noise attenuation.

Natural Resources Wales - No Objection.

Head of Environmental health and Trading Standards (Environmental Health)- No objections subject to conditions.

Head of Engineering and Transport, (Highways Section) - No Objection.

Biodiversity – No objections.

REPRESENTATIONS

Two site notices were displayed on 9/10/2017 and six site notices displayed on 21/11/2017. The period of the latest site notices were displayed expires on 11/12/2017 any additional representations will be updated at committee.

In response, to date two objections have been received (from one objector), referring to noise from the industrial estate (but does not specify which operation) and objecting to the increase in hours on noise and disturbance grounds.

REPORT

National Policy/ Guidance

[Planning Policy Wales](#) (Edition 9, November 2016)

[Technical Advice Note \(TAN\) 21 \(Waste\) \(2014\)](#) states that “sustainable development is a key functioning principle of the Welsh Government and its policies. The movement towards sustainability in relation to planning for waste should be guided first by the wider principles of sustainability contained in Planning Policy Wales, however, with specific reference to waste management land use planning should help to” :

- Drive the management of waste up the waste hierarchy and facilitate the provision of an adequate network of appropriate facilities;
- Minimise the impact of waste management on the environment (natural and man-made) and human health through the appropriate location and type of facilities;
- Recognise and support the economic and social benefits that can be realised from the management of waste as a resource within Wales.

Local Development Plan

The Development Plan for the area comprises the Neath Port Talbot Local Development Plan which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies

- **Policy SP16** Environmental Protection
- **Policy SP19** Waste Management
- **Policy SP2** Health
- **Policy SP21** Built Environment and Historic Heritage

Detailed Policies

- **Policy BE1** Design
- **Policy TR2** Design and Access of New Development
- **Policy W1** In-Building Waste Treatment Facilities
- **Policy EN8** Pollution and Land Stability

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- [Pollution](#) (October 2016)

Issues

Members should note that this application relates solely to the change in working hours described above, and that there are no other alterations proposed as part of this application. In this regard, the existing controls placed on the original planning permission with regard to the limited areas for temporary outside storage of materials, and the processing and sorting will remain, albeit re-imposed as conditions in a new standalone consent (under section 73).

Members should also note that this type of development is subject to an Environmental Permit issued by Natural Resources Wales (NRW). The Permit regulates the day to day operations of the site over and above any planning conditions imposed, and it is not considered appropriate to control matters through planning conditions that would be addressed through the permitting procedures.

Having regard to the above, the main issues to consider in this application relate to the impact of the proposed increase in hours of working on the amenities of nearby residents, together with any impact on visual amenity and highway safety.

EIA Screening

The proposed development is above the threshold defined in Schedule 2 of the Environmental Impact Assessment Regulations as follows:

- Installations for the disposal of Waste. The development area exceeds 0.5ha, and lies within 100m of controlled waters.

As such the proposed development has been formally screened as required by the Environmental Impact Assessment Regulations.

It was concluded that whilst the development would result in limited impact on a number of factors it is considered that it would be unlikely to have a significant environmental effect. The increase in the hours of operation will not include any additional process other than those currently carried out on the site, and the fact that the processes will take place within the existing building will limit the impacts further. It is considered that that the impacts are not significant and can be controlled by condition and the permitting process undertaken by the Environment Agency. As such it is considered that the impacts of the proposed development would not result in significant impacts on the environment. As such the development was not considered to be EIA. Development.

Impact on Residential Amenity

Policy EN8 of the Local Development Plan states that:

Proposals which would be likely to have an unacceptable adverse effect on health, biodiversity and/or local amenity or would expose people to unacceptable risk due to the following will not be permitted:

- *Air pollution;*
- *Noise pollution;*
- *Light pollution;*
- *Contamination;*
- *Land instability;*
- *Water (including groundwater) pollution.*

Proposals which would create new problems or exacerbate existing problems detailed above will not be acceptable unless mitigation measures are included to reduce the risk of harm to public health, biodiversity and/or local amenity to an acceptable level.

It is noted that the nearest residential dwellings are located between approximately 190 and 250 metres from the RRF building on the opposite side of the A465 and include Cardonnel Road, Bay View Gardens, Pen y Bryn, Pale Road and Parc Glas.

