

Committee: **Regulatory  
Planning Committee**

Date: **13 April 2022**

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

Proposal: **Change of use of rear yard of recycling facility to mixed use storage facility including the siting of 12 shipping containers (retrospective)**

Site Address: **Unit 13, Chaucer Industrial Estate, Dittons Road, Polegate**

Applicant: **Mr Paul Dawber, Paul's Mini Skips Ltd**

Application No. **WD/862/CM**

Key Issues: **Compatibility of the proposal with the use of the site as a materials recycling facility and impact upon the neighbouring businesses**

Contact Officer: **Jeremy Patterson Ext 1626**

Local Member: **Councillor Daniel Shing**

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## **SUMMARY OF RECOMMENDATIONS**

**1. The Committee is recommended to refuse planning permission and authorise the Director of Communities, Economy and Transport to undertake appropriate enforcement action to remove the 12 shipping containers as set out at paragraph 8.1 of this report.**

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## **CONSIDERATION BY DIRECTOR OF COMMUNITIES, ECONOMY AND TRANSPORT**

### **1. The Site and Surroundings**

1.1 The application site comprises the rear yard of Unit 13, part of the open corridor of land between the western side of this unit and the eastern side of neighbouring industrial units and the vehicular access route from the front of Unit 13 to Dittons Road within the Chaucer Industrial Estate in Polegate. Unit 13 operates as a skip-based waste materials recycling facility, which consists of a building in which processing takes place and a front yard used for empty skip storage and parking. Its rear yard comprises 12 shipping containers forming two rows of six at double height and with an external stairway to allow pedestrian access to the higher units. The yard has a concrete base of about 150sqm in area and is surrounded by metal palisade security fencing with gates and is located opposite the eastern side of Unit 5. Trees border the northern boundary of the rear yard, and a car sales enterprise adjoins to the north. Other industrial units are present to the east, south and west of Unit 13 within the Industrial Estate.

## **2. The Proposal**

2.1 The proposal is seeking retrospective planning permission for the installation of 12 shipping containers within the rear yard of Unit 13 and a change of use of the yard from a waste storage use to a mixed-use storage facility, incorporating both waste and non-waste items. The applicant wishes to use the lower units primarily to store baled waste material and valuable non-ferrous metals pending transfer, with the upper units to store non-waste items, such as furniture, by members of the public; it is understood that at least some of the units are currently being used for these purposes. However, as the proposal is for a mixed use, no prohibition has been included on the storage of non-waste items in the lower units. The containers are approximately 6 metres long, 2.5 metres wide and 2.5 metres high and therefore the stacked units would be about 5 metres in height; this compares with the adjoining building which stands at about 5.5 metres to the eaves and 6.3 metres to the apex. Access to the site is by foot only through the rear of the materials recycling building for waste items or along part of the open corridor between Unit 13 and neighbouring units to the west for non-waste items, although a metal container currently blocks part of this access. The operational hours would be the same as for the materials recycling facility, namely 0700-1800 Mondays to Fridays and 0700-1400 on Saturdays and the applicant anticipates up to 10 additional private vehicle visits per month would be undertaken.

## **3. Site History**

3.1 Planning permission was granted for a change of use at Unit 13 from a B2 Use (general industrial) to a Materials Recycling Facility in 2013, subject to conditions (ref. WD/722/CM). Condition 5 allowed for the temporary storage of baled card and plastics within the rear yard but no other storage outside the building. Condition 6 prohibited the storage of any container or materials outside the building except that allowed for under Condition 5.

3.2 In 2014, permission was granted for a variation of Conditions 2, 5, 6 and 7 of permission WD/722/CM (ref. WD/740/CM). The variation to Condition 5 also allowed for the storage of a 40-yard waste skip at the front of the building for collection the same day and for no overnight storage. The variation to Condition 6 also allowed for the storage of empty mini skips up to a height of 2 metres in front of the building.

