

Committee: **Regulatory  
Planning Committee**

Date: **24 June 2015**

Report by: **Director of Communities Economy and Transport**

Proposal: **Change of use of the existing industrial units to a  
Materials Recycling Facility (MRF) with External  
Ancillary Works.**

Site Address: **Units 2A & 2B, Birch Close, Eastbourne, BN23 6NY.**

Applicant: **Mr Daniel Stone, Links Waste Management Ltd**

Application No. **EB/751/CM**

Key Issues: **Consideration of proposal and submitted changes**

Contact Officer: **Chris Flavin - 01273 481833**

Local Member: **Councillor David Tutt**

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## **SUMMARY OF RECOMMENDATIONS**

- 1. To consider the changes to the proposal and additional information submitted; and**
  - 2. Grant planning permission subject to conditions as indicated in paragraph 6.1 of this report.**
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## **CONSIDERATION BY DIRECTOR OF COMMUNITIES ECONOMY AND TRANSPORT**

### **1. Introduction**

1.1 The application for the change of use of Units 2A and 2B, Birch Close, Eastbourne (EB/751/CM) was first considered by the Planning Committee at its meeting on 20 May 2015. A copy of the Report to that Committee is attached as Appendix 1. A motion to grant approval of the proposal as then submitted was lost. The Committee resolved to defer determination of the planning application to allow officers an opportunity to consult with the applicant and partner enforcement authorities regarding the suitability of the building in relation to the dust management plan, and to consider options for the determination of the planning application and to advise the Planning Committee further on these matters.

1.2 This report is to inform the Committee of progress on these matters and the changes that have been made to the proposal and to provide an update on the Applicant's progress with regard to an Environmental Permit for operations at the site. This report should be read in conjunction with the original report. Additional information that has been submitted and a larger set of photographs have been added to the Additional Information Booklet.

## **2. Amendments to the proposal and additional information**

2.1 In response to the concerns raised by Members of the Planning Committee and occupiers of nearby premises, the applicant has made some changes to the proposed development and also submitted additional information. The changes include:

### Revised site layout and operational arrangements

- The front roller shutter doors are to remain shut during operations, except when waste is to be removed from the building;
- Operations within the building have been reoriented and access/egress for vehicles delivering waste to the site is now restricted to the side door only; and
- Installation of a dust extraction system and utilisation of existing ventilation fans.

### Revised sleeper wall arrangements

- As a result of the front roller shutter doors now remaining closed except for waste removal, the 3.6m sleeper wall proposed at the front of the site is no longer required as an acoustic barrier and has been removed from the proposal;
- Due to the proposed change in operations, the sleeper wall to the side/rear of the building has been reduced in height from 3.6m to 3.0m.

### Environmental Permit

A Standard Rules Permit for waste operations at the site has now been granted by the Environment Agency (EA) and an advice note providing an explanation of the EA Permitting process, and a detailed response to the site dust management and control procedures, has been submitted as additional information.

## **3. Additional consultations and representations**

3.1 Following receipt of the additional information and revised operational arrangements, a further consultation was undertaken.

3.2 Local Representations – One representation was received during this consultation, from one of the neighbouring businesses. The comments can be summarised as follows:

- Noise disturbance will be a problem despite the proposed change to 'work flow'. The proposed change will not reduce the noise levels

produced as in practice the doors will be likely to be opened and closed on a regular basis throughout the day;

- The applicant has gone ahead with the installation of equipment at the proposal site and has been operating since the beginning of June, and the position of the weighbridge installation is not in accordance with the proposed plans. The shutter doors at the front of the two units have been left open for periods of time (beyond that necessary for vehicle movements) on numerous occasions;
- Concerns that the existing extraction fans in the buildings that are proposed to be utilised have not been used for 12 years. In their previous use the fans extract direct to the atmosphere without any filtration. On two occasions during the week commencing 8<sup>th</sup> June staff reported a foul odour coming from the proposal site;
- The school is very close to the proposal site;
- Environment Agency has issued an Environmental Permit but they did not provide specific comments in response to consultation on the planning application;
- Would expect a site visit to be arranged so that Members could get an idea of the proximity of the local school, retirement home and adult centre;
- Queries why residents of St. Anthony's Retirement Home, the school and parents were not consulted; and
- It is unreasonable for businesses and others, to have to record incidents, gather evidence, raise issues and report complaints as they arise, for enforcement to then review and manage the situation.

