

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 6 November 2012  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **12/00346/PM**

Proposal Changes to bunds, buildings, structures, landscaping and storage of inert materials and variations of Conditions 6, 7, 8 and 12 as changes to the scheme of development the subject of planning permission 09/00617/FUL

Location **Smeaton Bing  
Carberry  
East Lothian**

Applicant Hamilton Waste and Recycling

Per Wardell Armstrong LLP

Ward 2

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site is some 20.83 hectares in area. It occupies a countryside location at Crossgatehall to the southeast of Whitecraig. The site is bounded to the northeast by the A6124 public road and by houses, with the Designed Landscape of Carberry Tower beyond. At its eastern corner is the road junction of Crossgatehall with houses beyond. To the southeast it is bounded by the B6414 public road with a builder's yard, a house and agricultural land beyond, to the southwest by an unclassified public road (U102) with two houses and agricultural land beyond, and to the northwest by agricultural land. The site is accessed from the A6124 public road.

The majority of the land of the application site was formerly the shale and coal waste heap of Smeaton Bing. The remaining part of the site was formerly agricultural land and that part of the site is within the Edinburgh Green Belt.

In March 2010, through a decision of the Planning Committee, planning permission (Ref: 09/00617/FUL) was granted for the use of the land as a waste recycling facility and, to enable that use, the reformation and reshaping of the existing bing to form bunds to contain an internal working area, the erection in it of buildings, the formation of an access road and a sustainable urban drainage system (SUDS) pond, and for associated planting.

The planning permission is subject to conditions to control aspects of the approved development and of the subsequent operation of the waste recycling facility, including: a requirement for a detailed scheme of landscaping (condition 6); that development be carried out in accordance with the phasing and details set out in the approved application drawings and Chapter 3 of the applicant's Environmental Statement (condition 7); a series of working controls on matters of noise and working hours for the development of the site and its subsequent operational use and that the physical works on the site be complete prior to it being used as a waste recycling centre (condition 8); and that the development be laid out and used only as a waste recycling centre as per the approved plans (condition 12).

On 11 August 2010 development of the site commenced. This involved the commencement of the major earthworks to reform and reshape the bing into bunds. The substantive major earthworks to form the bunds were completed in 16 weeks of working as per the timescale for that given in the phasing of the applicant's Environmental Statement that is the subject of the planning control of condition 7 of planning permission 09/00617/FUL.

Ongoing works to complete the profiling and surface finishing of the bunds have been hampered by operational issues, specifically; compaction and settlement of material, a deficiency in the amount of material available on site, the lack of availability of topsoil from off site to complete the surface finishing and to enable landscaping of the bunds and unfavourable weather conditions. The final profiling, surface finishing and landscaping of the bunds remain a work in progress.

In response to public complaints about aspects of the works that were being undertaken on the formation of the bunds, officers of the Council's Enforcement and Policy and Projects teams surveyed the site on 21 October 2010 and again on 7 July 2011. At that stage, the bunds as formed on their outer faces were found to be in compliance with planning permission 09/00617/FUL other than a section of the southwest bund which had a gradient steeper than as approved. The Council's Enforcement Team took this up with the developer.

In the course of the continuation of site works the developer sought the advice of Council officers on proposed amendments to the profiling of the bunds and to the layout and height of the buildings to be erected on the site as changes to that approved by planning permission 09/00617/FUL. The advice of officers was that those proposed changes would be material changes to planning permission 09/00617/FUL. Thereby, it was established that an application for planning permission for changes would have to be made to the Council.

What is now before the Committee is that application. Through it planning permission is now sought for changes to the profiling of the bunds and to the layout and height of the buildings to be erected on the site.

The changes to the profiling of the bunds are:

(i) Part of the northwest bund east of the haul road which passes through that bund would be reduced in height by some 2 metres. A 2 metres high acoustic fence would be erected on top of this bund to compensate for the reduction in height, running some 150 metres along the length of the bund. Amended plans have been subsequently been submitted which show the northwest bund east of the haul road to the height as approved by grant of planning permission 09/00617/FUL and the omission of the proposed 2 metres high acoustic fence which had been proposed to be erected on top of this bund to compensate for the reduction in height.

(ii) The land at the outer foot of the northeast bund would be raised in height by some 0.7 metres.

(iii) The land at the outer foot of the southeast, southwest and northwest bunds would be raised by some 0.3 metres.

