

Full Planning Application 03/04531/FUL

at

1 Gogarbank

Edinburgh

EH12 9DD

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Development Quality Sub-Committee  
of the Planning Committee

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**1 Purpose of report**

To consider application 03/04531/FUL, submitted by Mr Dalton. The application is for: **Application under section 42 of the Town and Country Planning (Scotland) Act 1997**

**a) To remove condition No.11**

**b) To remove or modify condition No.12 of application 99/01082/FUL**

It is recommend that this application be **GRANTED** subject to the conditions in Appendix B.

**2 The Site and the Proposal**

**Site description**

The site is located to the north of Gogar Station Road, to the south of the main Edinburgh to Glasgow railway line. The Gogarburn runs along the eastern boundary and mature vegetation has become established along the embankment of this burn.

The site has been in use for the storage of scrap metal since 1969. A carpark and office are located at the entrance to the site, large industrial storage units are located within the eastern boundary of the site. Scrap metal is stored on the north boundary, adjacent to the railway line, and along the east boundary, adjacent to the Gogarburn.

Vegetation provides a screen along the east boundary and a 2m high post and wire fence provides a boundary treatment along the southern road side boundary.

A bungalow and redundant farm buildings are sited adjacent to the entrance to the site. A dwelling with an associated car repair business lies to the east of the site. On the opposite side of the Gogarburn a further dwelling is located to the north-east. Hazeldean Gardens is located to the east of the site, a workshop is located on this site. Gogar Bank House, a listed building is located to the south, across Gogar Station Road. This building is occupied by Defence Estates (Scotland), Army Headquarters.

### **Site history**

July 1969 - Planning permission granted for a change of use from disused railway to a vehicle dismantling depot

September 1977 Planning permission was granted for the erection of workshops, storage and offices.

February 1981 - Planning permission was granted for the erection of a chimney and incinerator

December 1981 - Planning permission was granted for a storage building

March 1985 - Planning permission was granted for an expansion of scrap processing works

January 1986 - Planning permission granted for a formation of a car park

January 1988 - The Secretary of State granted outline planning permission for the expansion of scrap processing works. He accepted that the proposals were an exception to Green Belt policy and would result in a loss of amenity, but that the proposal was an expansion of an existing business and refusal could result in harm to the existing business and lower future employment prospects. There was no suitable alternative site and Structure Plan policy EP20 attached importance to need and lack of suitable alternatives. Approval was subject to stringent conditions covering landscaping - 4m deep embankment plus 4m planting; an access bridge over the Gogar Burn, and restricted hours of operation.

March 1988 - Planning permission granted for an industrial building

June 1989 - Planning permission was granted for an extension to hours to 7am to 7pm Monday to Friday, 7am to 4pm Saturday and 9am to 4pm Sunday (1410/88).

August 1989 - Planning permission granted in outline for 2 industrial buildings and conditions imposed by the Secretary of State in application 928/86 required a 6 metre planting strip on the northern boundary in place of 3.5 m bund being approved (1683/88).

August 1989 - It was advised that it was no longer intended to extend the scrap processing works.

November 1990 - Conditions imposed by the Secretary of State were amended and reserved matters in respect of application 1683/88 were approved. A 4 metre planting strip on the north, east and south boundaries of the extension site were approved. Details of planting were reserved, bunds deleted, height of materials stored limited to 4m, and hours restriction deleted (955/90).

November 1999 - Planning application submitted for a conversion of 3 buildings to 3 dwellings at 4 Gogar Station Road.

June 2000 - Planning permission granted to Sub-divide existing scrap yard to incorporate waste transfer station (99/01082/FUL)

December 2003 - An application for a Certificate of Lawful Use was submitted. Ref.03/04531/CLU

### **Description of the Proposal**

The is an application to develop land without compliance with conditions previously attached. The applicants wish to operate without complying with conditions 11 and 12 or to modify condition 12 of a previous planning permission to sub-divide the existing scrap yard to incorporate a waste transfer station which was granted on June 2000. (Ref.99/01082/FUL)

Condition 11 states - Only non-putrescible materials shall be imported on the site. The materials shall include demolition waste such as timber, hardcore and metal.

