

Agenda Item No. 4 (2)

**DERBYSHIRE COUNTY COUNCIL  
REGULATORY - PLANNING COMMITTEE**

**10 April 2017**

Report of the Strategic Director – Economy, Transport and Communities

**PROPOSED CHANGE OF USE TO AN INERT WASTE RECYCLING  
AND WASTE TRANSFER FACILITY INCLUDING THE  
CONSTRUCTION OF A SITE OFFICE AND WORKSHOP AT  
MAGNET BUSINESS PARK, HIGH HAZELS ROAD, BARLBOROUGH  
APPLICANT: UNITED COMMERCIALS LTD  
CODE NO: CW5/0117/84**

**5.1236.5**

**Introductory Summary**

The proposal is for a retrospective change of use of the land from industrial uses to an inert waste recycling and waste transfer facility including the retention of a site office and workshop to produce secondary aggregates for re-use.

It is considered the development complies with local and national policy and moves waste up the waste hierarchy and is recommended for approval under a temporary 3 year planning permission as an appropriate way for the Waste Planning Authority (WPA) to evaluate whether this scheme can be operated to satisfactory standard in this location prior to reconsidering a permanent waste use at the site.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

**The Site**

The application site is located on land to the southern edge of Barlborough, north of Magnet Business Park, and is accessed off High Hazels Road. The site, approximately 1 hectare (Ha) in area, is bounded by Barlborough Common to the north and by two large industrial/business units and a car park immediately to the south.

Approximately 65 metres (m) to the south-east is a large Tesco distribution depot. Midland Court, a business park which forms part of the wider Barlborough Links development, is situated to the north of Barlborough

Common, approximately 80m to the north of the area of the application site. To the north is a former landfill site. To the west lies arable farmland. The application site is not affected by any natural or cultural heritage designations.

Part of the application site benefits from a recent planning permission granted in July 2014 for the construction of a new access road, hardstanding area for a haulage business, office and welfare facilities (ref. 14/00220/FUL). The agent has confirmed that the applicant intends to submit a separate application for the haulage business vehicle parking on the site to the east of the access road of the proposed waste site. This land is identified as being “blue” land in the control of the applicant. This application is part retrospective in that a screen, inert materials, workshop and offices are already in use on the site.

A similar planning application to this current application being considered was submitted in 2015 (‘the 2015 application’) but was undeterminable due to a problem regarding ownership certification. This application therefore replaces that previously submitted.

### **Proposed Development**

This planning application proposes the change of use of the land from industrial uses to an inert waste recycling and waste transfer facility, including a site office and workshop to produce secondary aggregates for re-use.

The development is summarised by the following

- Temporary three year planning consent.
- Importation of approximately 100,000 tonnes of locally sourced inert construction and demolition (C&D) waste per annum.
- Exportation of approximately 100,000 tonnes of processed construction waste per annum.
- The use of screening and crushing equipment.
- The construction of storage areas/bays.
- Up to 40 heavy goods vehicle (HGV) movements (20 in/ 20 out) plus 30 other vehicle movements (15 in/15 out) per day.
- Operating hours stated as 0700 hours to 1800 hours Mondays to Fridays; 0800 hours to 1700 hours on Saturdays (importation of inert waste may sometimes be required outside these hours).
- The erection of a 4m high close boarded timber fence to part of the north and western site boundary.
- The erection of a two-storey flat roofed office building.
- The erection of a pitched roof workshop building.

The waste imported would be inert C&D waste (including soils, bricks, concrete and tarmac) which would be sorted, crushed and screened before being exported from the site. It is not proposed to import any hazardous or

contaminated waste to the site. The site is expected to operate under a Standard Rules Permit administered by the Environment Agency.

A modular site office and workshop building included in the application have already been erected, in breach of planning control. Both buildings are finished in grey with red flashing and guttering. The two-storey flat roofed office building measures 14.685m long x 6.055m wide x 5m high and is located in the north of the site. The pitched roof workshop building has dimensions 12m long x 12m wide x 6.5m to eaves (8m total height to apex) and is located in the north-east of the site.

### Site Planning Application History

Planning Application Reference No.	Development	Decision
CW5/0117/84	Proposed Inert Waste Recycling and Waste Transfer Facility.	To be decided. Negative screening (NPCU, SCRW/5/114)
CW5/1215/120	Proposed establishment of an inert waste recycling centre with attendant office, workshop and parking for HGVs and cars.	Application undeterminable
BDC 16/00187/RM	Reserved matters for erection of 157 dwellings and 5 B1 office units and 4 B2/B8 industrial units with provision of open space and access to the site via A619.	Approved 16 December 2016
BDC 14/00220/FUL	Construction of new access road, erection of temporary office, welfare facilities and workshop and creation of hard standing for a haulage business.	Approved 3 July 2014
BDC 09/00370/OUT	Mixed use residential and business development.	Approved 23 March 2011
BDC 08/00401/OUTMAJ	Offices, industrial and distribution units (B1, B2 and B8 uses) and demolition of existing factory including details of access and layout.	Approved 8 October 2008
BDC BOL1091/438	Outline planning permission for factories and associated offices.	Approved December 1991

## Consultations

### Local Member

The local Member, Councillor A Western, has been consulted.