(iv) The small bund to the east of the access road would be raised in height by some 2 metres. Amended plans also detail the raising of the bund to the west of the access road raised by a further 1 metre.

(v) The gradients of the lower slopes of the northeast, southeast and southwest bunds would be increased slightly along parts of their length. Parts of the upper slopes of the southwest and northwest bunds would be increased to some degree.

(vi) The gradient of the upper slope of the southern part of the southwest bund would increase from 1:2 to 1:1.85.

(vii) The profiles of the southeast, southwest and northwest bunds would be "thinner" such that their crests would be narrower where their outer and inner slopes meet. This would allow for some enlargement of the internal working area by moving the inner slope and inner edge of the southeast, southwest and northwest bunds outwards from the centre of the site. Conversely, the inner foot of the northeast bund would be graded to be slightly closer to the centre of the site. The intended finished level of the internal working area is to be some 0.3 metres higher than as approved by planning permission 09/00617/FUL towards the internal edge of the southeast and southwest bunds and the southern part of the northwest bund. This would have the effect of compensating for a slight drop in the approved levels between the east and west of the working area as approved.

The buildings of the waste recycling facility approved by planning permission 09/00617/FUL are a main sorting shed, sorted waste storage buildings, a workshop/garage and an office building. They are approved to be one storey high industrial buildings with metal panel finishes in grey and blue colours, other than the two storey, brick built office building. The main waste sorting shed is approved to have a ridge height of 11.994 metres above the ground level of the proposed working area of the waste recycling facility and to be positioned centrally in the proposed working area with the other, lower buildings to be positioned along the north-eastern and north-western end of the proposed working area.

The changes to the buildings to be erected on the site are:

(i) the main sorting shed would be larger, some 130 metres long to the 100 metres length of the approved building. It would thereby be some 30 metres closer to the southwest bund than as approved. It would be some 14.5 metres high to the ridge of its pitched roof and some 10 metres high to its eaves. It would have solar panels on its south facing roof slope.

(ii) the other buildings would be of the same size and height as approved. The sorted waste buildings and garage/workshop would remain located close to the northeast bund with their position moved 20 metres to the northwest. The office building would remain adjacent to the northwest bund with its position moved some 10 metres closer to the bund and some 5 metres to the west.

Because condition 7 of planning permission 09/00617/FUL requires that the bunds be constructed as per the phasing details set out in the approved application drawings and Chapter 3 of the applicant's Environmental Statement the need for further time to complete the bunds and to the re-profiling for which planning permission is now sought has to be considered as an amendment to the phasing control of condition 7.

The further time to complete the bunds has also to be considered as an amendment to the phasing control of condition 8(iv) of planning permission 09/00617/FUL.

Finalised landscaping plans have not yet been submitted to the Planning Authority for assessment and approval. Any such plans would have to have due regard to the re-profiled form of the bunds for which planning permission is now sought. If that planning permission is to be granted through amendments to conditions 7 and 8 of planning permission 09/00617/FUL, then there is the need to amend condition 6 in terms of the time given for submission of the detailed landscaping plans.

Condition 12 of planning permission 09/00617/FUL stipulates that the land of the waste recycling facility shall not be used other than as set out in the approved application drawings. Planning permission is now sought to use the area of land denoted as 'Phase 2' on the approved application drawings for the open storage of inert materials prior to the recycling of them. This proposed change has to be considered as an amendment to condition 12.

As a statutory requirement of major development type proposals the development for which planning permission is now sought was the subject of a proposal of application notice (Ref: 12/00001/PAN) and community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a further statutory requirement a pre-application consultation report is submitted with this application. The report informs that 10 members of the public attended a pre-application public exhibition held in Whitecraig Community Hall in Whitecraig and that those attendees made a number of queries and suggestions regarding the proposals. The exhibition remained in the hall for a week, when comments sheets were made available to the public. No further comments were returned to the applicant's agent. In response to comments made, the applicant made some changes to the proposals, including increasing the height of a small bund along the access road to screen views from residents of houses to the southeast of the access road. The report advises that the consensus among those attending the public exhibition was for the bunds to be finished and planted as soon as possible.