Condition 12 states - The total tonnage of materials brought into the waste transfer station shall not exceed 160 tonnes per day; the total tonnage of material taken from the waste transfer station shall not exceed 160 tonnes per day.

The applicant's agent has a submitted statement in support of the deleting condition 11 which states that this planning condition is contrary to or inconsistent with the terms of the Waste Management Licence issued by SEPA which allows for putrescible waste to be stored on the site for not more than 4 days. "Timber" was included in the condition, which is putrescible, and biodegradable, which is inconsistent with the requirements of the condition. Other waste transfer stations in Edinburgh - UK Waste Biffa, West Shore Road, Granton and EnvironScot at 600 Gilmerton Road - do not include such conditions. The agents state that none of the relevant consultees' e.g. SEPA, Environmental Health and CAA requested that such a condition be imposed. The condition prevents the site from operating within its Waste Management Licence where there is no restriction. It also prevents the company an equal opportunity to compete for the growing business of transferring all private,

commercial and municipal waste including the biodegradable waste out of the City in accordance with the Area Waste Plan (AWP).

In support of deleting condition 12 the agent states that the tonnage restriction on the planning permission is not consistent with the Waste Management Licence that currently provides a greater tonnage import and export level per day. The applicant's requests that the condition be modified to state that the tonnage per day capacity acceptable to SEPA, should also be satisfactory to the Roads Authority in terms of road safety and capacity.

It is also proposed to use a modular system of sea containers on the site. The containers would measure approximately 6.1 metres in height and 24.39 metres depth and would be enclosed by bird proof netting/mesh 50mm by 50mm to act as a deterrent for migrating birds. Both ends of the enclosure are netted and kept closed at all times except when a vehicle is discharging.

The vehicle movements on the site will be restricted to 85 return trips per day.

Copies of the statement in support are available to view in the Group Rooms.

### **3 Officer's Assessment and Recommendations**

#### **DETERMINING ISSUES**

The determining issues are:

- do the proposals comply with the development plan?
- if the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- if the proposals do not comply with the development plan, are there any compelling reasons for approving them?

#### **ASSESSMENT**

To address the determining issues the Committee need to consider whether:

- a) the proposal is required to promote strategic waste management policies or whether it would lead to an unacceptable intensification of a non-conforming Green Belt use
- b) there would be a detrimental impact on residential amenity;
- c) there would be a detrimental impact on visual amenity;
- d) there would be a detrimental impact on water quality;
- e) there would be any traffic/road or aircraft safety issues.

- a) The waste transfer station is an non-conforming green belt use. Whilst the existing consent is acceptable in terms of its impact on the environment and amenity, the removal of conditions 11 and 12 could lead to an unacceptable use in the Green Belt unless carefully controlled. Suitable conditions are recommended.
- b) The main impact on residential amenity would relate to environmental health concerns such air/dust, noise vibration and smell pollution.

The additional containers would be positioned on the north eastern part of the site with netting over the top and at both ends to avoid potential bird strike. Being enclosed, these containers would not have a detrimental impact upon residential amenity in terms of noise, vibration and air borne pollution. Conditions have been imposed restricting the hours of operation. Environmental and Consumer Services have requested a noise report to be submitted to ensure that residential amenity is protected.

A set tonnage has not been imposed as the existing Waste Management Licence dated 21st June 2001 issued by SEPA restricts the importation, short term storage and export of up to 800 tonnes of household, commercial or industrial waste per day, and limits storage of putrescible waste on site to no more than 4 days.

With these safeguards, residential amenity will be protected.

c) In terms of visual amenity the proposal would not have a greater detrimental impact upon the rural character than the existing waste transfer station.

d) SEPA have offered no objections to the removal of these conditions provided systems are in place to ensure that no leachate is generated during operations at the site. The previous consent has a condition requiring a landscaped barrier to be positioned along the east boundary of the site adjacent to Gogarburn to protect the watercourse from leachate problems.

e) Transportation is satisfied that there will not be an undesirable impact on the neighbouring road network especially, if as expected, the majority of the traffic is to and from the south. It is recommended that a condition be attached restricting the amount of waste being brought and taken from the site per day.

BAA is satisfied with the proposed arrangements for addressing aircraft safety.

In conclusion, subject to the conditions recommended, there will be no undue impact on the Green Belt, the environment, amenity or public safety.

