

COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Rural West York
Date: 19 November 2009 **Parish:** Parish Of Rufforth With Knapton

Reference: 09/01589/FUL
Application at: Harewood Whin Tinker Lane Rufforth York YO23 3RR
For: Variation of conditions 9 and 10 of planning application 08/002426/FULM to allow the delivery of fuel to the Bioflame plant and to extend period of operation
By: Yorwaste Ltd (Mr Mark Hall)
Application Type: Full Application
Target Date: 5 November 2009

1.0 PROPOSAL

1.1 Harewood Whin comprises a substantial waste disposal by landfill operation working via a series of planning permissions dating back to the early 1980s It lies within the designated York Green Belt to the west of the City Centre.

1.2 Planning permission was granted for erection of a small scale biomass power plant housed within a steel clad warehouse on 25th February 2009. Permission was given subject to conditions (9 and 10) restricting the plant to being solely ancillary to the waste disposal activities currently taking place at the site with no dedicated deliveries of fuel and requiring the cessation of activity at the plant and its removal within six months of the cessation of operations. The current application seeks planning permission for the overall scheme, subject to conditions 9 and 10 being modified to allow for operation of the plant to continue for a minimum of ten years from commissioning notwithstanding the status of waste disposal activities at the site at the time, together with the delivery of fuel to the site from outside sources in the event of waste disposal activities otherwise ceasing at the site. There has been no change in planning circumstances appertaining to the site since the initial determination. This report considers the material considerations specifically relating to Conditions 9 and 10 and a copy of the original report in relation to the scheme is appended herewith as an appendix.

1.3 The power plant would be constructed within a steel clad warehouse 30 metres wide, 84 metres long, and 12.3 metres high. Associated with it would be a stack 16.2 metres high together with cooling plant at ground level 8.4 metres long by 3.1 metres high. The proposed power plant would use low-grade waste wood currently sent to landfill as a fuel, with the electricity generated transmitted to the National Grid by underground cable. It is anticipated that approximately 30,000 tonnes of low-grade waste wood would be used to generate 2.5 MW/he of electricity for export to the National Grid per annum.

1.4 The application site lies directly to the north of the materials recycling building within the "restored area" towards the western edge of the overall site. The proposal has previously been subject to a formal Screening Request made under the 1999 Town and Country Planning (Environmental Impact Assessment) Regulations. A decision was previously reached that a formal Environmental Impact Assessment was

not required. In the absence of any material change in circumstances it is felt that a formal Environmental Impact Assessment in relation to the proposal should not now be required. The proposal is subject to regulation in terms of its Environmental Impacts via the Environmental Permit system deriving from the EU Directive on Integrated Pollution, Prevention and Control issued by the Environment Agency.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

2.2 Policies:

CYMW5
Landfill/land raising - considered on merits

CYGB1
Development within the Green Belt

CYGB11
Employment devt outside settlement limits

CYGP4A
Sustainability

CYGP4B
Air Quality

CYGP5
Renewable energy

3.0 CONSULTATIONS

INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal;

3.2 Design, Conservation and Sustainable Development raise no objection to the proposal;

3.3 City Development raise no objection to the proposal;

3.4 York Consultancy:- Structures and Drainage raise no objection to the proposal;

3.5 Environmental Protection Unit raise no objection in principle to the variation of the conditions subject to additional conditions being appended to any revised approval restricting dedicated deliveries of fuel to the biomass boiler in advance of the cessation

of other waste related activities at the site and restricting the number and type of delivery vehicles entering the site.

EXTERNAL:-

3.6 The Environment Agency raise no objection to permission being given with conditions 9 and 10 being amended;

3.7 North Yorkshire Fire and Rescue Service raise no objection to the proposal.

3.8 Rufforth and Knapton Parish Council raise no objection in principle to the proposal but wish to see the cessation of other waste related activities by 2017 as intimated in the operating planning permission for the overall site, the preparation of a full EIA on the basis of the overall size of the site, the processing of biomass fuel sourced off site elsewhere and the imposition of a strict time limit on operating the biomass plant.

4.0 APPRAISAL

4.1 KEY CONSIDERATIONS:-

A range of key considerations including impact on the designated York Green Belt, visual impact of the proposed stack on the surrounding open countryside, and the contribution of the proposal to reducing the level of waste materials disposed to landfill were considered in relation to the original application ref: 08/02426/FULM. A copy of the report is included as an appendix for information. Of particular relevance to consideration of the current application are:

- * Impact upon the designated York Green Belt and the need to demonstrate "very special circumstances" for the plant's location; and
- * Impact of deliveries of fuel to the site in terms of traffic volumes and levels of emissions.