The development for which planning permission is now sought is of the same character and description as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

There is submitted with this application a Slope Stability Assessment, a revised Noise Modelling Diagram and a statement of predicted noise levels in respect of the re-profiling of the bunds.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policy ENV1G (Design of New Development) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), C7 (Core Paths and Other Routes), DP1 (Landscape and Streetscape Character) and DP2 (Design) of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application are the written representations received from the public.

Five written objections have been received. In some of the written objections support is expressed for the general principle of waste recycling and for the physical reshaping of the bing. Otherwise, the grounds of objection are summarised as follows:

(1) this is another modification of the original application and gives no details of the changes proposed, meaning neighbours of the site have to travel to Haddington to view the plans;

(2) residents in the area are extremely unhappy about the processes which led to the re-designation of the bing site out of the green belt and now with the series of "planning creep" applications to change the planning permission;

(3) the ongoing development of the site would result in noise and dust and mud on the roads generated by site traffic for the development;

(4) the lack of pavements means there is danger to pedestrians, particularly families with children, walking along the A6124 to go to Whitecraig, with lorries travelling at such great speed when turning into the development site. One objector suggests that there should be traffic lights at the site turn in;

(5) work on the site has been ongoing for some 27 months and not the 16 weeks stated by the developers to construct the bunds;

(6) the site is being used as a dumping site to create income for the applicant and not as a waste recycling site, material is being brought in to increase the height of the bunds because the centre hasn't been dug out enough to hide the proposed buildings and thus the internal levels inside the bunds are "way above" what was proposed originally. Also the reason for the proposed variations to decrease the width of the bunds is to increase the internal working area. There should be an independent survey of the bund and internal working area levels;

(7) the competency of the applicant's company as a civil engineering construction contractor is questioned given the extended length of time the project has taken, their inability to produce the original design, and neighbouring residents having had to report their concerns about several apparent breaches of health and safety regulations to the Health and Safety Executive;

(8) what is being proposed is a huge increase in the size of the bunds such that they overpower the landscape of the area;

(9) no start has yet been made to tree planting or the construction of a footpath/cyclepath around the south of the site as required by conditions;

(10) as an Environmental Statement was submitted with the original application then this should be revised in line with this application, including guaranteed timescales for the completion of the development works;

(11) approval of this application would reward the failure of the developer to complete the works in the timescale originally proposed, and raises the question as to whether or not the Council's Environmental Protection Service would have sanctioned the proposals had the time scale been as has turned out;

(12) there are doubts about the area being served by public transport because of the withdrawal of First Scottish bus services on the route of the A6124, leaving the nearest bus stop at Whitecraig some 2 kilometres away;

(13) there is no community council representation for the area as Whitecraig Community Council has been suspended, thus the East Lothian Community Council Association should be contacted to pass comment;

(14) the bund has taken away one resident's view and if the proposals go ahead there will be no view and a lack of sunlight, affecting the value of his property;

(15) if plasterboard is to be recycled it will release dust into the air leading to skin and breathing problems;

(16) use of "Zone 2" needs greater explanation, there is a concern that this would be used for breaking up vehicles and as an outside operation this would increase noise levels from the waste recycling centre;

(17) the internal levels of the site may allow for the erosion of the base of the bunds; and

(18) the greater angle of incline of some of the bunds is assessed as having a safety factor of 1.3 but no explanation is given as to what this means and there are questions about their viability and stability due to evidence of subsidence.

When consultations were duly undertaken on this application some months ago there was no active Whitecraig Community Council. Because of that the Chair of the East Lothian Community Councils was contacted for comment on the application. No comment has been received.

The reconfiguration of the former Smeaton Bing, the use of the site as a waste recycling facility and the access and transportation arrangements to facilitate such use are already approved by the grant of planning permission 09/00617/FUL.

The application has been subject to the required pre-application notification and consultation arrangements required for a major development.

It is the only application submitted for changes to the development already approved by planning permission 09/00617/FUL.

It was through the due processes of adoption of the East Lothian Local Plan 2008 that the former Smeaton Bing was removed from the Edinburgh Green Belt and due regard to this was paid in the decision of the Planning Committee to grant planning permission 09/00617/FUL. That decision also included acceptance of the planning merits of a part of

the operational site of the waste recycling facility being land still within the Edinburgh Green Belt.

The engineering integrity and management of site development works is a matter for the developer and is not a material planning consideration.

The applicant does not propose to vary the working hours of the waste recycling facility as controlled by condition 8 (vi) and (vii).