As described above, the proposed increase in hours will only affect the operations undertaken within the RRF building. No external activity is proposed during the extended hours including HGV movements.

Notwithstanding the above it is considered that particular attention should be given to any potential for an increase in noise during the evening and night-time hours, given that background noise will either be greatly reduced or different especially during the early hours of the morning and at weekends, including noise from the A465.

As part of the planning application the applicant has submitted a noise assessment report of impacts associated with the proposed change in working hours. The report includes a subjective soundscape assessment during daytime hours, comprising a description of background noise during normal working hours, however there is no background soundscape assessment for the times into which the applicant wishes to extend. These hours, will, by virtue of a reduction in activity especially traffic on the A465 be significantly quieter, so even though the noise from the plant will not increase it may prove to be more discernible. In essence, noise which may be currently masking noise from Derwen site, may not be present during the proposed extended hours.

It is understood that one of the key sources of noise at present relates to an extraction fan, and in this regard the submitted noise report notes that if modifications are carried out to either replace or attenuate the noise from the fan, that the predicted noise emissions from the site will be able to achieve levels below the current background noise levels. The local members' concerns regarding the construction of the building (lacking noise attenuation / cladding) is also noted. Following concern regarding potential impulsive noise - that is occasional anomalies - the applicant has confirmed that there are no activities which would result in impulsive noise and that the proposed activities will involve relatively light works.

Other sources of noise include HGV movements, but as indicated within the report above the number of consented HGV movements will not increase as a result of the proposal. However no additional HGV movements will be allowed outside the hours of operation presently stipulated within condition 4. For clarity these hours are:

- 07.30 to 19.00 hours Mondays to Fridays

- 07.30 to 13.00 hours on Saturdays

With regard to shift changes in order to resolve any objections, the applicant has amended the proposed 3 shift pattern. They would instead operate to two twelve hour shift patterns, 07:00 hrs to 19:00 hrs and 19:00 hrs to 07:00 hrs, thereby avoiding the need for shift changes during night-time hours.

Bearing in mind the above appraisal, and while noting the concerns expressed by the local Members, the Environmental Health section has raised no objections subject to the following conditions:

- A noise management plan to be submitted, which identifies noise sources, controls, and a noise complaint procedure.
- A temporary consent for 12 months.
- Details of the replacement extractor fan.

The Noise Management Plan is a critical part of any such recommendation for approval, and will be required prior to the commencement of any increase in working hours hereby approved. The NMP will include actions to be taken to ensure that noise arising from the site will not exceed 5dB(A) below the current background noise levels at any residential property, and also need to include details of a scheme for the attenuation of noise emissions from the existing extractor fan located to the north elevation of the RRF building or alternatively details of a replacement extractor fan.

Should the application be approved this would become a new standalone permission and as such a number of additional conditions would be imposed in order to mitigate the potential impact of noise upon residents of dwellings within the area.

The imposition of a temporary consent for a period of 12 months is considered essential, to ensure that the Local Authority has a sufficient period of time to identify any detrimental impacts and have control over the future operating times should those impacts be unacceptable, allowing the impacts of the increase in operations within the building to be monitored over the initial period. This will include the need by condition to submit a further noise assessment to demonstrate compliance with the above noise limits and a complaints procedure

which will require further assessment should the LPA request the same following receipt of a valid noise complaint.

Subject to these conditions, it is considered that there will be sufficient control to monitor the increase in hours to ensure there would be no unacceptable impact on the amenity of residential properties in the locality. Any extension beyond the initial 12 months would also require submission of a new application, at which time further assessment can be made having regard to any identified impacts during the 12 months initial operation period.

For these reasons, the proposal is not considered to conflict with Policies SP16, EN8 and M4 of the Local Development Plan.

Existing Conditions

The wider operations at the site are also already controlled by conditions attached to the planning permission, and there are no proposals to amend these controls within the new s73 consent. However, following consultation with the Environmental health and Highway sections, two original conditions (8 and 9) -- relating to dust and highway white lining – are not reimposed, having regard to the ongoing acceptability of operations over many years and the existing Environmental permit which addresses dust.

Impact on Visual Amenity

As the proposal does not involve the construction of any additional buildings or plant within the site there will be no additional impacts upon visual amenity within the area.

