
NORTH AYRSHIRE COUNCIL

29th June 2022

Planning Committee

Locality	Irvine
Reference	22/00325/PP
Application Registered	4th May 2022
Decision Due	4th July 2022
Ward	Irvine South

Recommendation	Approved subject to Conditions
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Location	Units 1-5 Shewalton Sand Quarry Shewalton Road Riverside Business Park Irvine Ayrshire KA11 5AA
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Applicant	Enva Scotland Ltd Fao Ms Karen Miller
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Proposal	Application under Section 42 to modify condition 5 of planning permission 10/00228/PP to allow the acceptance of general waste and glass (for waste transfer only), to increase the total quantity of waste permitted on site at any one time from 600 tonnes to 2000 tonnes and to increase operational hours to include Sundays from 08:00 - 16:00 hours
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1. Description

This application relates to the existing waste transfer station at Shewalton Road, Irvine operated by Enva Scotland (formerly trading as William Tracey Ltd), under Section 42 of the Town and Country Planning (Scotland) Act 1997.

The application seeks to modify condition 5 of planning permission (ref. 10/00228/PP) to increase general waste quantities and to accept glass (for waste transfer only), to increase the total quantity of waste permitted on site at any one time from 600 tonnes to 2000 tonnes and to increase operational hours to include Sundays from 08:00 - 16:00 hours.

The site is an existing waste management facility which has been operational since 2001. Within the site, dry waste (predominately originating from North Ayrshire) is sorted and stored temporarily for onward bulk transfer to the applicant's main waste recycling facility at Linwood for further treatment, sorting and recycling. All wastes on site are stored in designated storage bays.

The waste types which are handled by the site are primarily regulated by SEPA under a Waste Management Licence (WML) WML/W/20175. The waste types (with capacity limits) stored in each bay are as follows:

- Glass (130.20 tonnes)
- Soil and Stones (376.20 tonnes)
- Construction & Demolition (888.37 tonnes)
- General Waste (201.60 tonnes)
- Dry mixed recycling (114 6 tonnes)
- Cardboard (438)
- Timber (85.9 tonnes)

However, the planning condition attached to planning permission ref. 10/00228/PP does not permit the storage of glass nor general waste (other than that from civic amenity sites) at Shewalton. The waste types which are permitted under the planning condition are as follows:

- mixed residual civic amenity site waste;
- wood/biomass wood;
- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials, discarded packaging wood;
- bailed cardboard;
- high and low density plastics;
- used animal bedding and
- green waste (for composting only).

The applicants advise that the circumstances relating to the application are as follows:

The closure of a landfill site during 2021 in a neighbouring local authority area (East Ayrshire) has had a significant impact on collection and transport operations of Enva's commercial trade waste and local authority household waste contracts in North Ayrshire.

Before the closure of the landfill site, the applicant collected general commercial waste from various commercial locations around North Ayrshire which was then transported directly to landfill for disposal. However, landfill disposal of such waste meant that none of the waste was being recovered or recycled. By adding general waste (from sources other than civic amenity sites, which is already permitted) as well as glass, the long-established facility at Shewalton would support progress towards zero waste objectives. The transfer station would facilitate more forms of recycling as well as providing the opportunity to handle a greater quantity of non-recyclable general waste for onward processing into Refuse Derived Fuel (RDF) at Linwood following sorting and bulking-up.

In summary, the proposal seeks to:

- increase in the quantities of general waste and glass (for waste transfer only);

- to increase the total quantity of waste (as governed by the WML, not the planning permission) on site at any one time from 600 tonnes to 2000 tonnes per year;
- to change the operational hours to include Sunday working hours during the time period of 08:00 - 16:00 (again, as governed by the WML, not the planning permission).

The application therefore seeks to harmonise the planning permission for the site to reflect the terms of the proposed amendment to the WML, where appropriate. Condition 1 of the original planning permission stipulates that 80% of the waste for the facility shall come from North Ayrshire. The applicant is aware of this condition, and has advised that until recently, the general waste streams being handled at the site from North Ayrshire would have been transported directly to a landfill site in East Ayrshire, which has now closed. They advise further that the 80% figure is still applicable to their operations and would seek a further amendment to the planning permission in the event that this figure would be exceeded by the proposed changes to the WML. This report addresses only matters arising from the proposed change to condition 5.