The effects of the proposed development on private views and property values are not material planning considerations.

Although the matter of the stability of the engineered bunds is not a material planning consideration, the applicant's Slope Stability Survey has been assessed by the Council's Consultant Engineer. He has accepted the accuracy of the calculations contained in it. He has raised no concerns on the matter of the stability of the bunds. Nonetheless, as a matter of prudence he has stated that no buildings erected on the site and permanently used by site operatives should be positioned within 5 metres of the toe of any of the inner slopes of the bunds. The proposed main sorting shed would be in the centre of the site, some distance from the toe of the inner slopes. The proposed office and smaller sorting buildings would be some 5 metres from the toe of the inner slopes. As the specific matter of the stability of the engineered bunds is not a material planning consideration, neither is this related matter of the positioning of buildings in proximity to the toe of the slopes of the bunds. It cannot be controlled through the determination of this application. The consideration of it has to be the responsibility of the applicant. If through the determination of this application planning permission is granted for the now proposed positioning of the office and smaller sorting buildings and, thereafter, the applicant decides to change that, then such further proposed re-positioning would have to be assessed on its planning merits either as an applied for material or non material amendment to the planning permission granted.

The material considerations in the determination of this application are; (i) whether or not the applied for changes to the profiling of the bunds and to the layout and height of the buildings to be erected on the site would be harmful in terms of their visual impact, their affect on landscape character and whether or not they would affect the acoustic screening of the site in operation as a waste recycling facility; and (ii) the merits of varying condition 6 of planning permission 09/00617/FUL to allow for an extension of time for the submission of the detailed plans for the landscaping of the site, of varying the phasing controls of conditions 7 and 8 to allow further time for the completion of the bunds in the re-profiled form for which planning permission is now sought, and of varying condition 12 to enable the now applied for open storage use of the land of the waste recycling facility denoted as 'Phase 2' on the drawings docketed to planning permission 09/00617/FUL.

The drawings submitted by the applicant include section drawings through the bunds showing a comparison of the shapes, levels and heights of them as approved by planning permission 09/00617/P and, by comparison, with the changes to them for which planning permission is now sought. It is not proposed to raise the tops of any of the main bunds to a height greater than that approved for them by planning permission 09/00617/P.

In respect of landscape and visual impact the proposed changes to the northeast, southeast and southwest bunds would be of such a relatively small degree that the re-profiling of them would not significantly change the appearance of them in their landscape setting and would not be harmful to the visual amenity or landscape character of this part of the East Lothian countryside.

At its raised height of some 2 metres the low bund to the east of the site access road would be viewed against the backdrop of the main bunds of the developed site and in relation to them would not appear as a dominant or incongruous landscape feature. The proposed raising of the bund to the west of the access road by 1 metre would not significantly change the appearance of that bund in the landscape. That bund so raised would provide additional screening of the access road and vehicles using it.

Initially it was proposed that a 2 metres high acoustic fence be placed on the top of the northwest bund for a length of 150 metres to the northeast side of the point at which the bunded site road cuts through that main northwest bund and that there be an associated lowering of that length of the bund by some 2 metres from the height approved for it by planning permission 09/00617/P. Such a fence on top of that length of the northwest bund, even with an associated 2 metres lowering of the bund, would be a prominent incongruous landscape feature. Accordingly, the Council's Policy and Projects Manager has objected to the provision of the acoustic fence. His advice is that the fence would be highly visible and not in keeping with the bund screening of the development as approved. His recommendation is that the 150 metres of the northwest bund should still be to the height approved for it by planning permission 09/00617/P but to a reduced width. As an amendment to this application such a reduction of the width of the bund as part of the proposed re-profiling of the bunds is now what planning permission is applied for and not for the erection of the acoustic fence.

Even as now proposed the buildings of the development would be almost wholly visually contained within the bunds. The applicant acknowledges that in some views of the site from the north, including from the A6124 public road as it approaches the site from the north, the northwest corner of the main sorting shed as now proposed would be partially visible until screen planting matures. Given the dark colour finishes proposed for this building, this small degree of initial visibility of main sorting shed would not be harmful to the visual integrity of the development or to the amenity of the area.