3.3 No other responses to the consultation on the proposal and submitted changes have been received.

#### **4.1 Consideration of the proposal and submitted changes**

4.1 The Policy context for the proposal was set out and addressed in the original report at Sections 5 and throughout Section 6, and there have not been any changes to this. Therefore, the Policies previously identified should still be used in the determination of the planning application.

4.2 The main change to the proposal is to keep the two large roller shutter doors on the front of the building closed during operations. The only exception to this will be when HGV access is required to remove bulked up waste from within the building. Access to the building for all other vehicles will be via the side door only, which is on the side furthest away from the adjoining unit.

4.3 As a result of the change to keep the two front roller shutter doors shut during operations, further noise assessments have been undertaken. These have concluded that with the doors shut, noise levels from operations at the site will be lower than previously anticipated (when the doors were to have been left open). Consequently, there is no longer a need for an acoustic barrier (3.6m sleeper wall) on the boundary at the front of the site and this has been removed from the proposal. The removal of this sleeper wall from the proposal will ensure that there is no change to the open character and nature of the front of the site and surrounding area.

4.4 Furthermore, following the revised noise assessment, it is proposed to reduce the height of the remaining sleeper wall, to the rear and side of the building, from 3.6m to 3.0m. The reduction in height of the sleeper wall, and the removal of the sleeper wall at the front of the site, is welcomed and will reduce the visual impact of the development. There is a balance between providing acoustic mitigation and the visual impact such mitigation has on the surrounding area. However, with the proposed change to operations at the site, including access/egress to the building being from the side door, it is considered that a barrier of 3.0m will achieve the same level of acoustic protection and will also be more acceptable in visual terms.

4.5 Although the roller shutter doors will be closed for the majority of the time, the doors will be opened to allow HGVs access to the building to remove bulked up waste. The applicant anticipates this will occur only once per day. It is proposed that when the roller shutter doors are opened for this purpose, the trommel will not be used, thereby reducing noise levels from the site and also reducing the likelihood of dust escaping from the building. This method of operation would have to be secured by conditions attached to any grant of planning permission requiring the roller shutter doors to be kept shut when HGVs are not accessing the building, and also to prohibit the use of the trommel during times when the roller shutter doors are open.

4.6 In addition to noise being contained by the closure of the roller shutter doors, the proposed change will also help to contain dust and any other emissions escaping from the building. However, air circulation within the building will be prevented when the doors are shut, thus creating a potential health and safety issue for workers within the building. In order to overcome this, the applicant is now proposing to install a dust extraction system, and to also make use of existing ventilation fans. No details or specifications of a dust extraction system have been submitted and details would be required to be submitted for approval prior to the installation of any dust extraction system. As a further measure to contain any dust and debris, the applicant has confirmed that skips arriving at the site will be properly sheeted and waste contained.

4.7 An Environmental Permit for waste activities at the site has now been issued by the Environment Agency. The applicant has provided an Advice Note regarding the Environmental Permitting process, which includes details of how dust will be managed and controlled at the site. Although the Environmental Permit allows the storage of inert waste materials outside the

building, all waste operations, including loading and unloading waste, will take place inside the building. The only waste that will be stored outside the building will be baled waste in a designated storage area at the rear of the building. The management of waste in this manner will minimise the risk of dust being generated and escaping from the site, and also reduce noise when waste is unloaded. It is also considered this will result in no loss of visual amenity.

4.8 Overall, the proposed changes to the development and additional controls will have a beneficial and positive impact in terms of visual amenity, noise attenuation and the control of dust and emissions compared to the original proposal. They are considered to enhance the manner in which waste will be managed at the site, without causing unacceptable impacts on neighbouring units and the wider, surrounding area.