Parking and Access Requirements and Impact on Highway Safety

There are no additional HGV movements proposed over and above those already consented and no HGV movements will take place outside the currently permitted hours as such The Head of Engineering and Transport (Highways) has responded with no objections to the proposal.

Other matters

With regard to employment the increase in hours will result in the creation of approximately 20 full time jobs at the plant.

Representations

As identified earlier in this report, representations were received in response following the publicity exercise. In response to the issues raised which have not been addressed elsewhere in this report, the following comments are made:

- With respect to odours emanating from the site neither the Environmental Health section or NRW have received any complaints within the recent past with regard to this matter, it is not envisaged that additional working hours would result in additional odours as similar materials are being recycled.
- Reference has been made to breaches of planning conditions in particular reference is made to breach of permitted working hours however no specific operation within the industrial area has been identified. The alleged breach is not a material consideration in the consideration of this application.
- Reference has been made to the impact of design and materials, and air extraction and that the existing building does not include any sound deadening materials. It is noted that within the noise assessment, controls will be implemented in order to mitigate any noise emanating from within the building including the existing extractor fan which will be either replaced or measures taken to attenuate the noise emissions, it is intended to impose a condition requiring a scheme which will detail the replacement and or mitigation should planning permission be approved.
- With regard to traffic generation as stated previously the applicant has confirmed that the plant is currently operating below half of its permitted capacity, this application does not seek to increase waste processing or storage capacity above existing consented levels nor does it seek to increase HGV movements above existing consented levels. Should there be a requirement to increase deliveries or dispatches of waste within the consented levels these will be restricted to currently consented hours of operation. It is intended to impose a condition should the application be approved to control the times of any HGV movements.
- With regard to flood risk, air pollution, ground water contamination and affects upon sensitive receptors, as stated above there will be no additional buildings involved in the proposal or increases in the consented levels of waste materials to be recycled (these levels

and issues are controlled by the EPR) there will therefore be no additional impacts upon flooding or contamination over and above those presently permitted, Natural Resources Wales have responded with no objections to the proposal.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposal represents an appropriate form of development that would have no unacceptable impact on the amenities of neighbouring residents, visual amenity of the area or highway and pedestrian safety. Accordingly, the proposed development is in accordance with Policies BE1 (Design), TR2 (Design and Access of New Development) EN8 Pollution and Land Stability, and EC2/4 existing employment areas of the Neath Port Talbot Local Development Plan.

RECOMMENDATION: Approval with conditions

CONDITIONS

Approved Plans

(1)The development shall be carried out in accordance with the following approved plans and documents

Plan no.10963-000-A

Plan no. 10963-000-C

Plan no. 10963-000-D

Plan no. EJA/174/01

Reason

To identify the area of land related to this permission

Action Conditions

(2) There shall be no interference, alteration or diversion of any ditch, watercourse, stream and culvert crossing or bordering the site without the prior consultation and agreement of the local planning authority.

Reason

To protect the surface water drainage of the area.

(3) All existing drainage pipes, and land drains, entering, crossing or discharging onto the development site shall be accommodated into the site development works.

Reason

To protect the surface water drainage of the area.

(4) All ancillary stockpiles of sorted materials other than those materials stored in the designated storage bays on Plan EJA/174/01 shall only be composed of recovered and recycled soils, subsoils or crushed/recovered aggregates, and shall not exceed 6 metres above ground level.

Reason

To ensure that the materials stored outside of the designated storage bays are of a nature not likely to affect the amenity of the area.

(5) Any facilities for the storage of oils, fuels or chemicals shall be on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of 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 bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipes should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of watercourses

(6) The materials to be received, handled, stored, fragmented, sorted and transferred at the site shall be confined to the following inert materials; soils, stone, concrete, other inert aggregates, tarmacadam, road scarifyings, wood, plasterboard, ferrous and non ferrous metals, glass, plastics, paper and cardboard and other non-hazardous wastes from industrial or commercial operations. Together with only the following specified hazardous materials; Municipal and household waste, Asbestos, Batteries, Oil, Waste from Electrical and Electronic Equipment (WEEE), Tubes and Lamps, Fridges, Tyres, Gas Cylinders, Hair, Gully Emptyings and Paint.

