

## LOCAL MEMBER OBJECTION & PETITION

COMMITTEE DATE: 21/11/2018

APPLICATION No. **18/02065/MJR** APPLICATION DATE: 06/09/2018

ED: **SPLOTT**

APP: TYPE: Full Planning Permission

APPLICANT: Celsa Manufacturing (UK) Ltd.

LOCATION: SIMS METAL UK METAL RECOVERY PLANT, ROVER WAY,  
PENGAM, CARDIFF, CF24 2RX

PROPOSAL: PROPOSED INDUSTRIAL BUILDING (CLASS B2) TO HOUSE  
SCRAP METAL SORTING MACHINERY, IN ADDITION TO  
RELATED WORKS, ASSOCIATED WITH EXISTING SITE USE

---

RECOMMENDATION 1 : That planning permission be **GRANTED** subject to the following conditions :

1. C01 Statutory Time Limit
2. The development shall be carried out in accordance with the following approved plans:
  - 18.41 Drawing No. P01 Rev B
  - 18.41 Drawing No. P02
  - 18.41 Drawing No P03 Rev A

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

3. The rating level of the noise emitted from fixed plant and equipment on the site shall not exceed 53 dBA between 07:00-17:00, 50 dBA 19:00-23:00 and 47 dBA between 23:00-07:00 at any residential property when measured and corrected in accordance with BS 4142 : 2014.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with Policy EN13 of the adopted Cardiff Local Development Plan (2006-2026).

4. During the construction wheel washing facilities shall be located at the entrance of the site and shall be used before accessing Rover Way.  
Reason: To ensure that the public highways is free of any contaminates in accordance with Policy T6 of the adopted Cardiff Local Development Plan (2006-2026).

**RECOMMENDATION 2** : To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

**RECOMMENDATION 3** : The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- (i) determining the extent and effects of such constraints and;
- (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates / soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under section 33 of the environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:
  - Unprocessed / unsorted demolition wastes.
  - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
  - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

**RECOMMENDATION 4** : Prior to the commencement of development, the developer shall notify the Local Planning Authority of the commencement of development, and shall display a site notice and plan on, or near the site, in accordance with the requirements of Article 12 of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016

## 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Full planning permission is sought to erect a building that would house new scrap metal sorting machinery.
- 1.2 The building would measure approximately 46 metres in length x 31 metres in width with a maximum ridge height of 13.2 metres. The building would be finished in white cladding.
- 1.3 Access to the site would be from the existing access point on to Rover Way.
- 1.4 The application has been supported by a Pre-application consultation report (PAC), Design and Access Statement (DAS), a flood consequence assessment (FCA), a noise assessment and an Air Quality screening letter

## 2. **DESCRIPTION OF SITE**

- 2.1 The application site comprises 0.23 ha of land situated to the east of Rover Way, opposite the main Celsa production facility. The site is already utilised for the sorting of scrap metal. Within the site there are a number of existing buildings and plant/machinery.
- 2.2 The site is primarily within Flood Zone 'B', although a small area of the northern most part of the site is located within flood zone 'C2'.

## 3. **SITE HISTORY**

- 3.1 Nil

## 4. **POLICY FRAMEWORK**

- 4.1 Planning Policy Wales, Edition 9 (November 2016).

*4.2.2 The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision-taker when...taking decisions on individual planning applications.*

*4.2.4 Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise.*

*4.3.1 All those involved in the planning system are expected to adhere to (inter alia):*

- *putting people, and their quality of life now and in the future, at the centre of decision-making;*
- *taking a long term perspective to safeguard the interests of future generations, whilst at the same time meeting needs of people today;*

- *respect for environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, mitigating climate change, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;*
- *tackling climate change by reducing the greenhouse gas emissions that cause climate change and ensuring that places are resilient to the consequences of climate change; and*
- *taking account of the full range of costs and benefits over the lifetime of a development, including those which cannot be easily valued in money terms when making plans and decisions and taking account of timing, risks and uncertainties. This also includes recognition of the climate a development is likely to experience over its intended lifetime.*