4.9 In terms of options for the determination of this application, there are three main ways forward:

- (a) The application could be approved subject to conditions. The application has been enhanced and further operational requirements have been introduced which makes the building even more suitable for the proposed operation as further dust control measures are proposed which will reduce the potential impact on the surrounding units, and other changes which will reduce noise impacts and visual implications. It is considered that the proposal accords with the adopted and emerging Development Plan, including Policies specifically referring to the location of proposed waste management facilities.
- (b) The application could be refused. Justifiable reasons would have to be identified. This would have to include how and why the proposal did not accord with Development Plan policies. If it was felt that the building was unsuitable, due reason would have to be shown as a clear policy direction exists that this type of building on this type of location is an acceptable change of use in principle. If it was felt that the noise or visual impact was unsuitable, due reason would have to be shown why these matters could not be covered by appropriate conditions. If the reasons for refusal were appealed and found to be unsustainable at a Public Inquiry, the Council could be faced with an application for costs related to this action.
- (c) The application could be approved for a temporary period to allow monitoring of the impacts to assess whether any potential dust or noise problems actually occurred. The applicant could similarly appeal against this course of action.

4.10 Officers consider that taking all matters into account, the proposed development as amended is acceptable in policy and operational terms. It is considered that a permanent permission could be granted subject to appropriate controls on dust, noise and traffic.

## **5. Conclusion and reasons for approval**

5.1 In accordance with Section 38 of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the development plan unless material considerations indicate otherwise.

5.2 The proposal is for the change of use of an existing industrial building to a waste management use. Additional measures to manage dust and noise have been introduced and the development is considered acceptable in waste management terms. The applicant's business would operate more efficiently on this site. The location of the site is considered appropriate for the proposed use in principle. Proposed conditions should ensure there is no unacceptable effect on amenity and traffic.

5.3 The proposal therefore complies with East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (2013) Policies: WMP1 (sustainable development), WMP3b (waste hierarchy), WMP5 (Provision of Built Waste Facilities), WMP7a (sustainable locations for waste development), WMP7b (detailed criteria for waste development), WMP23A (Design Principles for Built Waste Facilities), WMP25 (amenity), WMP26 (transport), and Eastbourne Core Strategy Local Plan 2006-2027 Policy D2 (Economy).

5.4 In determining this planning application, the County Council has worked with the applicant and agent in a positive and proactive manner. The Council has also sought views from consultees and neighbours and has considered these in preparing the recommendation. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, and as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

5.5 There are no other material considerations and the decision should be taken in accordance with the development plans.

## **6. Recommendation**

6.1 To recommend the Planning Committee to consider the changes to the proposal and additional information submitted and, to grant planning permission subject to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the plans listed in the Schedule of Approved Plans.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Within one month of the date of this permission, the sleeper walls shall be constructed in accordance with the following approved plans and details:

- Drawing plan titled 'Existing elevations and proposed acoustic barrier' (front and side elevations) dated 30/04/2015 (Ref. L02 Rev B)

- Drawing plan titled 'Existing elevations and proposed acoustic barrier section' (rear elevation) dated 06/05/2015 (Ref. L03 Rev B)

- Document titled 'Details of Acoustic Barrier Construction' dated 12/06/2015

- Approved plan L.01 Rev H 'Site Layout Plan' (dated 04/06/2015) and thereafter maintained for the life of development.

Reason: In order to mitigate noise disturbance and in the interests of protecting the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

4. No machinery shall be operated and no process shall be carried out other than between the hours of 07.00 and 19.00 on Mondays to Fridays inclusive and between 07.00 and 14.00 on Saturdays and not at any time on Sundays, Bank and Public Holidays except of works for essential maintenance or which are to respond to an emergency. No later than one week after the carrying out of such works, full details of the time, date, reason for and nature of the works shall be given in writing to the Director of Communities, Economy and Transport.

Reason: In the interests of protecting the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

5. The following operations shall not take place on site other than between the hours of 07.30 and 17.30 on Mondays to Fridays inclusive and between 07.30 and 13.30 on Saturdays:
  - (a) the removal of waste and loading of vehicles
  - (b) any deliveries or importation of waste to the site, including unloading of vehicles
  - (c) the servicing or repair of any vehicle

except with the prior written consent of the Director of Communities, Economy and Transport.