### Bolsover District Council (Planning)

Bolsover District Council (BDC) responded stating that it objects to the proposed development. The reasons for the objection are summarised as follows:

- significant detrimental impacts to the character and appearance of the area;
- loss of key employment land previously granted planning permission for offices and industrial and distribution units (B1, B2 and B8 uses);
- potential impact on existing employers located at Barlborough Links;
- detriment to visual amenity, character of the area and increased risk of dust and noise pollution;
- detriment to surrounding countryside.
- Slayley Hill, adjacent to the site, is a well-used recreational route
- negative impact on the local economy with the potential for reduced economic activity;
- development is contrary to Bolsover District Local Plan Policies GEN1: Minimum Requirements for Development and GEN2: Impact of Development on the Environment;
- the development conflicts with National Planning Policy Framework policies seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings and the proposal fails to improve the character and quality of the area.

BDC confirmed its previous objection to the development (as stated in respect of the 2015 application) unless it is contained within a building. BDC confirmed the concerns about the nature of the development, which in its view would be unsightly and out of character with the area, with related dust and noise impacts, all of which will contribute to the downgrading of a prestigious key employment site with potential loss of employment, and over which careful design and appearance considerations (including restrictions on outside storage and unity of brickwork and cladding) have guided development and the establishment of the overall character of the Business Park

BDC also referred to the concerns expressed to it by the local district councillor who agrees with the District's recommendation. BDC also referred to the haulage use forming part of the application, querying whether this is ancillary to or part of the waste application.

### **The Joint Environmental Health Service of Bolsover District and North East Derbyshire District Councils (JEHS)**

The JEHS has raised no formal objection subject to the imposition of planning conditions relating to landfill gas assessment and management, noise control and management, retention of acoustic screen, dust management and sheeting of vehicles and potential drag out impact onto the public highway from vehicles using the site.

### **Barlborough Parish Council**

The Parish Council raise the following objections:

- *“The Council feel that the proposal will have a detrimental impact to the appearance of the surrounding area, being unsightly and out of character.*
- *The design, sitting and layout of the proposed building detract from the overall high quality of the Business Park*
- *The proposed location is the last available plot on a commercial site, Bolsover District Council has turned down previous applications which involved haulage demolition waste as it was viewed as internal light industry and not conducive to the character of the commercial site.*
- *This development would not meet the development needs of the area. Loss of key employment land with previous permission for offices and distribution units.*
- *Possible impact for existing employers on the Barlborough Links site due to detriment to visual amenity.*
- *Increased levels of dust and noise pollution from demolition waste vehicles (not approved) continually moving through the day.*
- *It has been suggested that the development hold recycled construction waste in a building on the site.*
- *Unauthorised and unapproved large amount of demolition waste on site*
- *Temporary consent for a period of three years would not be appropriate due to all of the above namely the adverse socio- economic and environmental impact.”*

### **Environment Agency**

The Environment Agency (EA) response states that it has no objections and provides an advisory note stating the following:

*“Advice to applicant –*

*We have limited records regarding the historical landfill site at Chesterfield Road, those records we do hold indicate that land filling may have taken place and deposits are likely to have been of non-hazardous industrial, construction, sewage press cake waste. Further information on this site may be available from the Local Authority.*

*An Environmental Permit for an Inert & Excavation Waste Transfer Station with treatment was issued to Recycling by Brid's Ltd on 22 April 2016. Should the applicant need to change this permit in any way for example to amend their permit boundary they are advised to contact [yorkshirewaste@environment-agency.gov.uk](mailto:yorkshirewaste@environment-agency.gov.uk) to request pre-application advice."*

### **Severn Trent Water**

Severn Trent Water Ltd responded stating that it has no objections to the proposed development subject to a planning condition relating to surface water and foul sewage drainage, and an informative note being attached to any decision notice that may be issued.

### **Yorkshire Water**

Yorkshire Water raised no objections subject to appropriate planning conditions being attached.

### **Highway Authority**

Derbyshire County Council, in its statutory role as the Highways Authority, raised concerns regarding parking arrangements on the site and requested vehicle number clarification and an appropriately scaled plan. The Highway Authority also advised that it assumed the haulage use is superseded by this application.