## **4. Consultations and Representations**

4.1 Wealden District Council raises no objections.

4.2 Polegate Town Council has not submitted any observations.

4.3 Other representations: Four interested parties within the Industrial Estate have raised objections on the following grounds: (1) There is no shared access between the units, there are inaccuracies in the submitted plans regarding ownership, which is subject to an on-going legal dispute, and the correct notices have not been served; (2) Notice has also not been served on the owners of the Estate access road; (3) There is no space for customers to load and unload vehicles, parking is very congested within the Estate and in front of Unit 13. The applicant's customers use the road access for Units 1-12 without permission and obstruct or block the access to units; (4) The containers were installed about 18 months ago, but no access was previously available from outside Units 5 and 6; and (5) The applicant has not provided safe parking and access to the facility and the proposal is incompatible and inappropriate with the waste use.

## **5. The Development Plan and other policies of relevance to this decision are:**

5.1 East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013: Policies: WMP3b (Turning waste into a resource); WMP6 (Safeguarding waste sites); WMP7a (Areas of Focus); WMP25 (General amenity).

5.2 East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan 2017: Map 55, WCA/AK Unit 13, Chaucer Industrial Estate, Polegate. Policies: SP5 (Existing industrial estates); SP6 (Safeguarding waste sites).

5.3 East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan Schedule of Suitable Industrial Estates 2017: I/J, Chaucer Industrial Estate.

5.4 The National Planning Policy Framework (NPPF) 2021: Part 4 (Decision making).

## **6. Considerations**

### **Compatibility of the proposal with the use of the site as a waste management facility and impact upon the neighbouring businesses**

6.1 Planning permission was granted for the use of Unit 13 as a materials recycling facility in 2013 and in the following year, some of the conditions on the permission were varied, which included the ability to store empty skips in front of the building, although the permitted use of the rear yard for the temporary storage of baled card and plastics only was unaffected. However, about 18 months ago 12 shipping containers were installed by crane to the rear of Unit 13 in breach of the planning permission. The Council became aware of the breach via an anonymous complaint, which referred to the obstruction of other businesses resulting from the use of the containers. Part 4 of the NPPF encourages early engagement on proposals and for developers to seek pre-application advice, as this can have significant potential to improve the efficiency and effectiveness of the planning application system for all parties: unfortunately, the applicant sought not to engage.

6.2 The applicant is now seeking retrospective planning permission for the retention of the containers and for the continued mixed use of the rear yard. The mixed use is for the storage of waste items associated with the materials recycling facility and for the storage of non-waste items deposited by members of the public. The application refers to waste items being stored mainly within the six lower-level containers, and the non-waste items being stored in the upper-level containers. Nevertheless, the applicant is seeking a mixed use for the rear yard and the application does not state that the lower-level or upper-level containers would be used exclusively for either waste or non-waste items, respectively, as the applicant indicates that this would depend on demand.

6.3 There could be some merit in retaining the lower-level containers for the storage of waste items only, as the rear yard is permitted to temporarily store waste materials prior to transfer. Although the retention of six units for this purpose would appear to be excessive, any retained units would provide secure storage space for more valuable materials, such as metals, and access to them could be restricted from within the building. The site is a safeguarded waste site as identified in the Waste and Minerals Plan and Sites Plan and the Chaucer Industrial Estate is recognised as a location

suitable for waste management activities. As such, this part of the development could, in principle, be supported.