*4.4.1 The following sustainability objectives for the planning system reflect our vision for sustainable development and the outcomes we seek to deliver across Wales. These objectives should be taken into account...in taking decisions on individual planning applications in Wales. These reflect the sustainable development outcomes that we see the planning system facilitating across Wales.*

*4.4.3 Planning policies, decisions, and proposals should (inter alia):*

- *Contribute to the protection and improvement of the environment so as to improve the quality of life and protect local and global ecosystems*
- *Ensure that all communities have sufficient good quality housing – including affordable housing – in safe neighbourhoods*
- *Promote access to employment, shopping, education, health, community facilities and green space*
- *Foster improvements to transport facilities*
- *Foster social inclusion.*
- *Locate developments so as to minimise the demand for travel, especially by private car;*
- *Support the need to tackle the causes of climate change by moving towards a low carbon economy.*
- *Play an appropriate role to facilitate sustainable building standards (including zero carbon) that seek to minimise the sustainability and environmental impacts of buildings.*
- *Contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems.*
- *Promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space, maximising opportunities for community development and social welfare.*
- *Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity.*
- *Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the*

*development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car.*

#### 4.2 Technical Advice Notes (TANs):

11	Noise
12	Design
15	Development and Flood Risk
18	Transport
21	Waste
23	Economic Development

#### 4.3 Local Development Plan (January 2016):

KP5	Good Quality and Sustainable Design
KP6	New Infrastructure
KP7	Planning Obligations
KP8	Sustainable Transport
KP12	Waste
EC1	Existing Employment Land
EN3	Landscape Protection
EN13	Air, Noise, Light Pollution and Land Contamination
EN14	Flood Risk
T1	Walking and Cycling
T5	Managing Transport Impacts
T6	Impact on Transport Networks and Services

#### 4.4 Supplementary Planning Guidance:

Waste Collection and Storage Facilities (October 2016)  
Planning Obligations (January 2017)  
Safeguarding Business and Industrial land and Premises (2017)

### 5. **INTERNAL CONSULTEES RESPONSES**

5.1 The Operational Manager, Transportation: No objections

5.2 The Operational Manager, Environment (Contaminated Land), request details of contamination measures

5.3 The County Ecologist: No objection

5.4 The Operational Manager, Environment (Noise & Air)

Noise

No objection subject to a condition to limit noise, in line with the submitted noise report

Air

No objections

5.5 Economic Development: No comments received

## 6. **EXTERNAL CONSULTEES RESPONSES**

6.1 Natural Resources Wales: No objections

## 7. **REPRESENTATIONS**

7.1 The application has been publicised by site/press notices. A 50 signature petition has been received which objects to this application on the grounds of dust being generated from the proposal

7.2 Local Members have been notified. Councillor Henshaw objects to this application on noise and dust potentially impacting upon local residents

## 8. **ANALYSIS**

8.1 The key material planning considerations are:

- I) The principle of development;
- II) The impact upon the character of the area;
- III) The impact upon neighbouring properties;
- IV) The impact upon parking and highway provision;
- V) The impact upon protected species; and
- VI) Other matters raised

8.2 Principle of development

The site is identified as existing employment land on the adopted LDP Proposals Map. The supplementary text of Policy EC 1 (Existing employment land) states in paragraph 5.42 the following:

*“The protection of employment sites also allows for the modernisation and refurbishment of land and property and increasing density of development on site thereby making the most efficient use of land”*

The erection of the building will allow efficient use of the site for the sorting of scrap metal and as a result it is considered to accord with policy, subject to amenity considerations outlined below.