### **Lead Local Flood Authority**

Derbyshire County Council, in its statutory role as lead Local Flood Authority, raised no objections

### **Publicity**

The application has been advertised by site notices which were posted on 26 January 2017. A press advert was placed in the Derbyshire Times on 2 February 2017.

No representations have been received as a result of the publicity.

### **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the Derby and Derbyshire Waste Local Plan (2006) (DDWLP), Derby and Derbyshire Minerals Local Plan (DDMLP) and the adopted Bolsover District Local Plan (2000) (BDLP). Other material considerations include statements of Government policy in the National Planning Policy Framework (2012) (NPPF), National Planning Practice Guidance (NPPG), the National Waste

Management Plan for England (2013) and National Planning Policy for Waste (NPPW) (2014).

### **National Planning Policy Framework**

The NPPF states that local authorities taking decisions on waste applications should have regard to policies in the NPPF, so far as relevant. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Planning applications must still be determined in accordance with the development plan unless material considerations indicate otherwise. It states that the purpose of the planning system is to contribute to the achievement of sustainable development and adds that there should be a presumption in favour of sustainable development.

### **National Waste Management Plan for England**

This guidance was published in 2013, however, the most relevant statements of Government waste policy on the issues raised by this proposal are contained within the National Planning Policy for Waste (2014).

### **National Planning Policy for Waste**

The NPPF replaced many of the Planning Policy Statements, and the Waste Planning Policy Statement (PPS10) has been replaced by the National Planning Policy for Waste (2014) (NPPW). This document sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management, and states that positive planning plays a pivotal role in delivering the country's waste ambitions through the delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy. Annex B: Locational Criteria is relevant and a key objective of this Policy includes securing the re-use, recovery and disposal of waste without endangering human health and without harming the environment, and states that the concerns and interests of communities and business should also be reflected.

### **National Planning Policy Framework, National Planning Policy for Waste, Derby and Derbyshire Waste Local Plan, and Bolsover District Local Plan**

I consider that the most relevant development plan policies against which to assess the proposal are:

### **National Planning Policy Framework**

Achieving Sustainable development

Chapter 4: Promoting sustainable transport

Chapter 7: Requiring good design

Chapter 11: Conserving and enhancing the natural environment

## **National Planning Policy for Waste**

### **Annex B: Locational Criteria**

#### **Derby and Derbyshire Waste Local Plan Policies**

W1b: Need for the Development

W2: Transport Principles

W6: Pollution and Related Nuisances

W7: Landscape and Other Visual Impacts

W8: Impact of the Transport of Waste

W9: Protection of Other Interests

W10: Cumulative Impacts

MP24 Secondary and Recycled Materials

#### **Bolsover District Local Plan Policies**

GEN 2: Impact of Development on the Environment

EMP5: Protection of Sites and Buildings in Employment Use

GEN 8: Settlement Frameworks

ENV3: Development in the Countryside

#### **Planning History**

A tabulated summary of the planning application history is provided above. BDC granted outline planning permission for a mixed-use residential and business development (BDC ref. 09/00370/OUT) on 23 March 2011 on land to the north of the application site. The commercial element of the scheme comprising office units is immediately adjacent north of the application site on Barlborough Common (the site of a former tip). Further north on the northern side of the A619 Chesterfield Road, behind existing linear residential development, is proposed the residential element of the scheme comprising over 100 dwellings. The proposed residential development is approximately 340m away from the application site.

The reserved matters (reference BDC 16/00187/REM) relating to the above application were approved in December 2016. An analysis of this application indicates there would be built B2 (general industrial) units directly adjacent to the northern site boundary with B1 (light industrial) occupying part of the detailed layout.

Connected to the applicant for this application, BDC granted planning permission under reference BDC 14/00220/FUL for an access road, erection of temporary office, welfare facilities and workshop, and the creation of a hard-standing for a haulage business on the site. The agent has confirmed that the applicant intends to apply to BDC for commercial haulage and parking use on land adjoining the site which forms the basis of this application, should this current waste application be approved. Unless this current application is approved and the relevant permission is then implemented, then the BDC 14/00220/FUL permission would remain relevant.



## Main Issues

The key planning considerations for this application are:

- Possible net-negative economic impact.
- Whether the proposal would have an unacceptable impact on nearby land uses and users in respect of noise, dust, vibration and visual impact.
- The effect of the proposed development on the character of the area and the suitability of the site to accommodate a waste use.

The NPPW states that WPAs should assess the suitability of sites and/or areas for new or enhanced waste management facilities against certain criteria, two of which state that:

- (1) The “physical and environmental constraints on development, including existing and proposed neighbouring land uses, and having regard to the factors in Appendix B”, and
- (2) “the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.”

It goes on to say that when determining waste planning applications, WPAs should:

- only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, WPAs should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located; and
- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. WPAs should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

Appendix B states that in testing the suitability of sites in determining planning applications, WPAs should consider the factors below as are relevant in this particular case. WPAs are required to consider the envisaged waste management facility in terms of type and scale.