Reason

To prohibit the processing of waste not envisaged during the consideration of the application and to protect the environment and amenity of the area.

(7) There shall be no storage in the open of paper or cardboard materials.

Reason

To prevent storage in the open that is likely to have a detrimental effect on the amenity of the area.

(8) Operations involving the crushing, grading, fragmentation sifting or separation of waste shall only occur within the building as identified on Plan EJA/174/01.

Reason

In the interest of the amenity of the area.

(9) A copy of the permission and all approved documents referred to in the condition of this consent shall be available for inspection at the site office at all times throughout the development.

Reason

For the avoidance of doubt and to ensure that all site operations are aware of the planning conditions.

(10) All shutter doors constructed within the RRF building shall be of a automatically operated fast acting type and shall be maintained as such for the duration of operations at the site.

Reason

To protect the amennities of the area.

(11) Sound pressure levels attributable to the operations hereby approved, taking into account any acoustic features present, shall not cause the equivalent continuous A weighted sound pressure level (the rating level) to exceed the existing background sound pressure level by more than 5dB(A) at any noise sensitive property.

These levels apply only to the following hours of operation:

07.30 to 19.00 hours Monday to Friday

07.30 to 13.00 hours on Saturdays

Reason

To protect the amenity of local residents.

Pre-Commencement Conditions

(12) Prior to the commencement of any increase in working hours hereby approved, a Noise Management Plan shall have been submitted to and approved in writing by the Local Planning Authority . The NMP details shall include actions to be taken to ensure that noise arising from the site will not exceed 5dB(A) below the current background noise levels at any residential property. Noise measurements shall be undertaken in accordance with BS4142. Any recommendations within the approved NMP shall be implemented as approved prior to any increase in working hours and maintained as such thereafter.

Reason

In the interest of residential amenity

Regulatory Conditions

(13) Within 6 months of the permission hereby approved, the applicant shall undertake a noise assessment in accordance with BS4142 prior to undertaking the assessment, the methodology shall be agreed with the Local Authority. The report shall be submitted to and approved in writing

by the Local Planning Authority and will demonstrate compliance with the the 5dB (A) referred to in condition 12.

Reason

In the interest of residential amenity

(14) Should the Local Planning Authority make such a request in writing following receipt of valid complaints regarding noise emanating from the site during the extended operating hours hereby approved (i.e. after 19.00 hours and before 07.30 hours Monday – Friday, and after 13.00 hours Saturday to 07.30 hours Monday), a noise assessment in accordance with BS4142 shall be undertaken within 21 days of the request being made by the Local Authority (or such other agreed period), in accordance with a methodology which shall first have been agreed in writing by the Local Authority. A copy of the noise assessment report shall be submitted to the Local Authority within 7 days of the assessment being undertaken and, if the report includes the need for remedial actions / recommendations, the recommendations shall be fully implemented on site within one month of the assessment date, with such measures retained thereafter.

Reason: In order to safeguard the amenities of residential properties in the locality

(15) The increase in working hours hereby approved shall be for a temporary period only and, unless written approval has subsequently been given for a further extension to working hours, shall cease not later than 12th December 2018, after which time all operations within the building shall only be undertaken within the following hours:

07.30 to 19.00 hours Monday to Friday

07.30 to 13.00 hours on Saturdays

No operations on Sundays, Bank Holidays or Public Holidays.

Reason

Since 24 hour operations within the building has the potential to adversely impact on the amenity of residents of dwellings within the area, with a one year temporary period being sufficient period in which the Council's Environmental Health section can assess the degree of any such identified impacts.

(16) The NMP required by condition 12 above shall include details of a scheme for the attenuation of noise emissions from the existing extractor fan located to the north elevation of the RRF building or alternatively details of a replacement extractor fan, and the attenuation scheme or replacement extractor shall be implemented or installed as approved prior to any increase in working hours hereby approved, and shall be maintained as such thereafter.

Reason

In the interest of residential amenity

(17) There shall be no deliveries or dispatches of waste materials outside of the following hours:

07.30 to 19.00 hours Monday to Friday

07.30 to 13.00 hours on Saturdays

No such deliveries or dispatches of materials shall occur on Sundays, Bank Holidays or Public Holidays.

Reason: In the interest of residential amenity