Arising from the proposed amendment to the WML, SEPA has directed the applicant to enclose and cover the general waste bay and carry out some additional drainage works. To this end, the applicant has indicated that it is their intention to form a new general waste bay on an area of concrete hardstanding currently used for storing soil and skips. They advise that the new general waste bay would measure approximately 12m x 17m on plan, which would be constructed of large concrete blocks formed around three sides with sliding doors at the front and fully covered with a curved polycarbonate roof. The indicative height would be comparable with the existing general waste bay at the site. The drainage works would be in the form of new gullies leading to an interceptor connected to an underground tank. Wastewater would be removed by tanker. Whilst some indicative siting and design details have been submitted for information purposes, it is not within the scope of the current Section 42 application to consider the proposed new storage bay and drainage scheme. Depending on the outcome of the current Section 42 application, a further planning application would be required in order to address and finalise these details. The applicant has also advised that the existing general waste bay would be re-purposed for the storage of cardboard.

In terms of the adopted Local Development Plan (LDP), the site and surrounding area is within the countryside. However, despite the 'countryside' allocation, the site and surrounding area to the north and south is already developed with yards and workshop buildings. The area to the west is a large construction waste reprocessing facility operated by W H Malcolm at a former sand and gravel quarry. To the east is the A78 Irvine Bypass. Further south is the closed landfill site which was operated by NAC. The site is accessed from Shewalton Road, which leads east from Ayr Road. From Ayr Road, there is a direct connection with the A78 trunk road at the Newhouse Interchange.

The relevant LDP policy in this case is Waste Management Facilities (Policy 30). All applications require to be assessed against Strategic Policy 2. The relevant criteria in respect of this application are 'Safe and Pleasant', 'Resource Efficient', and 'Easy to move Around'.

Relevant Development Plan Policies

Detailed Policy 30

Waste Management Facilities

Proposals for the development of waste management facilities that align with Scotland's Zero Waste Plan and the Council's Waste Management Strategy, including any ancillary operations, will be supported subject to meeting the following criteria:

- i) Compatibility with surrounding existing and allocated land uses; and
- ii) Satisfactory provision for the mitigation of adverse impacts is secured in relation to the environment, transport, public health and safety; including site restoration, after care plans, buffers of a satisfactory distance between dwellings or other sensitive receptors and screening where appropriate.

Proposals for development that would compromise the operation of waste management facilities would be resisted.

As a general guide, appropriate buffer distances may be:

- o 100m between sensitive receptors and recycling facilities, small-scale thermal treatment or leachate treatment plant;
- o 250m between sensitive receptors and operations such as outdoor composting, anaerobic digestion, mixed waste processing, thermal treatment or landfill gas plant;
- o >250m between sensitive receptors and landfill sites.

SP1 - The Countryside Objective The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes. We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.

- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

Detailed Policy 2 - Regen Opportunities

Policy 2:

Regeneration Opportunities

In principle, we will support and promote development of brownfield land (including vacant and derelict land) within our settlements, where the development aligns with the placemaking policy. In particular, we support the re-use of sites shown in schedule 4 for a range of urban uses which would contribute to the placemaking agenda, subject to their impact on the surrounding established amenity, assessment against the Placemaking Policy and in particular their impact on utility and service capacity.

Note that proposals for significant footfall generating uses considered against this policy should accord with the Town Centre First Principle and must not undermine the vitality or viability of town centres or the delivery of the effective housing and industrial land supplies except where they would support the principle of sustainable development.

We will support development of the regeneration opportunities for a range of integrated urban uses including:

- o Residential.
- o Local-scale community and leisure uses.
- o Other local employment uses like shops, banks, cafes, workshops, garages, and small offices (including working from home).

We will also support alternative solutions which would improve the amenity or economic outlook of the surrounding area such as

- o Greening (Woodland planting, allotments etc.)
- o Renewable Energy Generation
- o Protection and enhancement of green and blue networks

There may also be instances in the plan period where new regeneration sites are identified. In principle we will support proposals which are innovative, contribute to our placemaking agenda and align with our vacant and derelict land strategy.