GREEN BELT ISSUES:

4.2 Policy GB1 of the York Development Control Local Plan sets a firm policy framework restricting new development within the designated York Green Belt to those matters which by their scale, location and design would not detract from the open character of the Green Belt, would not conflict with the purposes of including land within the Green Belt and would not prejudice the setting and special character of York and are for a number of specific purposes including limited infilling and re-development of major developed sites and highway works or other essential engineering operations including waste disposal. It should be noted that waste disposal is not Listed as an appropriate Green Belt use within Central Government planning policy outlined in PPG2 "Green Belts", as such the proposal must automatically be considered as inappropriate development within the Green Belt.

4.3 PPG2 "Green Belts" sets down a requirement to demonstrate "very special circumstances" in order to out-weigh the usual presumption against inappropriate development in Green Belt areas. The supporting statement accompanying the initial application identified the removal of up to 30,000 tonnes of low grade waste wood per annum from land filling at Harewood Whin as contributing significantly to meeting the targets set down in the Regional Spatial Strategy for Yorkshire and the Humber for provision of energy by renewable means. Other renewable energy projects such as

wind turbines would be demonstrably harmful to the Green Belt in terms of their impact upon openness. By modifying conditions 9 and 10 to lessen the extent of the link between the proposal and the associated waste disposal activity at the site it may be argued that an industrial type activity constituting inappropriate development would become established in the Green Belt. In order to overcome this inappropriateness "very special circumstances" must be clearly demonstrated.

4.4 In terms of modifying condition 10 the principle has already been established that the plant would benefit from "very special circumstances" over a period of 7 years whilst the overall site remains in operation as a waste disposal facility in its current form. The application has been submitted on the basis that the 7 year period has been insufficient to secure finance for the project. It is your officer's opinion that the need to meet Central Government derived renewable energy targets in as environmentally sensitive fashion as practicable amounts to sufficient "very special circumstances" to justify amending condition 10 to allow for the plant to operate over a ten year rather than a 7 year period as previously conditioned. The importation of pre-prepared biomass fuel over the latter part of the ten year period would not outweigh the identified "very special circumstances" and would not act as a precedent for other industrial type activities within the Green Belt. The applicant has requested that the ten year period be taken from the date of commissioning of the plant and this would be acceptable in planning terms.

TRAFFIC IMPACT

4.5 In relation to the current application concern has been raised in respect of the impact of vehicle movements carrying biomass fuel on air quality levels. The applicant has confirmed that in order to operate the plant at the required output a total of 10 vehicle movements to and from the site would be required, in contrast to the total of 210 currently going to and from the site in conjunction with waste processing activities. Material impact upon the amenity of properties in the local area would thus be significantly less than that taking place currently as a result of traffic accessing the waste disposal operations. Conditions have been suggested in to cover total traffic movements and the type and age of vehicle used. These would not in my opinion be reasonable and would not comply with the statutory tests in respect of Conditions set down in DoE Circular 11/95 "The Use of Conditions in Planning Permissions".

5.0 CONCLUSION

5.1 Harewood Whin comprises a substantial waste disposal by landfill operation within the designated Green Belt to the west of York operating under a series of permissions dating back to the early 1980s.

5.2 The proposal which was initially given permission on 25th February 2009 envisages erection of a biomass power plant within a 12.3 metre high warehousing building with an approximately 16 metre high stack to produce approximately 2.5 MWe of electricity per annum for export to the National Grid using approximately 30,000 tonnes of low grade waste wood deemed unsuitable for recycling or re-use and currently sent to landfill. Condition 9 and 10 of planning permission 08/02426/FULM restrict operation of the proposal to being ancillary to the main waste disposal operation, forbidding delivery of biomass fuel from outside of the site without the express permission of the Local Planning Authority. In the event of landfill operations

ceasing the plant was to be dismantled and the site restored within six months. With the current operational planning permission for the site 00/02689/FUL ceasing in 2017 the applicant has indicated difficulties in accessing appropriate finance to establish the plant in view of the level of uncertainty surrounding the long term future of the site. By amending the conditions the plant could continue in operation for a brief period on the basis of imported fuel whilst the long term future of the wider waste disposal operation is resolved. The applicant has indicated that they are willing to consider a ten year permission from the date of commissioning of the plant. This would be acceptable in terms of minimising impact upon the open character of the Green Belt and securing the long term restoration of the site in accordance with the terms of the operating permission for the site as a whole.

5.3 The proposal is considered to be inappropriate development in the Green Belt under PPG2. The capacity for diversion of waste wood from land fill in some quantity with the associated creation of renewable energy capacity has been identified by the applicant as "very special circumstances" justifying the location of the proposal within the Green Belt. . In terms of the current application for planning permission subject to conditions 9 and 10 being varied, the provision of renewable energy generation capacity in a less environmentally damaging fashion than other methods amounts to further "very special circumstances" in favour of location of the development within the Green Belt. The consequence of not granting a permission with the conditions amended in accordance with the application would be that the scheme would not be implemented and there would be further pressure towards other less environmentally sensitive means of renewable energy generation within the local area. On balance the proposal would not have a significant adverse impact upon the amenity of the local area and approval is therefore recommended.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the following plans:-

1181-01/A Sheets 1 to 4 and 1181-01/A Sheet 5 Date Stamped 16th October 2008

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ8 Samples of exterior materials to be app

4 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with those approved details. These details to include:
i)The proposed drainage layout showing foul and surface water connection to the existing sewer;
ii) Details of the surface water attenuation system to achieve the 94.8 cubic metres of storage volume required and the position and details of the flow control manhole

limiting the proposed discharge to a maximum of 47.3 litres per second.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and to ensure that proper provision is made to secure the existing drainage.