*“c. landscape and visual impacts*

*Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character.*

*f. traffic and access*

*Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.*

*g. air emissions, including dust*

*Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.*

*j. noise, light and vibration*

*Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.*

*l. potential land use conflict*

*Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility.”*

**Need for the Development**

Policy W1b: Need for the Development of the DDWLP presumes in favour of planning permission where a proposed development caters for the needs of a local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management. The policy also states that waste development catering primarily for the needs of other areas will be permitted only if the development would satisfy a need which could not realistically be met closer to the source of the waste and the development would contribute to an integrated system of management.

Data collected as the evidence base for the emerging Derbyshire and Derby Waste Local Plan indicates that the future need for waste facilities will predominantly be focused around the mid-section of the waste hierarchy, specifically transfer, treatment and reprocessing in driving the sector up the waste hierarchy. In that simple “need” context this application fits with that provision requirement.

### **Location of the Development**

The development plan for the area identifies the majority of the application site within a Key Employment Site in the BDLP. Policy EMP5: Protection of Sites and Buildings in Employment Use, GEN8: Settlement Frameworks and ENV3: Development in the Countryside would apply, given the employment use and minimal encroachment into open countryside.

The planning application history refers to the recently approved reserved matters industrial/residential development to the north of the site and it is in this context, and existing position on the ground, that the planning analysis relates.

BDC Policy EMP5: Protection of Sites and Buildings in Employment Use, seeks to ensure that planning permission will only be granted for the change of use or redevelopment of employment sites or buildings (whether existing or proposed by the Local Plan) to other uses subject to 4 criteria which can be summarised as follows:

- 1) Their use for employment purposes produces materially harmful traffic or environmental problems that would be resolved by the proposed use;
- 2) The applicant can demonstrate that the premises are no longer capable of providing an acceptable standard of accommodation for employment purposes;
- 3) The proposed development would bring benefit to the local community and that benefit would be greater than the benefit likely to arise from its existing or potential employment use; and
- 4) The proposed development would provide a service to adjoining employment uses which reduces the need to travel.

Although a waste recycling centre is a sui generis land use, i.e. not a B1, B2 or B8 use, it is the type of use which is generally considered to be acceptable in existing employment areas, subject to considerations about noise and pollution and impacts on neighbouring employment and residential uses. If these impacts can be adequately controlled then there should be no particular conflicts with existing adjacent business uses to the south and east or the proposals for new B1 and B2 business uses on land to the north-west under outline permission 09/00370/OUT and Reserved Matters BDC 16/00187/RM.

In the context of Criterion 3, a key issue will be whether the proposals would be likely to bring benefits to the local community compared to if the site was used for another purpose such as B1, B2 or B8 employment uses.

Employment benefits this type of use would bring to the area are provided by the expected number of employees that would be employed by the waste recycling facility and general haulage business. It is stated that an extra 25

employees alone would be required when the waste processing/exportation business grows to its full extent.

Overall, subject to the proposed development being acceptable in environmental impact terms (noise, pollution and traffic) and of an acceptable design and quality, it is considered that this proposal would not conflict with Policy EMP5 above.

The vast majority of the site is located within the Settlement Framework Boundary of Barlborough, for which Policy GEN8 is relevant. This policy states that within the Settlement Framework Boundaries, the general urban area control policies (policies GEN1 to GEN7) will apply and outside the Settlement Framework Boundaries, open countryside policies will apply. A small strip of the north-western part of the application site falls outside the Settlement Framework Boundary, which will predominantly be covered by the landscaping.

There will therefore be a minimal encroachment into the open countryside and, as a consequence, there would be minimal impact on the character of the open countryside. BDC's concerns are considered unsubstantiated and disproportionate in this respect. It has granted permission for new industrial development under 09/00370/OUT followed by the detail contained in reserved matters application BDC 16/00187/RM, on a sizeable area of land immediately to the north of the application site which is outside the Settlement Framework Boundary, and wholly within open countryside. I note that land further to the north of Chesterfield Road is located within the Green Belt, but I would consider the proposed recycling plant would have no impact on the openness of the Green Belt given the distance between the designation and the application site and the fact that planning permission 09/00370/OUT would effectively screen this site from view.

Overall, in the context of the BDLP policies above, the proposed use should be acceptable in land use policy terms subject to there being no adverse impacts relating to noise, pollution and traffic.

The applicant provides a Planning Statement in support of the application identifying relevant DDWLP and BDLP policies and also the national policy guidance context.