The majority of the re-profiling of the bunds would make them slimmer in section than as approved, allowing an increase in the size of the internal working area of the waste recycling facility. The internal working area would, for part of its western area, be some 0.5 metres higher than as approved. It is not proposed to site buildings on this part of the site. Instead planning permission is now sought to use the western area of the internal working area for open storage of materials. In which case the small 0.5 metres change to the ground level of the internal working area would not be harmful to the visual integrity of the development or to the amenity of the area.

The Council's Policy and Projects Manager advises that the final landscaping proposals for the development should pay regard to ash/oak woodland planting being at the bottom of the bunds with the density of planting reducing up the slope, moving to oak and birch planting and then to more sporadic birch woodland towards the top of the slopes. If planning permission is to be granted for the applied for amendment to condition 6 of planning permission 09/00617/FUL, then there would still be the requirement for the submission to and approval of the Planning Authority of the final landscaping details of the development.

The re-profiling of the bunds and the changes to the buildings to be contained on the internal working area within the confines of the main bunds would not significantly or harmfully affect the landscape character of the area or result in a greater degree of visual intrusion than would be the effect of the bunds and buildings as approved by planning permission 09/00617/FUL.



The landscaping and planting of the re-profiled bunds would soften their appearance in the outlooks from the residential properties and from short and long distance views of the site.

On these considerations of landscape and visual impact the re-profiling of the bunds and the changes to the buildings for which planning permission is now sought does not conflict with Policy ENV1G of the approved Edinburgh and Lothians Structure Plan 2015, Policies DC1, DP1 and DP2 of the adopted East Lothian Local Plan 2008.

As now shown in the application drawings part of the upper area of the outer (western) slope of the southwest bund would be of a steeper gradient than is approved for that bund and as re-profiled that upper part of that bund would be closer to the two houses on the south-western side of the south end of Smeaton Shaw Road. Towards the southern end of that bund the upper area of it would in places be up to some 5 metres closer to the closest of those two properties than is approved, yet would be some 60 metres away from that closest property. The foot of the bund would remain some 35 metres away from the closest of those two properties, with Smeaton Shaw Road between the closest property and the foot of the bund.

Due to the distance of some 60 metres between the closest house and the re-profiled upper part of the southwest bund and that the front elevation of that closest house is orientated southwards and not towards the bund, the re-profiled southwest bund would not impact harmfully on the outlook of that residential property or on the neighbouring property on the southwest side of it. Nor would it harmfully overshadow those properties or have a harmfully overbearing presence or affect on them. The impact of re-profiling of the southwest bund on the amenity of those two properties is not significantly greater than the bund as approved by planning permission 09/00617/FUL.

The raising of the low bund on the east side of the site access road by some 2 metres in height would improve the screening of the corresponding length of the access road and the movement of traffic on the road when viewed from the residential properties to the east.

On these further considerations the re-profiling of the bunds is consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the re-profiling of the bunds and the changes to the buildings for which planning permission is now sought. He confirms that the revised predicted noise levels of the operational use of the waste recycling facility as stated by the applicant's consultants are commensurate with the changes to the bunds and that the resultant noise limits would remain within acceptable levels.

The operational use of the waste recycling facility will be licensed by the Scottish Environment Protection Agency (SEPA) under the Waste Management Licensing Regulations 1994 (as amended) in respect of matters of noise, odour, dust and air quality.

In respect of the scheme of development approved by planning permission 09/00617/FUL, SEPA raised no objection. They advised then that the waste recycling facility is capable of being licensed under their regulatory powers. In respect of the re-profiling of the bunds SEPA advise that those changes, relative to the operational land of the waste recycling facility, are minimal. SEPA confirm that the operation of the waste recycling facility approved by planning permission 09/00617/FUL would not result in any adverse noise impact and that in respect of noise the site remains licensable under their regulatory powers.

As SEPA is the regulatory authority on matters of noise, odour, dust and air quality there is no locus for the Council, as Planning Authority, to conditionally control the use of the western part of the internal working area of the waste recycling facility as an open storage area, if approval is now to be given for that through the applied for amendment to condition 12 of planning permission 09/00617/FUL.

The relevant conditions of planning permission 09/00617/FUL in respect of noise, dust and air quality in respect of ongoing landscaping and construction works remain in place.

On these amenity considerations the re-profiling of the bunds and the changes to the buildings are consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

In respect of pedestrians and cyclists, the applicant still proposes to provide a length of level ground along the southern boundary of the application site in reserve for the formation of a pedestrian footpath/cycleway along that strip of ground to serve as part of the Council's Core Path network. This is not prejudiced by the re-profiling of the southeast bund. On this consideration the development remains consistent with Policy C7 of the adopted East Lothian Local Plan 2008.