2. Consultations and Representations

Neighbour notification was undertaken in accordance with statutory procedures. In addition, the application was advertised in a local newspaper with an expiry date for public comments of 8th June 2022. Two letters of representation, objecting to the proposals, were received.

Grounds of Objection

1. The boundary map of the application site outlined in red is considered to be incorrect. It is claimed that the applicant has incorporated part of the access road which does not belong to them. It is also claimed that the previous gates and shared access road were formed without planning permission. The applicant has not moved the gates back to their original position thus blocking access to bordering premises as per title deeds.

Response: It is not considered that the matters raised are directly relevant to the consideration of the Section 42 application, and no breach of any planning control has been identified. However, the applicant was asked to comment on the issue and advised that "the site plan used within our current planning application is the same map that was utilised in the application for 99/00329/PP in 2000 and incorporates the same footprint as that on our WML licence. Enva Scotland do not own the land and rent the property. Our rental agreement encompasses the area highlighted in the plan. We are unaware of any access being blocked at the entrance gates due to our operations." Examination of previously granted planning permissions indicate that the site area has not been altered.

2. The increased amount of waste proposed is very concerning as Enva do not have enclosed bays to store the waste as per SEPA's comments. There are constant pungent odours coming from their site which enters our warehouse and office. Employees have raised concerns regarding the overpowering smells which is extremely unpleasant in a working environment. The fencing and netting on the boundary are broken and the netting torn which allows their waste to fly into neighbouring premises causing littering which we then have to clear up. The bays in which the waste is stored are constantly overflowing and well above the height of the bay walls and between the boundary. There has been a marked increase in vermin, and this indicates to us that their vermin control policy is not fit for purpose. We have pictures, videos and invoices to support the above.

Response: In order to meet SEPA's requirements for odour control in relation to the handling of general waste, an enclosed storage bay would be the subject of a separate application as discussed previously in this report. The applicant has confirmed, in response to the objection, that "an enclosed bay will be implemented as per SEPA's requirements." The applicant has advised that "waste on site is moved daily as the site is a waste transfer station. Stock levels are kept to a minimum as per our WML licence." They advise further that "litter netting to the west of the site was unfortunately torn in high winds. This has now been replaced and fully functioning." An unannounced site visit by the planning officer confirmed that repairs had recently been undertaken. Furthermore, no odours were detected during the officer site visit.

3. With regard to approaching the access road from Shewalton Road the two junctions are confusing and dangerous in their layout. When indicating left approaching the junction vehicles from the WH Malcom site automatically think you are entering their site and proceed to exit onto the Shewalton Road and cause daily near misses and actual accidents. More consultation is needed for the increase volume of HGV Vehicles and cars accessing this area. There is no traffic management whatsoever which is dangerous. The access road surface has a temporary surface which is used daily by a high volume of HGV vehicles and

with prolonged standing water in the winter and dust clouds in summer more consultation is needed to come up with a solution to this problem.

Response: It should be noted that the roads within the site and approaches from Shewalton Road are private access roads. The applicant advises that "a traffic management system is in place on Enva's yard that has been implemented by suitably qualified health and safety advisors and approved by external auditing bodies such as BSi." With regard to the condition of the public roads in the area, it is noted that traffic volumes on Shewalton Road appear to have decreased significantly since the closure of the landfill sites. The road condition was observed to be maintained to a high standard and there is also a pedestrian footway. On Ayr Road itself, parts of the public footway have recently been widened to accommodate cyclists and pedestrians. Notwithstanding the above improvements, a condition could also be attached in relation to potential traffic impacts as recommended by the Council's Transportation officers (see below).

4. Access and exit is a problem with Enva's site as there is no one way system in place. Lorries have often to reverse out of their site as their access is blocked by their own vehicle which are already in the site. They also park on the access road waiting to gain entry to the site which becomes an obstruction for other vehicles.

Response: Noted. The applicant advises that "if permitted, traffic movement will only increase to one extra vehicle movement per day. Trade waste vehicles are already based at the Irvine site and hence there will be no further increase in vehicle movements apart from the additional one stated." However, as noted above, a condition is recommended by the Council's Transportation officers (see below).

