



# REGULATORY SERVICES COMMITTEE

27 June 2013

# REPORT

**Subject Heading:**

**P0424.13 – Shanks Waste Ltd, Creek Way**

**Variation of Condition 14 of P0197.03- to remove the geographical restriction of the accepted waste sources, on a temporary basis**

**Report Author and contact details:**

**Helen Oakerbee (Planning Control Manager) 01708 432800**

**Policy context:**

**Local Development Framework  
London Plan  
National Planning Policy**

**Financial summary:**

**None**

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

Condition 14 of planning permission P0197.03 states that:

*“Unless otherwise agreed in writing with the Local Planning Authority only wastes referred to within the East London Waste Authority IWMS contract shall be processed at the site.*

*Reason:-*

*To ensure that only locally generated wastes are processed in accordance with the proximity principle.”*

This planning application proposes the variation of condition 14 to allow waste to be sourced from areas outside East London Waste Authority (ELWA) area, which is currently unable to supply enough waste to enable the facility to run at capacity.

## RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended), to vary the legal agreement completed on 27 November 2003 in respect of planning permission P0197.03, which shall mean the legal agreement relates either to planning permission P0197.03 as originally granted, or planning permission P0424.13 as proposed and set out in this report.

The developer / owner shall pay the Council’s legal costs in respect of the preparation of the Deed of Variation irrespective of whether the matter is completed.

Save for the variation set out above and any necessary consequential amendments to the Section 106 agreement dated 27 November 2003 all recitals, terms, covenants and obligations in the said section 106 Agreement shall remain unchanged.

That Staff be authorised to enter into a Deed of Variation to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below.

1. The design flood defence level of 7.1m above ODN along the Thames frontage must be retained at all times.

Reason:-

To ensure flood defences are at the minimum design flood height to protect the developments constructed behind them.

2. An access strip at least 4 metres wide with unrestricted gate access, shall be maintained throughout the life of the site for the processing of waste under this planning permission to enable access to the Thames Tidal Defences from the end of Creek Way. The access strip shall be provided at all times from the commencement of the development.

Reason:-

This was a requirement of condition 2 of planning permission P0197.03 and continues to be considered a necessary requirement.

3. The details approved as part of condition 3 of planning permission P0197.03 shall be retained.

Reason:-

Condition 3 of planning permission P0197.03 required the approval and implementation of details relating to flood defences to safeguard the development and area from flood risk. The approved details should be retained.

4. The details approved as part of condition 4 of planning permission P0197.03 shall be retained.

Reason:-

Condition 4 of planning permission P0197.03 required the approval and implementation of details relating to drainage to prevent pollution of the water environment. The approved details should be retained.

5. The details approved as part of condition 5 of planning permission P0197.03 shall be retained.

Reason:-

Condition 5 of planning permission P0197.03 required the approval and implementation of details relating to drainage prevent pollution of the water environment. The approved details should be retained.

6. The details approved as part of condition 6 of planning permission P0197.03 shall be retained.

Reason:-

Condition 6 of planning permission P0197.03 required the approval and implementation of details relating to ecology, to enhance the ecological value of neighbouring watercourses. The approved details should be retained.

7. The 38 car parking spaces approved as part of condition 8 of planning permission P0197.03 shall continue to be made permanently available for use, unless otherwise agreed in writing by the Local Planning Authority.

Reason:-

To ensure that adequate car parking provision is made off street in the interests of highway safety as required by planning permission P0197.03.

8. The details approved as part of condition 9 of planning permission P0197.03 shall be retained.

Reason:-

Condition 9 of planning permission P0197.03 required the approval and implementation of details relating to cladding materials, to ensure that the proposed development has an acceptable visual impact. The approved details should be retained.

9. The details approved as part of condition 10 of planning permission P0197.03 shall be retained.

Reason:-

Condition 10 of planning permission P0197.03 required the approval and implementation of details relating to landscaping to ensure that the proposed development has an acceptable visual impact. The approved details should be retained.

10. No goods or materials shall be stored on the site in the open without the prior consent in writing of the Local Planning Authority.

Reason:-

In the interests of visual amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies DPD.

11. The details approved as part of condition 13 of planning permission P0197.03 shall be retained.

Reason:-

Condition 13 of planning permission P0197.03 required the approval and implementation of details relating to security measures, for the purposes of designing out crime. The approved details should be retained.