6.4 However, it is not considered that there is merit in the use of any containers, either at the lower or upper levels, for the storage of non-waste items by members of the public. Although this could be seen as making efficient use of land, the site is for the management of waste and a public storage facility for household goods in the rear yard is not considered compatible with the waste use. Members of the public would have to carry their goods, including large, bulky items, to the rear yard along an open and uneven surfaced 'corridor' between Unit 13 and neighbouring units (nos. 7, 8, 9 and 10) to the west. However, the application site is marked such that it occupies only that half of the corridor which adjoins Unit 13, but this half is blocked by an unauthorised metal storage container, and therefore any persons wishing to access the rear yard would have to go around the container and use land outside the application site. Even if the container was removed, the unmade and uneven nature of the ground renders the access inadequate and unsuitable. Moreover, there is an on-going dispute on the right of access to the land between Unit 13 and the neighbouring units and representations by third parties have been made on this matter. Although the right of access issue is not a material planning consideration *per se*, it does further highlight the difficulties in establishing suitable access arrangements for a mixed use, such as the one proposed, involving members of the public. Once at the rear yard, members of the public would then need to carry items up the external stairway to the upper-level containers to deposit the goods. The applicant notes that members of the public would need to book visits in advance but given the nature of a waste management facility, accommodating safe parking and passage from the front of the waste facility will be uncertain; fundamentally, the applicant has not provided a safe parking area or means of access to visiting members of the public. Moreover, neighbours to Unit 13 have referred to members of the public using the Estate access servicing Units 1-12 instead, which has resulted in the obstruction of their means of access leading to an inability to secure unhindered access for their businesses; this has led to a loss of amenity, thereby conflicting with Policy WMP25 of the Waste and Minerals Plan.

6.5 The applicant's reasons for introducing a non-waste use into the rear yard of Unit 13 is that he considers there is demand for long term storage of household items and that the diversification of the business to include this type of storage would provide for a more secure basis for future growth, despite the waste management business having expanded on its own accord since it first commenced operations. It is understood that the applicant also owns a separate yard opposite Unit 13 to the south, which accommodates shipping containers used for storage purposes. It would appear, therefore, that the current proposal represents an extension to that business, rather than a use which would complement the waste use at Unit 13. While the proposal could be considered to have some economic benefits for the applicant's business itself, increased parking pressures (albeit at a relatively low level) resulting from a lack of dedicated parking for the users of the storage units are considered to increase parking pressures within the Estate, thereby resulting in a detrimental effect on other users and the operation of nearby businesses.

6.6 Taking these matters into account, it is considered that the proposal is incompatible with the existing waste use and cannot be supported.

## **7. Conclusion and reasons for refusal**

7.1 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.

7.2 The proposal is seeking retrospective planning permission for the installation of 12 shipping containers in the rear yard of Unit 13 and the change of use of the yard from a waste use to a mixed use involving the storage of both waste and non-waste items. Whereas the use of containers for the storage of waste items is considered to have some merit, the mixed use of containers for the storage of both waste and non-waste items is not. The applicant is not proposing safe car parking arrangements for members of the public visiting the application site, nor a safe means of access to transport household goods by hand to the storage facility. It also appears that members of the public park vehicles elsewhere on the Estate to gain access to the storage facility, which has led to the obstruction of the means of access for other businesses and a subsequent loss of amenity, thereby conflicting with Policy WMP25(a) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013. The proposal is inappropriate in this location and cannot be supported. Consequently, it is recommended for refusal and for enforcement action to be taken, as appropriate, to require the removal of the 12 shipping containers.

7.3 In determining this planning application, the County Council has worked with the 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) Order 2015.

7.4 There are no other material considerations and the decision should be taken in accordance with the Development Plan.

## **8. Recommendation**

8.1 To recommend the Planning Committee to refuse planning permission and authorise the Director of Communities, Economy and Transport to take appropriate enforcement action in liaison/consultation with the Assistant Chief Executive to remove the 12 shipping containers from the site for the following reasons:

1. The proposal is not compatible with the use of the site as a materials recycling facility, as it does not provide a safe parking area or a safe means of access to members of the public transporting household goods, or other non-waste items, to the rear yard of Unit 13.
2. The proposal is considered to continue to result in disturbance and nuisance to the occupiers of neighbouring businesses by members of the public as a result of there being no safe parking area or safe means of access to the rear yard of the application site, thereby conflicting with Policy WMP25(a) of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

**RUPERT CLUBB**

Director of Communities, Economy and Transport  
5 April 2022

## **BACKGROUND DOCUMENTS**

Application WD/862/CM

Planning permissions WD/722/CM and WD/740/CM  
The Development Plan  
The National Planning Policy Framework 2021