5. There has been a marked increase in vermin requiring the use of bait boxes and other measures. This indicates the vermin control is not adequate just now, so increased waste would need lots more.

Response: The control of vermin is not a material planning consideration. However, the applicant advises that "all site operations are carried out as to minimise the presence of vermin including minimising stock and the regular cleaning of the waste storage bays. Pest control is monitored and regulated on a regular basis by Terminix. This is carried out twice monthly. All reports show no evidence of vermin on Enva's land."

Consultations

NAC Environmental Health - no objections in principle, however in the absence of any assessment having been carried out for noise, there are concerns about potential noise impact that allowing Sunday working may have on nearby noise sensitive properties.

Response: There was no evidence of any significant noise generation from operations at the site during the officer site visit. There are various other industrial sites nearby as well as the A78 Irvine Bypass, which is a source of traffic noise. The hours of operation are not in fact governed by the existing planning permission. These are matters covered in the WML and regulated by SEPA. In the event of any noise nuisance occurring whether on Sundays or on any other day of the week, the Council has powers under other legislation to investigate and seek appropriate remedial action.

NAC Active Travel and Transportation - no transport related objections. It is advised that, with an increased number of HGV movements likely, a junction analysis may be required. A Transport Statement should be submitted to assess if a junction analysis is required. This matter should be addressed by condition.

Response: Noted. Whilst there is currently no planning condition that limits the number of vehicle movements using Shewalton Road to access the site, it would be appropriate to attach the recommended condition. It should be noted that Shewalton Road is also used by other commercial goods vehicles going to the W H Malcolm site as well as several workshops and other business premises. Traffic movements on Shewalton Road at the time of the officer site visit were observed to be very limited and infrequent, with HGV activity at the site even less so.

Transport Scotland - No objections and do not advise against the granting of permission.

Response: Noted.

SEPA - No objection. Advise that the waste permitting team within SEPA have been in discussion with the applicant and are now satisfied with the proposals. In SEPA's initial response, some concerns were raised in respect of compliance with SEPA's odour guidance and the discharge of water from the site. Following the submission of additional information by the applicant, SEPA's waste permitting team have confirmed that the proposals will include the construction of a building for the storage of the general waste. The applicant is also going to implement a drainage system to ensure all drainage from the building (for household waste) and the waste bays utilised for the acceptance of plastic and glass will be collected via a drainage system and stored in a 2000 ltr underground storage tanks and disposed of to a licensed facility as and when required.

Response: Noted. The physical works outlined above would require to be the subject of a further planning application, the submission of which would depend on the outcome of the current Section 42 application.

3. Analysis

Section 42 of the Town and Country Planning (Scotland) Act 1997 applies where planning permission is sought for the development of land without complying with conditions subject to which a previous planning permission was granted. The original permission remains unaltered by any decision on a Section 42 application.

In terms of guidance for considering such applications, Circular 4/1998 sets out a series of tests for planning conditions, as follows:

- Necessary,
- Relevant to planning,
- Relevant to the development to be permitted,
- Enforceable,
- Precise, and
- Reasonable in all other respects.

Circular 4/1998 also makes it clear that planning conditions should not duplicate other regulatory controls such as the licensing of waste management by SEPA.

The facility at Shewalton is long established. The proposed changes reflect the ongoing policy shift away from waste disposal by landfill towards the creation of a circular economy, where materials are salvaged and recycled, with the aim of reaching Zero Waste as set by Scotland-wide targets. There are limits on the current planning condition which reflected circumstances at the time.

The relevant policy of the adopted North Ayrshire Local Development Plan (LDP) is Policy 30 (Waste Management Facilities), which states that proposals which align with Scotland's Zero Waste Plan and the Council's Waste Management Strategy will be supported provided adequate mitigation measures are in place to protect the environment and site surroundings.

