Section 73 Town and Country Planning Act 1990

PLANNING PERMISSION

Name and address of applicant
Barry Howard Waste Management Ltd
The Round Tin Barn
Victors Barns
Brixworth
Northamptonshire NN6 9DQ

Name and address of agent (if any)
DLA Piper UK LLP
Victoria Square House
Victoria Square
Birmingham
B2 4DL

Part I - Particulars of application

Date of Application
5 April 2007

Application No.:
07/00003/WAS

Particulars and location of development
Variation of Condition 4 of Planning Permission DA/05/292C at Land at Deer Park Nursery, West Haddon Road, Crick.

Part II - Particulars of decision:

The Northamptonshire County Council

Hereby give notice in pursuance of the provisions of Section 73 of the Town and Country Planning Act 1990 that permission has been granted for carrying out the development permitted by planning permission reference DA/05/292C dated 19 July 2005 on Land at Deer Park Nursery, West Haddon Road, Crick, Northamptonshire without complying with Condition 4 of that permission. The carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:-

Commencement


Scope of Planning Permission

2. The development hereby permitted shall be carried out in accordance with planning application reference DA/05/292C unless otherwise required by conditions attached to this planning permission.

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3. The development hereby permitted shall be carried out by or on behalf of and shall only be brought into use by the applicant company Barry Howard Waste Management Ltd; the use of the office block shall be restricted to staff employed in the research and development facility and/or by staff of associated Barry Howard companies related to this business and by no other part of the Barry Howard organisation or by any other company and the use of the single storey buildings shall be restricted to waste research and development and no commercial or industrial development shall be carried out therefrom.

Access and Highway Safety

4. Prior to the construction of the associated offices and car parking, works of improvement to the adjacent highway (A428) and to the access into the site shall be carried out in accordance with the details shown on the deposited application plans Ref J3636/F drawing No’s 01, 02, and 03 received on the 5th January 2007 and shall provide for:-

(a) 12m radii, at the access point

(b) Access driveway to be modified and widened in accordance with plan Ref J3636/F drawing No. 1.

(c) Land within the junction-visibility splay of 4.5m x 215 m in each direction shall be owned and maintained by the applicant company for the lifetime of the development.

(d) HGV movements in connection with the development hereby permitted shall not exceed 12 movements per day.

(e) Monitoring of the HGV movements referred to in (d) above shall be carried out by the applicant company, and records of the daily vehicle movements shall be sent to the Waste Planning Authority on a quarterly basis, or within 5 days of a written request from the Waste Planning Authority. All such monitoring records should be retained by the applicant company for a minimum of 5 years.

(f) In the event that HGV vehicle movements exceed 12 per day, the adjacent highway (A428) carriageway shall be widened and provided with ghost island markings and a third turning lane into the site in accordance with a scheme to be submitted to the Waste Planning Authority for subsequent agreement in writing. The scheme as agreed in writing shall be implemented in accordance with the timescales therein.

Landscaping

5. A post and rail fence supplemented by tree and hedgerow planting shall be provided along the new highway boundary at the rear of the vision splay in

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accordance with a scheme to be submitted to the Waste Planning Authority for approval within three months of the date of this permission. The approved scheme shall be implemented in the first available planting season.

5b. Any trees or shrubs which die within 5 years of planting shall be replaced.

6. The existing trees and hedgerows surrounding the site shall be maintained and improved in accordance with a scheme to be submitted to and approved in writing by the Waste Planning Authority within three months of the date of this permission.

**Odour**

7. Measures shall be taken to ensure that no obnoxious odorous emissions emanate from the site.

**Hours of Working**

8. Except as may otherwise be agreed in writing by the Waste Planning Authority all operations involved with the delivery of waste to or from the site and all construction and demolition works shall be controlled within the hours of 7.00 am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm on Saturdays with no such deliveries or works on Sundays and public holidays.

**Materials**

9. The lower parts of the office building, as shown on the deposited plan, shall be constructed in natural local stone which shall be properly coursed and laid in the traditional local manner and the roofs covered with dark coloured materials and all other materials, finishes and colours shall be further agreed by the Waste Planning Authority.

**Drainage**

10. Prior to the operation of the bio fuel and waste to energy plant the measures and pollution prevention infrastructure shall be implemented in accordance with Drainage Strategy Report reference J3636F dated 23 May 2007 and subsequent email from Nigel Thornton of the 15 June 2007 (which is attached to this permission). The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Waste Planning Authority.

**Reasons for conditions**

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1. As required to be imposed pursuant to section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. To define this permission

3. To define this permission since in view of the location of the development, it is not intended to allocate this site for general office use or any other form of commercial or industrial development; and in the interests of the amenities of the area as a whole. (County Structure Plan Policy RE3, Daventry District Local Plan GN1 and EM16, EN19, and GN1).

4. In the interests of highway safety. (County Structure Plan Policy W3 and Waste Local Plan Policy 8).

5,6 & 9. In the interests of visual amenity. (County Structure Plan Policy W3, Daventry District Local Plan Policies GN1 and EN1).

7. To safeguard the amenities of the occupiers of residential properties in the vicinity site. (County Structure Plan Policy W3; Daventry District Local Plan Policy GN1; Waste Local Plan Policy 15).

8. To protect the amenities of nearby residential properties. (County Structure Plan Policy W3 and Waste Local Plan Policy 15).

10. To prevent pollution of the water environment through the provisions of a satisfactory means of drainage. (County Structure Plan Policy W3, AR9, Waste Local Plan Policy 13).

**Reasons for Approval**

The planning application is to modify the requirements of a planning condition requiring highway improvement works. The Highway Authority is satisfied that there is justifiable circumstances to agree to a modification of the condition, subject to safeguards in the event that HGV movements increase in the future. There have been no objections to the application and it is considered acceptable having regard to Policy 8 of the Northamptonshire Waste Local Plan. Therefore the application should be approved subject to appropriate planning conditions.

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Informative

1. The applicant has agreed to enter into a Planning Obligation (Section 106 Unilateral Undertaking under the Town and Country Planning Act 1990) to provide a £10,000 financial contribution towards highways improvement works involving traffic signals at the canal bridge between Crick and the site.

2. The applicant will be required to enter into a Section 278 Agreement under the Highways Act 1980 in respect of works affecting the Public Highway. (Contact the Head of Transport Projects at Northamptonshire County Council).

Date 5th July 2007

Signed ........................................

Authorised to sign on behalf of the Chief Planner.

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1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or the grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Sections 78 and 79 of the Town and Country Planning Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, 3/08a Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements (a), to the provisions of the development order, and to any direction given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted he may serve on the Council of the district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

(a) The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely sections 70 and 72(1) of the Act.

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