

**Development Control (Hetton, Houghton & Washington)
Sub-Committee**

17 April 2012

SUPPLEMENTARY REPORT ON APPLICATIONS

REPORT BY DEPUTY CHIEF EXECUTIVE

PURPOSE OF REPORT

This report is circulated a few days before the meeting and includes additional information on the following applications. This information may allow a revised recommendation to be made.

LIST OF SUPPLEMENTARY ITEMS

Applications for the following sites are included in this report.

Houghton, Hetton &
Washington

S1 Holystone Waste Management Ltd Wilden Road Pattinson South
Washington NE38 8QA

S4 Land at Kingsway/Queensway Houghton-le-Spring

SUPPLEMENT

Number:	S1
Application Number:	11/01182/VAR
Proposal:	Variation of condition 3 attached to planning application 92/0740 (Modernisation of waste-reprocessing station and erection of warehouse) to allow business activity between 07:30 and 18:00 Monday to Friday, 08:00 and 17:00 on Saturdays and between 08:00 and 18:00 on Bank Holidays (amended description following request from applicant for revision to proposed hours of operation, 23/02/2012
Location:	Holystone Waste Management Ltd Wilden Road Pattinson South Washington NE38 8QA

This application seeks to vary condition 3 of planning application ref. 92/0740 to allow an extension to the currently permitted hours of activity at an existing waste management facility at Wilden Road, Pattinson South Industrial Estate, Washington. The long-established facility receives municipal waste, which is sorted and segregated on-site before being disposed of off-site. The facility is currently operated by Impetus Waste Management Ltd.

As stated in the main report, it is considered that the proposed variation of the condition is acceptable in principle and compliant with the requirements of policy EC4 of the City Council's adopted Unitary Development Plan (1998). In addition, the proposal does not raise any concerns in relation to highway and pedestrian safety, in accordance with policy T14 of the UDP.

However, at the time of writing the main report, a consultation response was awaited from the Council's Strategic Director of City Services (Environmental Services), whilst additional information had been requested from the Environment Agency in respect of some of the comments provided in their most recent consultation response.

Environmental Services comments

A consultation response has since been received from the Strategic Director of City Services (Environmental Services). The comments note that the historical operation of this site by the previous occupier generated complaints from local residents in respect of noise, particularly in relation to the operation of a crusher (now removed) at the site. In 2011, two complaints were made in relation to early morning noise from the site, but it was not possible to establish that Impetus, the

current operators of the site, was the source of the noise. Since this time, it is understood that Impetus has addressed noise issues at the site and has submitted a noise assessment in support of this planning application.

The methodology used in the survey is considered to be generally sound and it has attempted to 'factor in' the noise emissions from two new waste sorting machines intended to be introduced to the site. The survey has concluded that the noise levels generated by the activities currently being carried out at the site, plus the noise generated by the prospective new equipment, is approximately 5dB above the background noise level and therefore of 'marginal significance' in terms of the ratings set out in British Standard 4142: 'Rating industrial noise affecting mixed residential and industrial areas'. This level is a positive indication that complaints from the closest dwellings are unlikely and is the maximum level tolerated by Sunderland City Council.

The Environmental Services comments observe, however, that the precise orientation and location of the new sorting machines has not been defined and so the assessment has been based upon a modelling exercise which will be required by condition to be validated through a post commissioning validation. It is accordingly recommended that in the event planning permission is granted, it is subject to conditions which stipulate that:

- mechanical devices shall not be brought into use on the site before their technical details, including sound power levels, proposed location and orientation are provided to an approved by the City Council as Local Planning Authority;
- a validation noise assessment is carried out once all new plant and machinery is on site to demonstrate that the modelling exercise used in the report are accurate; any additional noise measures shall be mitigated to the levels set out in this assessment;
- the existing noise barrier (acoustic fence) at the site shall remain in situ;
- no crusher shall be brought to the site without prior approval from Environmental Services

In addition to complying with the conditions of any planning consent which may be granted, it should also be noted that the applicant, if permitted to operate as detailed in the application, has a duty to comply with any permit conditions issued by the Environment Agency (odour, litter, pest control etc.) and to refrain from causing a statutory nuisance to local residents and in doing so protect their amenity. Both of these duties fall under enforceable regulatory regimes.