5 Piling or other foundation designs using invasive methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in strict accordance with the approved details.

Reason: To protect controlled waters.

6 Prior to the first operation of the building and plant hereby authorised, the developer shall submit in writing a formal BREEAM assessment or equivalent, or the Design and Procurement stages for the building and plant hereby approved. All assessments shall be followed by a BREEAM Post Construction review to be submitted after construction at a time to be agreed in writing by the Local Planning Authority. All assessments shall confirm the minimum " Very Good" rating, or equivalent, anticipated in the preliminary BREEAM assessment submitted with the application , and to be agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development , in accordance with the requirements of Policy GP4a) of the York Development Control Local Plan and the Council's Planning Guidance Interim Planning Statement on Sustainable Design and Construction.

7 The height of the stack associated with the biomass plant hereby authorised shall not exceed the 16.204 metres specified on approved application drawing 1181-01/A(Sheet 4).

Reason: To safeguard the visual amenity of the area and to secure compliance with Policy GB1 of the York Development Control Local Plan

8 Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation revoking or re-enacting that Order, no fixed plant or machinery, buildings, structures or private ways, shall be erected, extended, installed or replaced at the site, other than those expressly authorised by this permission without the prior written approval of the Local Planning Authority.

Reason:- To safeguard the character of the site in the interests of visual amenity and to secure compliance with Policy GB1 of the York Development Control Local Plan.

9 No dedicated deliveries of biomass fuel to the site shall take place until such time as land fill operations at the site cease and there is no longer an ability to process waste wood arising on site. Prior to the commencement of dedicated deliveries of biomass fuel to the site the Local Planning Authority shall be notified in writing.

Reason: To protect local air quality and to secure compliance with Policy GP4b) of the

York Development Control Local Plan.

10 Within seven days of the commissioning (export of electricity to the National Grid) of the plant hereby approved, notice shall be given in writing to the Local Planning Authority of the date of commissioning. Unless otherwise agreed in writing by the Local Planning Authority the development hereby authorised shall cease no later than 10 years from the formally notified date of commissioning . All plant and buildings shall thenceforth be removed and the site restored in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character of the site in the interests of visual amenity and to secure compliance with York Development Control Local Plan Policy GB1

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the open character and purposes of designation of the Green Belt, impact of the proposed chimney stack on the visual amenity of the adjoining countryside, impact of the proposal on air quality and emission levels in the in the surrounding areas, cumulative impact upon amenity taken together with other activities taking place at the site, impact upon traffic volumes using the surrounding road network, impact upon the level of waste materials disposed to landfill and the contribution of the proposal to meeting energy need from sustainable sources.. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies MW5 , GB1, of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

2. DEMOLITION AND CONSTRUCTION

i) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08:00 to 18:00
Saturday 09:00 to 13:00
Not at all on Sundays and Bank Holidays.

ii) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228:Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of Noise and Vibration".

iii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and / or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

iv) The best practicable means as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times in order to minimise noise emissions.

v) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles, and use of water for dust suppression.

vi) There shall be no bonfires on site.

3. ENVIRONMENTAL PERMITTING REGULATIONS 2007

The development will require an Environmental Permit under the Environmental Permitting Regulations 2007. The applicant is strongly advised to contact the Environmental Management Section of the Environment Agency to discuss the necessary requirements of the Permit.

4. ABSTRACTION LICENCE

If it is intended to abstract more than 20 cubic metres of water per day from a surface water source(e.g. stream or drain) or from underground strata(via borehole or well) for any particular purpose then an abstraction licence will be required from the Environment Agency. There is no guarantee that a licence will be granted as this is dependent on available water resources and existing use rights.

5. WATER RESOURCES ACT 1991

The Water Resources Act 1991, S85 makes it an offence to cause or knowingly permit poisonous, noxious or polluting matter to enter controlled waters unless you are in possession of a discharge consent or other relevant permit. Controlled waters include all water below the surface of the ground. This legislation is not restricted to any listed substances. Discharge consents under the WRA 1991 constitute authorisations for the purposes of the Groundwater Regulations provided the relevant conditions have been applied.

Contact details:

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Annexes

Annex 1 Copy of report for original application for erection of building to house biomass power plant with chimney stack with external cooling plant (resubmission) – determined by West and City Centre Area Planning Sub Committee on 15 Jan 2009.