It is recommended that the Committee approve this application, subject to conditions controlling the operations.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

<b>Contact/tel</b>	Jennifer Zochowska - Monday To Wednesday Only on 0131 529 3794 (FAX 529 3716)
<b>Ward affected</b>	03 - Dalmeny/Kirkliston
<b>Local Plan</b>	Ratho Newbridge Kirkliston Local Plan/Finalised Rural West Edinburgh Local Plan
<b>Statutory Development Plan Provision</b>	Green Belt
<b>Date registered</b>	11 December 2003
<b>Drawing numbers/ Scheme</b>	1-4

#### **Advice to Committee Members and Ward Councillors**

The full details of the application are available for viewing on the Planning and Building Control Portal : [www.edinburgh.gov.uk/planning](http://www.edinburgh.gov.uk/planning).

If you require further information about this application you should contact the following Principal Planner, Helen Martin on 0131 529 3517. Email: [helen.martin@edinburgh.gov.uk](mailto:helen.martin@edinburgh.gov.uk).

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail [blair.ritchie@edinburgh.gov.uk](mailto:blair.ritchie@edinburgh.gov.uk) or [sarah.bogunovic@edinburgh.gov.uk](mailto:sarah.bogunovic@edinburgh.gov.uk)

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## **Consultations, Representations and Planning Policy**

### **Consultations**

#### **East Lothian Council**

*It is considered that the removal of the conditions set out in the planning application will not adversely affect the current use of the site as a waste transfer facility or wider Green Belt objectives in the area. As such, East Lothian Council would not wish to raise any objections to the removal of the above conditions.*

#### **Scottish Environmental Protection Agency**

*By way of background, it is understood that the applicant wishes to bring in putrescible waste (and biodegradable green waste) to the site. This will require removal/modifications to planning conditions as proposed in this application. This is acceptable to SEPA in principle, however, there are a couple of issues of concern, which are as follows:*

- *The issues of increased bird nuisance, which no doubt would potentially concern local residents and the Civil Aviation Authority.*
- *Systems should be in place to ensure that no leachate is generated during operations at the site. These may include operational practice or structural facilities/improvements.*

*It is therefore recommended that the above points are addressed to the satisfaction of the planning authority in consultation with SEPA.*

## **Transport**

*Further to the previous memorandum dated 26th January 2004, the applicant has now submitted an assessment of the expected traffic flows which have been based on a similar short- term operation in 2003.*

*These details confirm that there will not be an undesirable impact on the neighbouring road network especially, if as expected, the majority of traffic is to and from the south. There are no objections to the application.*

## **BAA**

*We have received the advice of our birdstrike consultant and they concur with our initial reaction to the above proposal could be acceptable if measures were put in place to exclude all hazardous birds species, i.e. gulls, corvids and starlings. Their advice is as follows:*

*"I therefore recommend that you object to this application unless it can be shown that the proposed waste processing will be carried out in a totally enclosed environment that will be successfully result in the total exclusion of all hazardous birds. There should also be a bird management plan developed that will ensure that at no time will any hazardous birds be tolerated on site.*

*Such proof would have to be very detailed and a method of ensuring that the exclusion was permanently applied would have to be developed (monitoring), to safeguard against the site proving attractive to hazardous birds at any point in the future."*

The Bird Management Plan and access to the site by Edinburgh Airport Limited would need to be enforceable through a Section 75 Agreement under Town and Country Planning (Scotland) Act 1997, which we would wish to have input to and the applicant would need to enter into, together with the yourselves and Edinburgh Airport Limited.

Further to recent telephone conversations and the receipt of sketches of a netted waste transfer bay from the applicant, Mr Stephen Dalton we believe that we could be moving towards an acceptable solution from the perspective of birdstrike hazard. It should be possible for us to remove our objection if the three following conditions are acceptable to Mr Dalton and are subsequently applied to any planning permission granted.

### **Enclosure Design**

The waste transfer process shall be carried out in a totally enclosed environment. The construction of any enclosure, including any gates shall not have any gaps in excess of 50mm x 50mm. Any netting or steel mesh must be of a robust manufacture with mesh size no greater than 50mm supported by tensioned wire rope, steel framing or similar.

Reason: To ensure the exclusion of hazardous birds such as corvids or gulls.