Although the bunds on the development site were substantively formed within the 16 weeks set for that by the phasing controls of conditions 7 and 8 of planning permission 09/00617/FUL, they remain to be finished to the re-profiling for which planning permission is now sought and with a complete surface finish of top soil to enable the landscaping of them.

Under the separate control of condition 6 of planning permission 09/00617/FUL the landscaping of the bunds need not be completed until the end of the first planting and seeding season following the occupation of the buildings of the waste recycling facility or the completion of the development whichever is the sooner.

As explained earlier in this report works to the finishing of the bunds have been delayed due to operational issues of compaction and settlement of material, a deficiency in the amount of material available on site, the lack of availability of topsoil from off site to complete the surface finishing and to enable landscaping of the bunds and unfavourable weather conditions. The final profiling, surface finishing and landscaping of the bunds remain a work in progress.

At this time the applicant's agent informs that all of the bunds are up to their full heights. Works continue on top soiling, including the replacement of topsoil that slipped in heavy rains earlier this year. Parts of the outer faces of the bunds not yet grassed will be seeded in spring 2013. Some 20,000 cubic metres of topsoil is required to finish the top soiling of the bunds. It is confidently expected that the top soiling of the bunds can be completed by June 2013, with the proviso that this is dependent on the weather and on the availability of top soil. It is in light of this that the applicant is seeking through the determination of this application a time extension of 1 year to allow for the finishing of the bunds as an amendment to the phasing control on the development set by condition 7 and 8 of planning permission 09/00617/FUL.

The works to reshape the former Smeaton Bing into bunds, as approved by the grant of planning permission 09/00617/FUL, have lowered it in height from its highest point of some 40 metres above original ground levels to some 22 metres above those levels. The slopes of the bunds are less steep than some slopes of the bing were. The bunds appear as a much lower, less dominant and less prominent landform than the former bing. With landscaping of them they will ultimately be a less prominent, alien feature in medium to

longer views of the landscape of the area. The landform so altered is designed to allow for the visual containment of the waste recycling facility and for acoustic screening of the operation of use of it.

On the findings of the assessment of the re-profiling of the bunds given earlier in this report the bunds even as re-profiled will ultimately not be harmful to the landscape character of the area or result in a greater degree of visual intrusion than would have been the effect of them had they been finished to the form approved for them by the grant of planning permission 09/00617/FUL.

As also explained above the impact of the re-profiling of the southwest bund on the amenity of the two properties to the southwest of it is not significantly greater than it would have been had that bund been formed as approved by planning permission 09/00617/FUL, that the re-profiling of the bunds does not diminish their required capability of mitigating the impact of noise from the operation of the waste recycling facility on the neighbouring residential properties and that it does not prejudice the provision of a pedestrian footpath/cycleway along that strip of ground at the outer foot of the southeast bund to serve as part of the Council's Core Path network.

If this application is to be approved then in all of this it is reasonable to grant planning permission for an amendment to conditions 7 and 8 of planning permission 09/00617/FUL to extend the time period for the re-profiling and surface finishing of the bunds for 1 year from the date of that further grant of planning permission. This would also enable the completion of the other outstanding engineering development of the site that is the hardsurfacing of the full length of the internal site access road and of the internal working area of the waste recycling facility.

As the bunds are still to be fully re-profiled and surface finished a commencement of the landscaping of them is premature. Detailed discussions are on-going between the Council's relevant planning and landscape officers and the applicant's agent on the detailed landscaping of the development, including the bunds. Through these discussions completion of the finalised landscape proposal plans is imminent, in which case it would be reasonable to grant planning permission for an amendment to conditions 6 of planning permission 09/00617/FUL to extend the time period for the submission of the finalised landscape plans to within 2 months from the date of that further grant of planning permission. Otherwise the control of condition 6 remains that the landscaping of the bunds has to be completed by the end of the first planting and seeding season following the occupation of the buildings of the waste recycling facility or the completion of the development whichever is the sooner.