The Planning Statement considers the potential environmental impacts associated with the operation of an open air waste facility and is supported by specialist consultant reports. The statement suggests that the development would deliver a local facility that moves waste up the waste hierarchy in an attempt to avoid such waste being disposed of by landfilling. Following the relocation of the crushing plant within the site, the statement further considers that any adverse impacts would be capable of being adequately managed, by

both planning condition and permit requirements, and concludes that the benefits of a waste recycling facility would outweigh any potential adverse harm.

Whilst I do not disagree with the sustainable merits of the proposal, I am mindful that this type of waste handling is inherently dirty and unsightly, particularly where open air depositing of the unprocessed waste and open air crushing and screening of waste are undertaken. Viewed in that context, even if the need is justified and accepted then an open air operation in close proximity to B1 and other business users, as well as the traditional B2, B8 uses, needs to be acceptable.

### **Impact Upon Employment and Economics**

Both BDC and the Parish Council have expressed concerns that there would be an adverse economic impact on adjoining and nearby users and future users of the Business Park and a consequential knock on effect on employment in the area as a result of the development.

No substantive evidence has been provided to support the concerns raised by either BDC or the Parish Council. It is considered that such concerns are largely based on a perception that an open air waste use would have a detrimental impact on economic activity on the business park and the wider area.

The NPPF sets out the importance of sustainable economic development to deliver a strong and competitive economy. Paragraph 17 identifies, as one of its core principles, the need to proactively drive and support sustainable economic development to deliver the homes, businesses and industrial sites that the country needs. Significant weight is given to the need to support economic growth.

The representations made refer to the negative economic effect that the development would have on other businesses, as well as future businesses and development in the area, whether they be environmental impacts or the perception of such impacts. In the context of the proposals under consideration here, there appears to be a general perception that the waste development would cause environmental nuisance to other businesses and put off business being attracted to the employment site. The positive and negative effects of the development on other jobs and the local economy are difficult to evaluate.

The applicant has indicated that there would be an increase of 25 jobs arising from the waste development when built up to full capacity. The haulage business currently employs 25 and the applicant is expecting to double this number to 50 when the site is in full production. It is unclear whether full production is the 100,000 tonnes per annum or the 200,000 tonnes per annum

of processed waste as the earlier planning application promoted. The applicant has stated that he does intend to build up to the employment by growing the business, which may eventually mean the higher waste throughput figure previously referred to. Such an increase would need to be the subject of a further planning application and is not under consideration here.

Clearly the development would provide economic benefits to society through reducing the need for landfill by moving waste up the waste hierarchy. This facility, given its location on an established employment site and within good access to the highway network, should be considered a sustainable waste management facility subject to other site specific considerations.

The assessment of predicted environmental impacts for such an open air waste operation, and whether they are capable of being controlled acceptably through planning conditions, are considered below.

Should the predicted environmental impacts be capable of being controlled acceptably by planning conditions, then I do not consider that the stated disbenefit of the development in terms of local effects on employment and economy would be significant and am of the view that they are based on perceived economic impact rather than an evidence based argument.

**Whether the proposal would have an unacceptable impact on nearby land uses and users in respect of noise, dust, vibration and visual impact**

NPPF Chapter 11: Conserving and enhancing the natural environment (Paragraph 109) expects that the planning system should contribute to and enhance the natural and local environment and prevent new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution. Annex B: Locational Criteria of the NPPW lists 12 factors to consider when considering the suitability of a site in terms of impact on the environment and human health.

Policy W6: Pollution and Related Nuisances of the DDWLP states that waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects.

DDWLP Policy W10: Cumulative Impact seeks to assess proposals for waste development in the light of cumulative impact which they and other developments would impose on local communities, concurrently or successively. This policy presumes in favour of waste development where there is no significant and detrimental impact on the environment of those communities.

BDLP Policy GEN 2: Impact of Development on the Environment states that consideration will be given to the character and sensitivity of the land and uses around a proposed development site in relation to the character and type of development proposed. The policy presumes against development which creates materially harmful impacts on the local environment unless these are outweighed by the social or economic benefits to the community or wider economic benefits. Criterion 2 of this policy is relevant in terms of Impact on the Environment where regard must be had to the extent of the generation of noise, vibration, smells, fumes, smoke, soot, ash, dust or grit.

The identification and management of predicted impacts is considered key to this waste operation's design and success. Many open air waste sites appear unsightly and can generate high levels of dust. Potential visual impacts including whether there is a need for an operation in this location to be contained within a building is considered later.

The Environmental Permit requires the operator to manage and operate the activities in accordance with a written management system that minimises the risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformance, closures and those drawn to the attention of the operators as a result of complaints and not using sufficient competent persons and resources.

Appendix 4 of the Planning Statement provides a detailed Management System to be operated and refers to the controls imposed by the Environmental Permit and subsequent site management measures proposed for the site. The information within the Management Plan was submitted to give the WPA and consultees confidence that the operations will be carried in accordance the Permitting Regulations.