### **Enclosure Use and Maintenance**

The enclosure shall be securely closed outside of operational hours and at all times during the day other than when access is required. The enclosure shall be

maintained to ensure that any damage potentially allowing access by hazardous birds is repaired within 24 hours.

Reason: To ensure the continued exclusion of hazardous birds such as corvids or gulls.

#### Control of Hazardous Birds

Active bird control shall be used to disperse gulls, corvids or starlings should any of these three bird species be present in numbers in excess of ten birds.

Reason: To avoid endangering the safe operation of aircraft through the attraction of birds

Mr Dalton has been asked to allow occasional access to his site by Edinburgh Airport Bird Control staff.

Copies of the sketches received from Mr Dalton are enclosed for your records.

#### Midlothian Council

*As planning permission has been granted subject to conditions, the principle of a waste transfer station operating from this site is considered acceptable to the City of Edinburgh Council. In these circumstances this application does not raise any strategic issues.*

*The removal of the two conditions relating to the type of waste and removal of restrictions on traffic movements could give rise to concern if they resulted in an unacceptable loss of amenity to local residents and adverse impact on the Green belt in that area. However, if it is considered that the proposal complies with the provisions of the Area Waste Plan and national planning guidance, then no further comments are to be made.*

#### Environmental Services

*This facility operates without noise complaints at present. The applicant should be required to establish the existing background noise level. Therefore the specific noise level of the new operations should not exceed that level by more than 5db.*

*This has been discussed with SEPA and they do not envisage controlling noise as part of the waste management license conditions.*

*The appropriate condition therefore must link the production of a satisfactory BS 4142 report as a prerequisite to be discharged before any newly consented operations commence. This will enable the department to ascertain whether or not compliance is possible and if so give the department a baseline level to enable the condition to be enforced.*

*Condition 9 should therefore be varied as follows: The removal of condition 11,12 attached to consent 99/01082/FUL shall be dependant on, the applicant providing to the satisfaction of the Head of Planning a BS4142 assessment which indicates that the specific noise level including the new operations from the waste transfer station resulting from the removal of those conditions shall not exceed 5db above the pre-existing background noise level at the nearest residence.*

*Waste Management Services responded on 10th December 2004 advising that the Council used the Gogarbank site when Powderhall Transfer Station was closed for asbestos for a period of almost a year. Because of the shortage of alternative transfer stations in the Edinburgh area, the Gogarbank was a useful emergency*

*provision for City of Edinburgh's waste arisings. Waste Management Services fully support this application as an alternative facility in the Edinburgh area as it could be beneficial in the future.*

## **Representations**

The application was advertised on the 16th January 2004. Letters of representation have been received from Hermiston Village Conservation Society, Stewart Cumming Auto Spares and 11 near-by residents. A late objection was received from the Ministry of Defence.

The grounds of objection are

- contrary to the Green Belt status in the Local Plan
- removal of a set tonnage would increase the volume of heavy vehicle traffic on Station Road between the A71 and the site.
- removal of the restriction regarding the import of putrescible waste will have a negative environmental impact on the area around the site.
- loss of residential amenity
- nature of waste has attracted increased numbers of vermin and gulls
- excessive noise from vehicles operating before 7am
- odours
- contamination of the Union Canal with windblown refuse.

***Full copies of the representations made against this application are available in Group Rooms or can be requested for viewing at the Front Counter, 1 Cockburn Street.***

## **Planning Policy**

The site lies within the Green Belt of the Ratho Newbridge Kirkliston Local Plan and the Finalised Rural West Edinburgh Local Plan

Other relevant policies

NPPG Planning and Waste Management Paras 103-110 (in particular paragraph 104)

PAN 63:Waste Management Planning in particular paragraph 62 Environmental Protection (Development Control) says Planning applications for waste management facilities may raise a number of sensitive issues, including (among other things) site access and traffic movements; the types of waste to be deposited or treated and the proposed method of disposal or treatment; Paragraphs 74-79 deal with transportation issues (and in particular road traffic) where the aim is to minimise impact on the environment.