The Environmental Services comments also offer advice in respect of developing land which may have previously accommodated an industrial use and restricting noise and dust emissions during construction works; however, the application does not propose any built development at the site.

Environment Agency comments

As noted in the main report, the Environment Agency has advised that there is no objection to the proposal as submitted, but it has advised the City Council that it has recently received complaints from nearby residents in respect of the site, relating to noise (particularly early in the morning), vehicles parking and waiting on the road outside the site before it opens and business activity commencing prior to the permitted hours. It was suggested that planning conditions could be used to address these issues and recommended that background and operational noise monitoring and routine noise monitoring is carried out by the operator.

Further clarification on the precise nature of the complaints received by the Environment Agency was requested. In response to this request, the Environment Agency has advised that the comments provided were in response to a complaint received on 30th September 2011. The complaint was investigated and it was found that large vehicles were arriving at the Impetus site from 5am-6am in the morning in order to be first in the queue. Residents were hearing vehicle engines running and doors banging. Comments were also received from other nearby residents that vehicles using the approach road to the site early in the morning were causing noise disturbance.

It is advised that the site manager (the applicant) issued a memo to all of the haulage contractors serving the site at the time requesting that their drivers do not arrive at the site early and wait on the approach road until it opens. However, the Environment Agency have reiterated their suggestion that planning conditions be used to prevent vehicles from arriving at the site early in order to protect the amenity of the nearest dwellings.

IMPACT OF PROPOSAL ON RESIDENTIAL AMENITY

The noise survey undertaken by the applicant is considered to satisfactorily demonstrate that the level of noise generated by the activities carried out at the site is unlikely to result in nuisance to the nearest dwellings at Barmston Court. However, if Members are so minded, it is considered reasonable and sensible to impose conditions, as suggested by the Executive Director of City Services (Environmental Services), which require the applicant to submit final details of the specifications and location of the new sorting equipment to be installed at the site and a further noise assessment to be undertaken once the equipment is in situ, in order to ensure that the assumptions made in the report are correct. It is also considered reasonable to impose a condition which prevents a crusher from being installed at the site without prior written agreement from the City Council.

The comments of the Environment Agency in respect of the complaints they've received from nearby residential occupiers have been noted. The suggestion that the site operator is required to undertake routine noise monitoring exercises is considered to be excessive and unreasonable given that the applicant has already demonstrated via the noise survey submitted with the application that ordinary on-site operations generate levels of noise which are unlikely to result in a nuisance to the occupiers of dwellings at Barmston Court. The imposition of the conditions suggested by Environmental Services will also ensure that the introduction of the new sorting machines to the site will not result in noise levels increasing to an unacceptable level.

In the event noise does increase beyond the anticipated levels to become a nuisance to the nearest dwellings, regulation and enforcement powers are available outside of the planning system to address the situation.

The concern in relation to vehicles arriving at the site prior to it opening is also noted. It is not possible to establish whether this would still occur, or whether vehicle arrival times would alter, if the earlier Monday to Friday operating hours proposed by this application are approved. Notwithstanding this, it is considered that a condition stipulating that drivers are not permitted to arrive at the site and park on the approach road prior to it opening would not be reasonable or

enforceable given that there are no parking or waiting restrictions in force in the vicinity of the site. In addition, if such a condition were imposed, drivers arriving at the site before it opens could simply wait elsewhere nearby, perhaps in an even less appropriate location.

The issue of activities and operations taking place outside of the hours allowed by the planning permission is, meanwhile, a matter which can and should be addressed through appropriate planning enforcement action.

Residents of Barmston Court have, via objections to this planning application, also suggested that the existing operations at the site are smelly, dusty and dirty and attract flies and that extending the hours of operation will only serve to increase the time the nearest residents are subjected to these nuisances. It should be noted however, that issues like health and safety and pollution control are subject to legislation falling outside of the remit of planning. The Health and Safety Executive and the Environment Agency implement this legislation through the issuing of permits and monitoring regimes, separately. As advised by the Strategic Director of City Services (Environmental Services), the site operator has a duty to comply with any permit conditions issued by the Environment Agency in relation to, for example, odour, litter and pest control, and to refrain from causing a statutory nuisance to local residents and in doing so protect their amenity. Both of these duties are managed by enforceable regulatory regimes outside of the planning system.