The proposal would facilitate the recycling of waste types currently restricted by the planning condition but already permitted under the WML regime regulated by SEPA. Proposed changes to the WML are underway and are being considered by SEPA. Where there is an overlap, it would be appropriate to ensure the planning conditions align with the WML licence, where it is relevant to do so. Not all matters covered by the WML are covered by planning controls. As noted above, Circular 4/1998 makes it clear that other consenting processes should not be duplicated under the planning system.

In this regard, whilst noting that it is proposed that the site would also open on a Sunday between the hours of 8am and 4pm, there is not presently a control on the hours of operation set by any historic planning permission for the facility, which is therefore a matter for the WML and will be considered by SEPA. As such, there is no requirement to duplicate the hours of operation within a condition of planning permission for the site. In this regard, it should be noted that the WML for the neighbouring W H Malcolm's recycling site, which processes inert construction waste, already permits Sunday working between the hours of 8am and 4pm, which is identical to the proposed hours for the Enva site.

A similar approach would also apply in relation to the annual tonnage of waste which can be stored at the site. Again, there is not a planning control over annual tonnage limits, which would also be matter covered by the WML and would be more appropriately regulated by SEPA, as at present.

The present condition 5 states as follows:

That the planning permission hereby granted shall permit the storage and sorting for recycling of mixed residual civic amenity site waste, wood/biomass wood, waste electrical and electronic equipment (WEEE) and paper in addition to the materials specified in condition (1) attached to planning permission ref. no. 99/00329/PP.

Reason: To restrict the development to the terms of its justification/special need.

In response to the matters raised, and taking account issues which would be more appropriately dealt with by SEPA, it is proposed that the amended condition would read as follows:

That the planning permission hereby granted shall permit the following categories of waste at the site for temporary storage, sorting and onward transfer for reprocessing off-site:

- mixed residual civic amenity site waste;
- wood, biomass wood and discarded packaging wood;
- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials
- baled cardboard;
- high and low density plastics;
- used animal bedding;
- green waste;
- glass;
- soil and stones;
- construction and demolition materials;
- general waste;
- dry mixed recycling.

Reason: To restrict the development to the terms of its justification/special need.

It is considered that the proposed amendment to Condition No. 5 can be granted, taking account of matters that would be outwith the scope of the planning process. As discussed above, a further condition is recommended in respect of potential impacts arising from any additional HGV traffic movements, with a transport statement to be produced by the applicants prior to the operation of the facility for handling the additional waste streams. This requirement would help to address concerns expressed by objectors in respect of road safety and enable further consideration to be given to potential traffic impacts on Shewalton Road.

All applications require to be assessed against Strategic Policy 2. The relevant criteria in respect of this application are 'Safe and Pleasant', 'Resource Efficient', and 'Easy to move Around'. For the reasons given above, and subject to the proposed condition in respect of traffic movements, it is considered that the proposal satisfies Strategic Policy 2.

There are no other material considerations. The outcome of the proposed changes would enable more categories of waste to be accepted at the site for reprocessing and recycling elsewhere, together with an associated reduction in waste going to landfill. This approach would accord with LDP Policy 30 in respect of Scotland's Zero Waste Plan by supporting the circular economy.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the planning permission hereby granted shall permit the following categories of waste at the site for temporary storage, sorting and onward transfer for reprocessing off-site:

- mixed residual civic amenity site waste;
- wood, biomass wood and discarded packaging wood;

- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials
- bailed cardboard;
- high and low density plastics;
- used animal bedding;
- green waste;
- glass;
- soil and stones;
- construction and demolition materials;
- general waste;
- dry mixed recycling.

Reason

To restrict the development to the terms of its justification/special need.

Condition

2. That, prior to the implementation of the amended condition governing the scope of waste types as hereby approved, a transport statement shall be submitted for the consideration of North Ayrshire Council as Planning Authority to establish if a junction analysis is required. The transport statement shall include a forecast of the increased number of HGV movements arising from the proposed increase of waste and additional opening hours at the waste transfer station together with recommendations to ensure the safe and efficient movement of traffic to/from the site. Thereafter, the site shall be operated only in accordance with the outcome of the assessment of the transport statement by North Ayrshire Council as Planning Authority, including the implementation of any mitigation measures as may be identified during a timescale to be agreed.

Reason

In the interest of road safety.

James Miller
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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