8.3 Impact upon the character of the area

Local Development Plan Policy KP5 seeks, amongst other matters, high quality, sustainable design. In defining good design, the development must respond to its context. The proposal is of a functional design. However, given the context of the application site within the wider steel works, and having regard to other nearby industrial buildings the proposal is not considered to result in a built scale, form or massing that would be harmful to visual amenity. The use of white cladding is noted and is consistent with that used elsewhere within the steel works and therefore it is considered acceptable at this location.

8.4 Impact upon neighbouring properties

The concern of the potential of noise and impact on air quality from the local councillor and residents is noted. Both national advice and Policy EN13 recognise noise and air quality as material planning considerations.

#### 8.4.1 Noise

An Acoustic Report has been submitted which has assessed the likely noise implications from this development. The report concludes that the development will have a low impact on nearby noise sensitive receivers (i.e. the noise from the equipment would be equal to the background noise). The Council's noise section have reviewed the submitted report and are satisfied that the conclusion accords with national and local guidance. However, to ensure compliance with the recommendation of the report, a condition has been imposed to limit the noise to acceptable levels.

#### 8.4.2 Air Quality

The applicant has submitted an air quality letter which states:

*"The development will not increase traffic on local roads, thus there will be no impacts as a result of road traffic emissions on either the AQMAs or the existing receptors.*

*There are no national standards defining levels of dust that can cause an annoyance or loss of amenity, or formal criteria for the assessment of dust from scrap metal works. The guidance developed by the Institute of Air Quality Management (IAQM) for dust impacts from mineral sites states that only dust impacts within 400 m of the dust source require assessment. This guidance has been produced to address the potential impacts of dust emissions arising from large mineral sites, and the potential of a scrap metal works to generate dust is much lower than that of a mineral site. This screening distance is thus considered to be conservative. There are no sensitive receptors within 400 m of the proposed development, thus it can be concluded that any impacts due to fugitive dust emissions will be insignificant."*

The Council's Air Quality Officer has viewed the submitted letter and concurs with its findings.

#### 8.5 Impact upon parking and highway provision

The Council's Transportation Section have been consulted on the proposal and believe that given the existing use of the site, and that the proposal will be utilising the existing access point, it is considered that the proposal would not result in any highway implications and would accord with policy.

#### 8.6 Impact upon protected species

The site is located in close proximity to the Severn Estuary both the County's Ecologist and NRW have been consulted and have raised no objections to the proposal.

#### 8.7 Flood risk

National Policy (PPW & TAN15) and adopted Policy EN14 (Flood Risk) seek

that the proposal and flood risk are assessed within any defined flood zones. The site is located within flood zone B/C2 on the adopted DAM maps. A Flood consequence assessment has been submitted by the applicant and has been reviewed by Natural Resources Wales, who have confirmed that the proposal is not “Highly Vulnerable Development” and accords with the objectives of Planning Policy Wales and TAN15

8.8 Other matters no assessed above

It is noted that the Council’s contaminated land section has requested details in relation to land assessment/remediation. Planning Policy Wales outlines the requirements for assessment and is in part based upon its proposed use. As the use is already established and permission is sought for building that continues the existing use, it is considered that in this instance, the requested conditions are not necessary or reasonable and therefore fails the test of a valid condition as set out in Welsh Government Circular 16/2014 ‘The Use of Planning Conditions for Development Management’

9. **CONCLUSIONS**

The proposed structure complements the existing use of the scrap metal works and would support the existing employment use. The proposal accords with national and local policies. Whilst noting the objections, which are material consideration, these are not supported by the submitted evidence that has been assessed by the relevant experts.

10. **RECOMMENDATION**

Planning permission is recommended for approval subject to conditions

11. **OTHER LEGAL CONSIDERATIONS**

*Crime and Disorder Act 1998* – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

*Equality Act 2010* – The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic

*Well-Being of Future Generations Act 2016* – In reaching this decision the Local Planning Authority have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. It is considered that this decision is in accordance with the Act’s sustainable development

principle through its consistency with the objectives concerning environmental well-being and supporting cohesive and attractive communities