The weekday hours of operation proposed by this application do not greatly extend those currently in place, with only 30 minutes additional working on Monday to Friday mornings. An additional 5 hours working is proposed on Saturday afternoon and it is also proposed to operate on Bank Holidays, although no Sunday working has been proposed. However, as stated by the applicant, Saturday operating is not planned or anticipated to occur regularly.

In addition to the above, it is considered that, subject to the aforementioned suggested planning conditions being satisfactorily discharged, the proposed extended hours of operation at the site will not result in the occupiers of the residential dwellings closest to the site suffering unacceptable harm to their standard of amenity by virtue of noise. The concerns of residents of Barmston Court in relation to other sources of nuisance (i.e. smells, dust/dirt and flies) has been noted, but as detailed above, these are issues which are not monitored or regulated by the planning system.

Given the relatively limited proposed increase in operating hours and that the levels of noise generated by the activity and operations at the site have been found to be acceptable, it is considered that the proposed variation of condition will not result in the amenity of the nearest dwellings (i.e. those of Barmston Court) being harmed unacceptably. As such, the proposal is considered to comply with the requirements of policies EN1, EN5, M12 and M18 of the City Council's adopted Unitary Development Plan (1998).

CONCLUSION

The proposed variation of the condition attached to the approval of planning application ref. 92/0740 to allow an extension to the currently permitted hours of activity at the existing waste management facility is considered to be acceptable in principle and to comply with the requirements of policy EC4 of the adopted Unitary Development Plan (1998). In addition, the proposal does not raise any concerns in relation to highway and pedestrian safety, in accordance

with policy T14 of the UDP.

The potential impact of the proposed extended hours of operation on the amenity of the residents of nearby Barmston Court has been assessed carefully. As detailed in the previous section of this report, it is considered that given the relatively limited addition to the proposed hours of activity and as the applicant has demonstrated that ordinary activity at the site does not generate unacceptable levels of noise, the amenity of the closest dwellings will not be unduly detrimentally affected by the proposal. Other concerns relating to odours, dust and pests are subject to monitoring and regulation outside of the planning system. The proposal is therefore also considered to be compliant with the requirements of policies EN1, EN5, M12 and M18 of the UDP.

The application is accordingly recommended for approval, subject to the following conditions:

RECOMMENDATION: Approve, subject to conditions

1. The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
2. Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

location plan received 18/04/2011 and the site plan received 18/04/2011

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

3. The premises shall not be operated for the approved purposes outside the following hours:

Monday to Friday - 07:30 to 18:00;
Saturdays - 08:00 to 17:00;
Bank Holidays - 08:00 to 18:00.
Sundays and Christmas Day - no working

In order to protect the amenities of the area in accordance with policies S12 and B2 of the UDP.

4. The two waste sorting machines intended to be installed at the site (i.e. a Trommel 725 and Edge Slayer #10STL146021 or similar) shall not be brought into operation on site until their technical details, including sound power levels, proposed location and proposed orientation, have been submitted to and approved in writing by the Council as Local Planning Authority. The sorting machines shall then be brought into operation in accordance with the agreed details and retained as such thereafter for the lifetime of the development unless otherwise

first agreed in writing with the Local Planning Authority, in order to protect the amenity of the nearest residential dwellings and comply with policy EN5 of the adopted UDP.

5. The two waste sorting machines intended to be installed at the site (i.e. a Trommel 725 and Edge Slayer #10STL146021 or similar) shall not be brought into operation on site until a validation noise assessment, the purpose of which is to demonstrate that the assumptions made in the noise assessment submitted with the planning application ('Acoustic Assessment, Impetus Waste Transfer Station, Barmston, Washington' by EMAT Ltd., February 2012) are accurate, has been submitted to and approved in writing by the City Council as Local Planning Authority. For the avoidance of doubt the validation noise assessment shall be undertaken once the waste sorting machines have been installed on site at the locations and orientations agreed in discharging condition 4 of this approval and it shall include details of any mitigation measures necessary to achieve the noise levels set out in the aforementioned initial assessment. The required mitigation measures shall then be implemented prior to the sorting machines being brought into operation on site and shall be retained as such thereafter for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority, in the interests of protecting the amenity of nearby dwellings and to comply with policy EN5 of the UDP.
6. The existing acoustic fencing at the site shall not be removed or altered in any way without the prior written agreement of the Council in its capacity as Local Planning Authority, in order to maintain the noise attenuation measures at the site and protect the amenity of the nearest residential occupiers, in accordance with policy EN5 of the UDP.
7. No crusher shall be installed at the site without first obtaining prior written agreement from the City Council as Local Planning Authority, in order to ensure that the Council retains control over the activity carried out at the site and to protect residential amenity, in accordance with policies EN1 and EN5 of the adopted Unitary Development Plan.
8. The height of materials stored externally at the site shall not exceed the height of the boundary enclosure, unless otherwise first agreed in writing with the City Council as Local Planning Authority, in order to protect the visual amenity of the area and comply with the requirements of policy B2 of the UDP.