### **Environmental Impacts**

The planning statement includes an independent noise assessment (App 1), which has considered the potential impact of noise upon the local amenity, including a review of the previous (invalid) application's submitted dust assessment (App2). As part of this application, a review of the proposed layout for the site was undertaken, with a view to incorporating additional protection to the occupants of the surrounding residential and commercial properties in respect of potential noise, dust and visual impacts.

The application site is located within an existing industrial estate with regular HGV movements and which also includes the operation of a vehicle repair centre adjacent to it. The applicant considers that the characteristics of the noise associated with the operation of the facility would not be dissimilar to general B2 industrial uses.

The Bolsover and North East Derbyshire JEHS notes that the site currently operates under an EA permit (EPR/DB3602LG) and the associated conditions contained in Standard Rules SR2009No6 - inert and excavation waste transfer station with treatment. The Standard Rules conditions relate to the type of waste that may be accepted by the site, how the site operates, controls on the emissions to the environment, and the requirements for record keeping and reporting and notifications.

The JEHS is satisfied that the environmental impacts regard noise, vibration, dust and landfill gas, sheeting and wheel cleaning, are capable of being controlled through the permit and planning conditions (these are considered in more detail below).

### **Noise and Vibration**

The application is supported by a noise management plan. The NEDDC and BDC JEHS, having considered the information submitted as well as the existing noise climate and mitigation measures proposed, has raised no objections subject to the imposition of planning conditions requiring that the recommendations in the consultant's report are adhered to.

I am therefore satisfied that impacts associated with noise could be managed accordingly and is the development is considered to be in accordance with NPPW 2014 Annex B and DDWLP policy 6.

### **Dust**

The application is supported with a dust management plan. The NEDDC and BDC JEHS, having considered the dust management information submitted and mitigation measures proposed has raised no objections subject to the imposition of planning conditions.

I am satisfied that the dust impact could be managed accordingly by complying with a dust management scheme controlled by planning condition. It is considered to be in accordance with NPPW 2014 Annex B and DDWLP policy 6.

### **The effect of the proposed development on the character of the area and the suitability of the site to accommodate an open air waste use.**

The site is located on an employment site, the adjacent uses are either 'general industrial' or 'storage and distribution', which are not considered to be sensitive uses such as may be for B1 uses. It is noted that to the north of the site is vacant land. This land has recently received approval of reserved matters which, in this location, and facing the site, are two B2 buildings. I note that the land to the north of the application site encompasses a former landfill site which is known to be actively gassing. The suitability of this site adjoining will need to consider whether there is gas migration, particularly regarding the buildings on their occupiers.



Waste operations are commonly located alongside B2/B8 uses, this appears likely to be the case for this site. The recent employment site reserved matters approval included areas for B1 (light industrial use) and application residential use. However, these are not located adjacent to or adjoining this application site. BDC concerns regarding the suitability of the site to accommodate an open air waste site is noted, as is the preference that such a use is contained within a building reflecting the design and character of other buildings being used for employment uses.

### **Design and Visual Impact**

The NPPF at Paragraph 56 of Chapter 7: Requiring good design states that good design is a key aspect of sustainable development and should contribute positively to making places better for people.

Policy W7: Landscape and Other Visual Impacts of the DDWLP seeks to permit waste development where its appearance would not materially harm local landscape or townscape and would respect the character and local distinctiveness of the area.

BDLP Policy GEN 2: Impact of Development on the Environment considers the character and sensitivity of the land and uses around a proposed development site in relation to the character and type of development proposed. The policy presumes against development which creates materially harmful impacts on the local environment, unless these are outweighed by the social or economic benefits to the community offered by the development, or the wider environmental benefits. The policy adds that, in such circumstances, planning permission would be granted, provided no practicable alternative and better site is readily available. Policy GEN 2 includes 21 criteria against which to have regard to. Of particular relevance in respect of Design and Visual Impacts is Criterion 1 (visual appearance in relation to the locality and setting in the landscape).

The initial application included a Landscape and Visual Impact Assessment (LVIA) which recommended the use of dark grey or dark green to reduce the visual prominence of the workshop and office buildings. The office and workshop buildings have been constructed without the benefit of planning permission in a light grey finish with red trim. It is the red trim which draws the eye to the buildings.

The application provides 4m timber screen in the north/north-west of the site near to the crushing and screening plant. Full details have not been submitted for consideration. Such a feature would provide screening, reducing any visual impact and also contributing to noise and dust abatement.

Given the open air operation with 5m stockpile(s), and that the buildings have been erected in light grey materials and bordered in bright red, it is considered that the waste management facility is not well-designed, and does not contribute positively to the character and quality of the area in which it is located in this specific location on this industrial estate.