12. Only wastes originating from within the East London Waste Authority IWMS contract shall be processed at the site, with the exceptions of:

- i) wastes originating from Tower Hamlets, up to a maximum of 25,000 tonnes per annum; and
- ii) wastes originating from the Bedford Borough and Central Bedfordshire Authority areas, up to a maximum of 58,000 tonnes per annum,

which may also be processed at the site for a period of 3 years from the date of this planning permission.

Reason:-

To ensure that only locally generated wastes are processed to the greatest extent possible in accordance with Policy W5 of the Joint Waste DPD for East London.

13. All access to the development hereby permitted shall be from Marsh Way via Creek Way. There shall be no access from Ferry Lane.

Reason:

Condition 16 of planning permission P0197.03 stipulates lorry routing in the interests of highway safety and amenity. This requirement continues to be necessary and should be retained.

14. The details approved as part of condition 17 of planning permission P0197.03 shall be retained.

Reason:

Condition 17 of planning permission P0197.03 required the approval and implementation of details relating to cycle storage, to ensure there are facilities available for sustainable modes of transport. The approved details should be retained.

15. Within one month of the date of this planning permission, a lorry routing scheme shall be submitted to the Local Planning Authority for its approval in writing. The scheme shall detail the proposed lorry routing arrangements to be employed during the life of the development hereby approved, with Rainham Village and residential areas being avoided at all times. Once approved, the scheme shall be implemented forthwith and be retained for the life of the development.

Reason:

In the interests of amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies DPD.

## **INFORMATIVES**

### **1. Reason for Approval:**

The proposed development is considered to be in accordance with the aims, objectives and provisions of DC9, DC32, DC33, DC49, DC50, DC52, DC54, DC56, DC58, DC59, DC61, DC63, and DC72 of the LDF Core Strategy and Development

Control Policies Development Plan Document, the East London Joint Waste DPD, the London Plan, the National Planning Policy Framework.

## Planning Obligations

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

## Approval Following Revision

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with paragraphs 186-187 of NPPF.

# REPORT DETAIL

## 1. Site Description

- 1.1 The Site, which is designated in the LDF as a Strategic Industrial Location, is located within an existing industrial area to the south of Rainham Village. Parts of the site adjoin the River Thames, which is designated in the LDF as Metropolitan Sites of Nature Conservation Importance. The existing waste processing facility at the site is safeguarded under Schedule 1 of the East London Joint Waste DPD.

## 2. Description of Proposal

- 2.1 Planning permission P0197.03 granted approval for a materials recovery facility with a capacity of 180,000 tonnes per annum, and also a reuse and recycling centre with a capacity of 110,000 tonnes per annum. This retrospective planning application proposes the variation of condition 14 of planning permission P0197.03 to allow waste to be imported to the site from outside the ELWA area. Condition 14 states that:

*“Unless otherwise agreed in writing with the Local Planning Authority only wastes referred to within the East London Waste Authority IWMS contract shall be processed at the site.*

*Reason:-*

*To ensure that only locally generated wastes are processed in accordance with the proximity principle.”*

- 2.2 The submitted information states that insufficient waste is currently available within the ELWA area to enable the facility to run at capacity. It is therefore proposed that the shortfall be addressed by importing waste from the Bedford and Central Bedfordshire authority areas. The operator has contracts with these areas, one for 6 years and the other for 27 months, which commenced in October 2012. 58,000 tonnes per annum of waste are being imported to the facility from these areas. A further 25,000 tonnes per annum of waste are also being imported from Tower Hamlets, for which approval is also sought.

### **3. Relevant History**

- 3.1 The previous planning decisions of most relevance to the proposal are as follows:

P0197.03 - (1) Change of use to waste Management facility, and (2) Erection of a biological materials recycling facility (Bio-MR2F) and RRC materials recycling facility – Approved.

### **4. Consultations/Representations**

- 4.1 Notification letters were sent to 13 neighbouring properties. No representations have been received.

- 4.2 Comments have been received from the following consultees:

Highways – No objections.