To enable the now applied for open storage use of the land of the internal working area of the waste recycling facility denoted as 'Phase 2' on the drawings docketed to planning permission 09/00617/FUL, condition 12 of that planning permission needs to be amended. The open storage use of that land would be wholly visually contained within the bunds around the internal working area and thus it would have no harmful impact on the landscape and visual amenity of the area. Since for the waste recycling facility SEPA is the licensing authority on matters of noise, odour, dust and air quality there is no locus for the Council, as Planning Authority, to conditionally control that open storage use of the internal working area of the waste recycling facility. On these considerations it is reasonable to approve an amendment to condition 12 of planning permission 09/00617/FUL to allow for such use.

## RECOMMENDATION

That planning permission be granted for the re-profiling of the bunds, the changes to the buildings and the open storage use of the western part of the inner working area of the waste recycling facility and for the associated amendments to conditions 6, 7, 8 and 12.

### 1 Condition 6

Within two months of the date of the grant of planning permission 12/00346/PM, a detailed scheme of landscaping and planting shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of:

- (i) the final contours of the site;
- (ii) tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting;
- (iii) details of hedgerow planting along the external side of the boundary fencing of the site, including along the fencing running between the site and the residential properties adjacent to the northeast boundary of the site, and where the fence would be visible from the public road or footpath;
- (iv) a planting of ash/oak woodland at the bottom of the bunds with the density of planting reducing up the slope, moving to oak and birch planting and then to more sporadic birch woodland towards the top of the slopes;
- (v) details of the land to be safeguarded for the provision of a pathway along the southern boundary of the site, including the surface treatment of the reserved strip of land and the maintenance arrangements for it; and
- (vi) a long-term landscape and woodland management plan for the site.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the bunds, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation. Thereafter the landscaping, tree planting and hedging shall be maintained in accordance with the approved landscape and woodland management plan for the site.

#### Reason:

In order to ensure the implementation and long-term maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to ensure provision of a pathway for the Council's Core Path Network.

### 2 Condition 7

The bunds shall be completed in accordance with the re-profiling of them approved by the grant of planning permission 12/00346/PM and the full length of the internal site access road and the land of the internal working area of the waste recycling facility shall be hardsurfaced no later than one year from the date of the grant of planning permission 12/00346/PM.

#### Reason:

To ensure that the works approved are completed timeously, in the interests of the amenity of neighbouring residents and of the visual amenity of the area.

### 3 Condition 8

Unless with the prior written approval of the Planning Authority:

- (i) Noise from the site during the carrying out of works comprising phase 1 of the engineering and construction development of the application site shall not exceed 70dB(A) LAeq,1 hour when measured free field at any residential property in the locality of the site.
- (ii) Noise from the site during the carrying out of works comprising the other three phases of the engineering and construction phased development of the application site shall not exceed 55 dB(A) LAeq,1 hour when measured freefield at any residential property in the locality of the site.

(iii) No working shall take place within the site during the finishing of the bund profiles and the construction of the buildings on the application site outwith the hours of 0700 to 1900 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

(iv) There shall be no commencement of use of the application site as a waste recycling facility unless and until all of the bunding has been formed, in accordance with the bund re-profiling approved by the grant of planning permission 12/00346/PM, around the internal working area and at the site access road of the waste recycling facility.

(iv) During the period of time of 0630 to 0700 Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of skip lorries with a skip having already been attached to them during a previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such lorries with skips during the period of time of 0630 to 0700 Monday to Friday inclusive.

(v) Other than for (iv) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 1800 Monday to Friday inclusive and 0700 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

Reason:

In the interests of protecting the amenity of residential properties within the area.

4 Condition 12

The development hereby approved shall be used solely for the purposes of waste recycling, including the ancillary office, parking and temporary overflow storage bays.

Of the internal working area of the waste recycling facility (i.e. the part of the site enclosed by the bunds but excluding the bunded site access road), the part denoted as 15 on drawing no. ED10822-003 Revision D docketed to planning permission 12/00346/PM shall only be used for the storage of inert materials. Neither that part of the internal working area nor any part of the site outwith the internal working area shall be used for the separation, processing or recycling of waste or any other materials, nor for parking or storage of vehicles.

Reason:

To ensure that none of the operations of the waste recycling facility or use of the site is harmful to the rural character of this part of the East Lothian countryside or the Edinburgh Green Belt.

5 Within one month of the date of this grant of planning permission, final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:500, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s), including the bunds to be formed as part of the development. The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings shown in relation to the finished ground levels and the height of the bunds on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.