When determining applications, the WPA should ensure that waste management facilities are well designed so that they contribute positively to the character of the area in which they are located. In this case, officers consider that the open air nature of the facility is unsightly and does not enhance the area. The applicant was requested to consider concealing the processing aspects within a building to further reduce noise and dust and bring the site back into visual harmony with other businesses in the area. Outside storage of the processed materials within bays is considered acceptable. A 5m high stockpile is large and will be a prominent feature on the site. Restriction of operating plant working on top of the stockpile would be unacceptable visually in this employment setting.

The applicant does not accept that there is any need to contain the processing within a building and has suggested it would lack financial viability. The applicant states that there are no inert waste processing sites contained in a building in the UK and that the request to provide a waste management facility that is well designed and which would contribute positively to the character and quality of the area is unnecessary and wholly unjustified.

I note that BDC would not object to the development in this location if it were housed within a suitably designed building. It is also noted that the County Council has waste sites that are managed both within and outside buildings, depending on setting and site circumstances. One such facility is that at Markham Vale whereby the main processing is to be undertaken from within a building with the processed materials being stored in open air outside bays.

No details of a financial viability feasibility justification have been provided since the applicant considers that there is no need to contain any of the operations within a building. However, I am of the view that the use of a building to house part of the processing operation, in considering the physical site constraints and the suggested financial feasibility argument, has in this instance been fully explored and justified.

For unsightly open air operations such as are proposed here, the WPA will consider the need or otherwise for such uses to be wholly screened or not. In this case, the applicant has attempted to address the visual impact by re-siting the processing plant within the north-east part of the site, by providing a 4m wooden structure as a noise and visual barrier, siting storage bays along the site boundary and facing into the site the rear of such thereby providing a

visual screen to the neighbouring business and contributing to minimising dust blown material.

The workshop and offices have been constructed with a light grey and red colour scheme that did not benefit from the approval of this planning authority. I consider that this represents a missed opportunity in that the design, materials and colours used were not agreed and are not visually recessive. Notwithstanding this point, however, the unsightly appearance of the waste processing plant and proposed 5m stockpile(s) are considered in the context of a proposed landscaping plan to the west of the main processing area, the rear elevations of the recently approved B2 units at the northern boundary, as well as the processed material storage bays.

The combination of the 4m high close boarded fence, storage bays and the location of the proposed B2 business units approved as part of the reserved matters BDC approval in December 2016, as well as the success of proposed landscape planting on the site boundaries, would help mitigate the unsightly appearance of such an open air operation from both local and distant views into the site as well as contributing to noise abatement and help in assimilating the use successfully into its environment with a view to demonstrating that an open air waste use can be appropriately operated adjacent to more traditional business on an employment site.

Noise and dust are likely to be capable of being controlled and monitored as required to mitigate impacts on amenity under planning conditions and are not so significant as to warrant refusal of planning permission. The noise climate is already high given the location of the M1 motorway nearby and dust minimising with water suppression (spray system) is already taking place on the southern boundary. Again, the details of such a system have not been provided at this stage.

The applicant has, in this resubmitted application, reduced the throughput proposed to 100,000 tonnes per annum imported and as exported recycled inert waste material, and is willing to accept a temporary permission to demonstrate that the site can be operated effectively and responsibly in accordance with the environmental permit and planning conditions, without causing any adverse impact to adjoining businesses, users of the countryside adjoining, and the nearest residential properties to the north-west.

## **Conclusion**

The recycling facilities would provide a facility which will result in the recycling of waste locally instead of it being sent to landfill or transported for recycling further afield. The recycling facility is considered an acceptable development in this employment area subject to appropriate screening and environmental impact compliance.

From weighing all the issues in the planning balance, including economic, environmental and design, it is concluded that the benefits of delivering the recycling facilities outweigh such negative impacts as may be experienced (provided that any permission is granted with appropriate conditions for mitigation).

The proposal moves waste up the waste hierarchy thereby avoiding the need for landfill. This complies with Government policy and helps achieve the targets for landfill diversion. The proposed development accords with policies of the DDWLP and is supported subject to a three year temporary permission in order that the development can be monitored to establish that the impacts can be appropriately managed so as not to cause harm to amenity of adjoining businesses and the occupiers of the nearest dwellings.

It is considered that a temporary limit on the period for the use under an initial planning permission is the most effective and appropriate way of achieving a suitable planning re-evaluation of the acceptability of the facility further into the future. Three years from the date of permission would be a suitable period for this limit. Before the end of this period, this re-valuation can be addressed via any new planning application for the facility. The applicant has reacted positively to the suggestion to use the approach of an initial temporary permission as they are confident in their ability to manage the site effectively.

Subject to such a temporary period, it is considered that the development is in accordance with national and local planning policy contained in the NPPF, DDDWLP and the BDLP.