### **5. Relevant Policies**

- 5.1 The following policies of the LDF Core Strategy and Development Control Policies DPD ("the LDF") are of relevance:

DC9 Strategic Industrial Location  
DC32 - Road Network  
DC33 - Car Parking  
DC49 Flood Risk  
DC50 Sustainable Design and Construction  
DC52 Water supply, drainage and quality  
DC54 Contaminated Land  
DC56 Light  
DC58 - Biodiversity and Geodiversity  
DC59 - Biodiversity in New Developments  
DC61 - Urban Design  
DC63 - Delivering Safer Places  
DC72 – Planning Obligations

- 5.2 East London Joint Waste DPD ("the DPD")

5.3 The London Plan

5.4 National Planning Policy Framework ("the NPPF")

## **6.1 Staff Comments**

6.1.1 The main issues to consider as part of the assessment of this application are the impacts arising from the proposal to source waste from outside the ELWA area. In all other respects, the development would continue as already approved. Nevertheless, consideration will need to be given to the extent to which there have been significant changes of circumstances since planning permission P0197.03 was granted. Material changes to the local, regional, and national planning policies have occurred since this planning consent was considered and the originally approved scheme therefore needs to be considered in the light of these changes and any other material considerations.

## **6.2 Principle of Development**

6.2.1 The proposal is for the variation of a condition relating to an extent planning consent. The site is a safeguarded waste facility under Schedule 1 of the DPD. It is considered that the use of the site as a waste facility continues to be acceptable in principle.

## **6.3 Planning Considerations**

6.3.1 This planning application proposes a variation to condition 14 of planning permission P0197.03 to allow waste to be sourced from outside the ELWA area. This would enable the facility to run at capacity whilst insufficient waste is available within the ELWA area. The applicants have identified Bedford and Central Bedfordshire as areas that can supply waste for the facility whilst these areas make preparations to provide their own waste processing capacity. The application states that the proposal would result in an average of 230 tonnes of waste per day being transported to the site from outside the ELWA area, which would be equivalent to approximately 15 heavy goods vehicles traveling to and from the site per day. The proposal would not result in an increase in the potential number of vehicle movements visiting the site as the number of vehicles entering the site from outside ELWA could otherwise travel to the site from within the ELWA area.

6.3.2 Highway officers have raised no objections to the proposal. Whilst the proposed variation of condition 14 would result in less sustainable travel patterns, with some of the facility's waste being sourced from further afield, this would represent a relatively modest proportion of the facility's overall waste capacity (290,000 tonnes per annum) and would only be for a temporary period. It is recommended that planning permission be granted for a temporary period of three years, to encourage the operator to seek alternative waste sources that are either located within the ELWA area, or in closer proximity to the site than Bedfordshire. There is also an opportunity, as a new planning permission would be issued, to impose a planning condition requiring the approval of a lorry routing scheme to prevent HGV traffic passing through Rainham village and in close proximity to residential properties. This would diminish the impact of the proposal on amenity and highway safety in accordance with Policy DC61 of the LDF.



6.3.3 Whilst new planning policies have been adopted at the local, regional, and national levels since planning permission P0197.03 was granted, the proposal has been reconsidered in the light of the current planning policy context, and all other material considerations, and is considered to be acceptable in relation to highway safety, design and visual, amenity, flood risk, ecology, and other considerations. It is recommended that those conditions imposed on planning permission P0197.03 be employed in this instance, subject to their modification, as necessary, to reflect the current planning policy context and circumstances.

## **7. Conclusion**

7.1 The application under consideration has been assessed in accordance with planning policy and guidance. The proposed development is considered to be acceptable having had regard to Policies DC9, DC32, DC33, DC49, DC50, DC52, DC54, DC56, DC58, DC59, DC61, DC63, and DC72 of the LDF, and all other material considerations, subject to the afore mentioned conditions and the completion of a legal agreement.

### **IMPLICATIONS AND RISKS**

#### **Financial implications and risks:**

None.

#### **Legal implications and risks:**

Legal resources will be required to prepare and complete the legal agreement.

#### **Human Resources implications and risks:**

None.

#### **Equalities implications and risks:**

The Council's planning policies are implemented with regard to equality and diversity. The development includes a mix of unit types and includes the provision of an element of affordable housing, thus contributing to the provision of mixed and balanced communities.

### **BACKGROUND PAPERS**