Reason: In the interests of protecting the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

6. The maximum number of vehicle movements (excluding staff and other car movements) associated with the permitted use of the site shall not exceed 54 movements per day (i.e. 27 in and 27 out per day)

Reason: In the interests of amenity and highway safety and to comply with Policies WMP25 (a) and WMP26 (c) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

7. Within one month of the date of this permission, the car parking spaces indicated on the approved plan L.01 Rev H 'Site Layout Plan' (dated 04/06/2015) shall be marked out and installed and thereafter shall be kept available at all times for the parking and stationing of vehicles associated with Units 2a and 2b, and shall not be used for any other purpose.

Reason: To ensure the provision of appropriate vehicle parking for the use hereby permitted, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

8. The secure cycle storage room/building indicated on the approved plan L.01 Rev H 'Site Layout Plan' (dated 04/06/2015) shall be retained throughout the life of the development and shall be made available at all times for the parking and storage of staff and visitor bicycles.

Reason: To ensure the provision of appropriate cycle storage for the use hereby permitted, in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

9. The turning space for vehicles as identified on approved drawing 'Site Layout Plan' L.01 Rev H (dated 04/06/2015) shall be retained for use as a turning space for vehicles and for no other use.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013

10. No storage container, skip, sorted or unsorted waste material or residue of recycled materials shall be stored outside the building other than wrapped or bound bales, which may be stored within the area identified as the 'Baled Waste Storage Area' on approved plan L.01 Rev H dated 04/06/2015 (that is the area to the southeast of the building).

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.



11. Other than the moving of, setting down or loading of bales onto lorries (in accordance with the provisions of Condition 10 above), no sorting, treatment, loading or unloading of waste, recyclable materials or any other materials shall take place other than within the building.

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.

12. No bales shall be stacked or deposited to a height exceeding 2.4 metres, measured from ground level on the site.

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.

13. Notwithstanding the provisions of Part 7, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no buildings, plant or machinery shall be extended, altered or installed at the site (other than as expressly authorised by this permission).

Reason: To enable the County Planning Authority to control the future use of the site in order to protect the character and amenity of the area in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

14. The rating level of the operational noise emitted from the site shall not exceed the background noise level at any time, as measured at Linden Court and St Anthony's Court and in accordance with BS 4142:2014.

Reason: In order to mitigate noise disturbance and in the interests of protecting the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

15. Within 3 months of the site becoming fully operational or within 6 months of the date of this permission (whichever is the sooner), a noise monitoring report shall be submitted in writing to the Director of Communities, Economy and Transport, to assess compliance with the above condition and, to outline and implement additional mitigation measures, if deemed necessary by the Director of Communities, Economy and Transport, to ensure compliance.

Reason: In order to mitigate noise disturbance and in the interests of protecting the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

16. Unless otherwise agreed in writing by the Director of Communities, Economy and Transport, the roller shutter doors at the front of the building shall remain closed at all times, except when bulked up waste is being removed from the site by HGVs.

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.

17. The trommel or any other mechanical processing equipment shall not be in use or operation at any time when either of the roller shutter doors at the front of the building are open.

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.

18. Within 2 months of the date of this permission, full details of the Dust Extraction System to be installed shall be submitted to and approved in writing by the Director of Communities, Economy and Transport. The approved Dust Extraction System shall be installed within 1 month of its approval and maintained at all times in full working order in accordance with the manufacturer's instructions.

Reason: In the interests of amenity of the locality in accordance with Policy WMP25 of the East Sussex and Brighton & Hove Waste Local Plan 2013.

#### Schedule of Approved Plans

P01 Rev D- Block Plan, Supporting Statement Rev 1, Dust Management Plan, Transport Statement dated March 2015, LWM BC Scheme Amendments v0.1 030615, LWM BC Site Layout Plan L.01 REVH 110615, LO3 Rev B Existing Elevations and proposed Acoustic Barrier Section, LO2 Rev B - Existing Elevations and proposed Acoustic Barrier , Details of Acoustic Barrier Construction 120615, Advice Note - LWM Birch Close Permitting v1.0 01.06.14

RUPERT CLUBB

Director of Communities, Economy and Transport  
16 June 2015

#### **BACKGROUND DOCUMENTS**

See Case File EB/751/CM