

Committee:	<b>Regulatory Planning Committee</b>
Date:	<b>25 March 2009</b>
Report by:	<b>Director of Transport and Environment</b>
Proposal:	<b>Development and operation of WEEE storage and processing and a combined materials recovery recycling facility and waste transfer station (LW/489/CM(EIA));</b>  <b>Proposal seeking retrospective planning permission of an electricity sub-station, the re-engineering of a quarry face, construction of waste storage bays and the change of use of land to waste management activity (LW/546/CM).</b>
Site Address:	<b>Greystone Quarry, Southerham</b>
Applicant:	<b>MDJ Light Brothers (SP) Limited</b>
Application Nos.	<b>LW/489/CM(EIA) &amp; LW/546/CM</b>
Key Issues:	<b>Current position Need for extension of time Request for delegated authority</b>

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## **SUMMARY OF RECOMMENDATIONS**

**1. The Committee is recommended that the applications LW/489/CM(EIA) & LW/546/CM be approved subject to completion of the following procedure:**

**1.1 The completion of Legal Agreements for certain works. To grant a further extension of time to 30 June 2009 to allow the Section 106 Legal Agreements to be completed. If the Legal Agreements are not completed the applications be referred back to the Planning Committee for determination;**

**1.2 Following completion of the Legal Agreements, to authorise the Director of Transport and Environment to:**

**(i) approve minor changes to the details of the development which were originally approved by the Planning Committee in June 2008. This will include changes to the position of the WEEE building, weighbridge and office;**

**(ii) grant planning permission subject to the conditions along the lines of those set out in the reports at the Appendices below (subject to paragraph (iii) below);**

**(iii) make such alterations as the Director of Transport and Environment considers necessary to the conditions set out in the reports at the Appendices, including their deletion and the addition of further conditions.**

**2. The Committee is recommended to confirm that the Director of Transport and Environment has authority, under existing powers, to take such**

**enforcement action as he considers appropriate, with particular reference, but not limited to, the situation whereby the agreement is not entered into by 30 June 2009.**

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## **CONSIDERATION BY THE DIRECTOR OF TRANSPORT AND ENVIRONMENT**

### **1. Introduction**

1.1 This report is to inform Committee of the progress regarding the completion of the S106 Legal Agreements relating to applications LW/489/CM(EIA) and LW/546/CM and to other matters. It follows a report to Committee in December 2008, which sought an extension of three months to allow completion of the S106 Legal Agreements relating to these applications.

1.2 Unfortunately, since January 2009, the applicant has commenced development works relating to application LW/489/CM(EIA) before the completion of the Legal Agreements and the discharge of relevant conditions. These works have now ceased. Due to the seriousness of the breach of planning control, consideration was given to the instigation of immediate enforcement proceedings. However, as the applicant voluntarily ceased works, this has not been necessary, although the Council will keep this under review. The matter is considered in more detail below.

### **2. Application LW/489/CM(EIA)**

2.1 This application was originally considered at Planning Committee in June 2008 (see Appendix A) and relates to the development and operation of waste electrical and electronic equipment (WEEE) storage and processing and a combined materials recycling facility and waste transfer station. The development involves the construction of large buildings and associated infrastructure, including a new internal access road, weighbridge and office.

2.2 The recommendation was that, subject to the completion of a Section 106 Legal Agreement for works to the public highway, the submission of a Travel Plan and works to the cliff face at the south-western side of the upper quarry, the Committee authorise the Director of Transport and Environment to grant planning permission subject to conditions. Moreover, if the Legal Agreement had not been completed by 24 November 2008, the application should be referred back to Committee.

2.3 As the Legal Agreement had not been completed by 24 November 2008, the application was referred back to Committee on 10 December 2008 and a recommendation for an additional period of three months was approved to allow for completion. However, since December, progress towards completion has been slow, specifically in relation to the cliff face remediation/landscaping works and the dedicated provision for cyclists required under the highway works. The Travel Plan has been agreed.

2.4 Following a site visit to monitor adjoining land on 27 February 2009, it came to officers' attention that development works had commenced at Greystone Quarry, which related to application LW/489/CM(EIA). It was clear that these works constituted unauthorised development as planning permission had not been granted and a letter was dispatched to the applicant on the same day requiring the works to

cease and for confirmation of this to be given no later than 6 March. The applicant confirmed cessation of works on that date.