Number:	S4
Application Number:	12/00320/FUL
Proposal:	The construction of 12no. residential dwellings with associated hard/soft landscaping, drainage and mains services and associated access and infrastructure, including stopping up of existing highway.
Location:	Land at Kingsway/Queensway, Houghton-le-Spring.

Further to the main report in connection with this application, outstanding issues relating to publicity, highway arrangements and archaeology have now been concluded. These are reported accordingly below:

Publicity

The publicity conducted in connection with this planning application has now expired.

No representations were received in connection with this planning application.

Responses to Consultation

Consultation responses from the Executive Director of City Services: Network Management and from the County Archaeologist which were outstanding at the time the original Committee report was written have now been received.

Highway Considerations

The Executive Director of City Services: Network Management has confirmed that the proposed development is acceptable in terms of highway access, car parking and road safety. However as some of the identified highway works fall outside of the red line boundary the Executive Director has suggested that, in the event that the application is approved, a condition should be included on any approval granted requiring the applicant to submit precise written details of the extent of the off site highway works that will be undertaken as a part of this development. Usually such matters would be dealt with solely through the progression of an agreement under the provisions of section 278 of the Highways Act, 1980 by the Highway Authority. However, in this instance it is considered prudent to include such a condition on any approval granted to ensure that the off site highway works proposed extend to meet those undertaken in connection with previously redeveloped phases of the Racecourse Estate.

Archaeology

The County Archaeologist has confirmed that no archaeological work is required in connection with the application site.

Children's Play Facilities

As set out in the main Committee report, the applicant has elected to enter into an agreement under the provisions of Section 106 of the Town and Country Planning Act to provide a sum of £8412 towards the provision or upgrading of Children's play facilities at Kirklee Filed Play Area.

Accordingly a legal agreement is being progressed and it is anticipated that this agreement will be completed prior to the target date of 16 May 2012. Upon completion of the agreement under the provisions of Section 106 of the Act, the proposed development will be considered to comply with the requirements of Policy H21 of the adopted Unitary Development Plan.

Summary

Bearing in mind the above and in order to expedite the determination of the planning application, Members are requested to delegate the final decision regarding this application to the Deputy Chief Executive who is minded to approve the application subject to the conditions set out below (and any additional conditions that are considered to be necessary as a result of further consideration of the application), providing that the Section 106 agreement in connection with the development is completed, signed and sealed by 16 May 2012. Where the Section 106 agreement in connection with the proposal is not completed, signed and sealed by 16 May 2012 the application will be refused.

RECOMMENDATION: DELEGATE TO THE DEPUTY CHIEF EXECUTIVE

1. The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
2. Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans: to be listed on certificate.

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

3. Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
4. The construction works required for the development hereby approved shall only be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy B2 of the UDP.
5. No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and

other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy B2 of the UDP.

6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land, and details for their protection during the course of development, in the interests of visual amenity and to comply with policy B2 of the UDP.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the UDP.
8. No development shall commence until precise details of all off site highway improvement works to be undertaken, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt these works should include areas extending northwards and westwards from the site to meet previous phase(s) of the Racecourse Estate redevelopment). The works shall then be fully implemented in accordance with the approved plan(s) prior to the occupation of any buildings unless otherwise first agreed in writing with the Local Planning Authority. (For the avoidance of doubt and for the purposes of clarification all off site highway works will be subject to a section 278 agreement with the Local Highways Authority). In the interest of highway safety and to achieve a satisfactory form of development on site and to comply with the requirements of Policy T14 of the adopted Unitary Development Plan.