The Lothian and Borders Area Waste Plan. Paragraph 5.2.3 gives guidance on waste development proposals in Lothian and Borders. It lists a number of local assessment criteria, which Lothian and Borders and development proposals may be subject to. Part IV refers to the need to take account of the 'Best Practicable

Environmental Option (BPEO).ix and x deal with transportation issues. XI to xiv deal with environmental considerations including impact on local, regional, national and internationally designated areas, the environment generally, landscape setting and ground and surface waters.

Relevant Policies:

Policy RN22 states that no development in the countryside will be permitted for purposes other than agriculture, outdoor recreation or other uses appropriate to a rural area.

Policy RN28 states that permission will not be given for new development or redevelopment in the Green Belt for purposes other than agriculture, outdoor recreation or other uses appropriate only to a rural area. Provisions for the safeguarding of amenity and the improvement of the landscape are required.

Policy RN241 seeks to support the expansion requirements of existing industries, provided that residential and rural amenity is not adversely affected.

Policy E5 restricts development in Green Belt and Countryside policy areas to protect their landscape qualities, rural character and amenity.

Policy E6 states that where acceptable in principle, development proposals in the Green Belt or Countryside must meet high standards of design and landscaping and meet criteria to safeguard local amenity.

Policy E18 protects identified sites of local nature conservation interest. Development within or affecting Sites of Interest for Nature Conservation will not be permitted unless there are appropriate mitigation measures to enhance or safeguard the nature conservation interest of the site.

Policy M10 states that proposals for waste disposal through landfill or landscaping operations will only be permitted where they would result in the restoration of degraded land, extensive testing of ground conditions has been carried out, the site is more than 250 metres away from existing or proposed buildings, there would be no risk from birdstrike, a restoration programme is submitted as part of the application and regular monitoring is carried out by the operator.

Policy ED3 supports the expansion of existing business provided they are located in a built up area, there would be no detrimental impact on neighbouring uses and local residential amenity and the scale of the development would be appropriate in terms of the site and its surroundings.

Policy ED4 encourages best practice in terms of air quality control, biodiversity, energy consumption and waste management for business and industry.

Policy TRA1 states that proposals which would result in development which is accessible only by private car will not be permitted. Developments should be easily accessible on foot, by cycle and by public transport, unless there are specific operational or planning reasons this cannot be met.

Policy TRA2 states that proposals will not be permitted where the traffic associated with development would have an unacceptable impact on the capacity of the existing road network, or have an unacceptable impact on public transport operations or adversely affect air quality, road safety or residential amenity.

Policy ENV12 presumes against development in the Green Belt unless necessary for agriculture or other stated rural uses.

Policy RN214 encourages and promotes the conservation, management and improvement of the landscape and its wildlife habitats.

Policy ENV2 presumes against development in the Green Belt unless for the purposes of agriculture, horticulture, forestry or uses appropriate to the rural character of the area.

Policy ENV3 says that development in the Countryside will only be allowed where it has an operational requirement for such a location.

Policy ENV11 states that local plans should have regard to Policy ENV1 and the provisions of the Lothians and Borders Area Waste Plan.

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### **Conditions/Reasons associated with the Recommendation**

#### **Recommendation**

To recommend that this application be **Granted** subject to the following

#### **Conditions**

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. The waste transfer process shall be carried out in a totally enclosed environment. The construction of any enclosure, including any gates shall not have any gaps in excess of 50mm x 50mm. Any netting or steel mash must be of a robust manufacture with mesh size no greater than 50mm supported by tensioned wire rope, steel framing or similar.
3. The enclosure shall be securely closed outside of operational hours and at all times during the day other than when access is required. The enclosure shall be maintained to ensure that any damage potentially allowing access by hazardous birds is repaired within 24 hours.
4. Active bird control shall be used to disperse gulls, corvids or starlings should any of these three bird species be present in numbers in excess of ten birds.
5. The development shall not begin until a BS4142 assessment which indicates that the specific noise level including the new operations from the waste transfer station resulting from the removal of conditions 11 and 12 from planning

permission 99/01082/FUL shall not exceed 5db above the pre-existing background noise level at the nearest residence.

### **Reasons**

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. To ensure the exclusion of hazardous birds such as corvids or gulls
3. To ensure the continuous exclusion of hazardous birds such as corvids or gulls.
4. To avoid endangering the safe operation of aircraft through the attraction of birds.
5. In order to safeguard the amenity of neighbouring residents and other occupiers.

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**End**