2.5 Subsequently, meetings were held on 9 March between officers and the applicant to clarify the extent of works which had commenced on site and how to proceed with the application. A site inspection noted that the frame of the WEEE building had been erected and that the construction of the internal access road, together with the base of the new weighbridge/office had been carried out. It was also evident that the WEEE building and base of the weighbridge/office were located in slightly different positions compared to the approved details under the resolution granted in June 2008. The applicant also noted that the WEEE building would be used for general household waste in the short term.

2.6 Certain proposed conditions on application LW/489/CM(EIA) require schemes to be submitted prior to the development commencing. However, as development has commenced, it is likely that changes to the wording of conditions, as well as potential deletions and the inclusion of additional conditions may be required.

2.7 Notwithstanding this, the material circumstances of the overall proposal have not changed and I consider that the location of the unauthorised works would not have altered the original recommendation. Moreover, no complaints have been received relating to the undertaking of these works.

2.8 Therefore, in order to allow the application to proceed, I recommend that a further extension of time be given to the end of June 2009 for the Legal Agreement to be completed and for the Director of Transport and Environment to subsequently grant planning permission. The granting of planning permission would be subject to the Director of Transport and Environment approving minor amendments relating to the location of the development and to amending the wording of conditions, including deleting existing conditions and including new conditions, where appropriate. If the Legal Agreement is not completed, the application should be referred back to Committee for determination.

### **3. Application LW/546/CM**

3.1 This application was considered at Planning Committee in July 2008 (see Appendix B) and relates to retrospective planning permission for the installation of an electricity sub-station, the re-engineering of a section of quarry face, construction of waste storage bays and the change of use of land to waste management activity.

3.2 The recommendation was that the application be approved subject to the completion of a Legal Agreement for the remediation works to the cliff face at the south-western side of the upper quarry and to authorise the Director of Transport and Environment to grant planning permission subject to conditions. Moreover, if the Legal Agreement was not completed by 24 November 2008, in line with application LW/489/CM(EIA), the application should be referred back to Committee.

3.3 As the Legal Agreement was not completed by 24 November 2008, the application was referred back to Committee on 10 December 2008 and a recommendation for an additional three months to allow completion was approved. The requirements of the Legal Agreement under this application are the same as for application LW/489/CM(EIA) in so far as they relate to the cliff face remediation works. Therefore, the progress of the Legal Agreement under this application will be the same as for LW/489/CM(EIA) in this respect.

3.4 In a similar fashion to application LW/489/CM(EIA), I consider that the material circumstances of the overall proposal have not changed.

3.5 Therefore and in accordance with application LW/489/CM(EIA), I recommend that a further extension of time be given to the end of June 2009 for the Legal Agreement to be completed for this application and for planning permission to be subsequently granted by the Director of Transport and Environment. If the Agreement is not completed, the application should be referred back to Committee for determination, to accord with the requirements under application LW/489/CM(EIA).

#### **4. Recommendation**

4.1 The Committee is recommended that applications LW/489/CM(EIA) and LW/546/CM be approved subject to the completion of the following procedure:

(1) The completion of S106 Legal Agreements relating to applications LW/489/CM(EIA) and LW/546/CM for the remediation works to the cliff face at the south western side of the upper quarry, works to the public highway and the submission of a Travel Plan and to grant a further extension of time to 30 June 2009 to allow their completion. If the Legal Agreements are not completed the applications be referred back to the Planning Committee for determination.

(2) Following completion of the Legal Agreements, to authorise the Director of Transport and Environment to:

(i) approve minor changes to details of the development which were originally approved by the Planning Committee in June 2008. This will include changes to the position of the WEEE building, weighbridge and office;

(ii) grant planning permission subject to the conditions along the lines of those set out in the reports at the Appendices (subject to paragraph (iii) below);

(iii) make such alterations as the Director of Transport and Environment considers necessary to the conditions in the reports at the Appendices, including their deletion and the addition of further conditions.

4.2 The Committee is recommended to confirm that the Director of Transport and Environment has authority, under existing powers, to take such enforcement action as he considers appropriate, with particular reference but not limited to, the situation whereby the Agreement is not entered into by 30 June 2009.

RUPERT CLUBB  
Director of Transport & Environment  
17 March 2009

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Local Member: Councillor Pat Ost

#### **BACKGROUND DOCUMENTS**

Applications LW/489/CM(EIA) & LW/546/CM