(3) **Financial Considerations** The correct fee of £ has been submitted for this planning application.

(4) **Legal Considerations** This is an application under Part III of the Town and Country Planning Act 1990 which falls to this Authority to determine as Waste Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social Value and transport considerations.

(6) **Background Papers** File No. 5.1236.5

The application documents submitted under application reference CW5/0117/84, consultation responses and planning file correspondence.

(7) **OFFICER'S RECOMMENDATION** That temporary planning permission be **granted** subject to conditions based on the following draft conditions:

**Commencement**

1) The development to which this permission relates is deemed to have commenced on 1 June 2016, being the date of referred to in the application form.

**Reason:** To monitor the temporary period for the approved retrospective development.

**Duration**

2) The operations hereby permitted shall cease no later than 36 months from the date of this permission and the site shall thereafter be cleared of all waste, recyclable materials, recycled materials and primary aggregates, buildings, structures, plant, vehicles and equipment associated with the operations hereby permitted no later than 39 months from 1 June 2016. This permission shall thereafter cease.

**Reason:** In order that satisfactory environmental compliance can be monitored over the temporary period.

**Permitted Development Rights**

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no buildings, plant structures or erections other than those hereby permitted shall be brought onto the Site without the prior written approval of the Waste Planning Authority.

**Reason:** To enable the Waste Planning Authority to adequately control, monitor and minimise the impacts on the amenities of the local area, to minimise the impact upon the landscape and built form in the area.

4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any succeeding Orders, the Site shall not be used for any purposes other than that which is the subject of this permission.

**Reason:** To enable the Waste Planning Authority to adequately control, monitor and minimise the impacts on the amenities of the local area, to minimise the impact upon the landscape and built form in the area in regulating the use of the land.

### **Form of Development**

5) The waste planning permission shall relate to the site edged red on the “existing plan and location plan ref GPP/B/B/16/03 Rev 3 dated 5 Jan 2016 hereafter referred to as ‘the Site’ and the development hereby permitted shall only be carried out within the Site in accordance with the approved documents and plans listed below:

- Application for planning permission 1App form (revision submitted March 2017)
- Planning Statement – (including revised App 4 Management System)
- Site Location Plan (G002 GPP Brid 01)
- Site Plan (GPP/B/B/16/02 Rev 3 dated 5.01.16)
- Proposed Site Layout Plan (GPP/B/B/16/03 Rev 3 dated 5.01.16)
- Proposed Parking Layout (GPP/B/B/17/04 Rev 1 dated 13.03.17)
- Noise Assessment Report (ref LF Acoustics Dec 2016)
- Deposited Dust Assessment ( 28 April 2016)
- Modular Building (3409473 -002, 3409473 – 003A)
- Workshop Elevations G002 GPP Brid 04

Except in so far as the approved documents and plans listed above are amended by the conditions specified below.

**Reason:** To ensure that the development is carried out in accordance with the details in the submitted planning application in the interest of the amenity of the area

6) A copy of this permission shall be kept available for inspection at the site offices during the prescribed working hours for the duration of the development.

**Reason:** To ensure that the site operators are fully aware of the requirements of these conditions throughout the period of development.

### **Hours of Operation**

7) With the exception of necessary works arising from emergency situations, no operations (including movement of: waste, recyclable materials, processed materials to or from the Site; and vehicles, delivery and removal of materials, inert waste and equipment) shall take place other than between the following hours:

- (i) Subject to the provisions of (ii) below 07:00 – 18:00 hours Mondays – Fridays and 07:00 – 17:00 hours on Saturdays and not at any time on Sundays and Bank/public holidays.

- (ii) All operations associated with the movement and operation of the crusher shall be restricted to between 08:00 and 13:00 on Saturdays.

**Reason:** To protect the amenity of the area.

### **Scope of Development**

8) No waste or recyclable materials, other than inert construction and demolition waste, shall be imported onto the Site. Only those inert waste materials defined in the Planning Statement and Waste Acceptance Criteria contained within application document entitled Management System shall be imported, processed and stored within the site and no additional processes for the management of waste shall be carried out at any time on the site.

**Reason:** To define the scope of the development in the interests of safeguarding the amenity of neighbouring occupiers/residents, highway safety, for the avoidance of any unacceptable impacts on the highway network and monitoring purposes.

9) Waste imports, processing and storage shall only be undertaken in the area denoted by the line edged red on the drawing reference GPP/B/B/16/03 Rev 3 dated 5 Jan 2016.

**Reason:** To define the scope of the development in the interests of safeguarding the amenity of neighbouring occupiers/residents and site landscaping.

### **Import Limit**

10) The total quantity of inert waste material imported and handled at the site shall not exceed 100,000 tonnes in any calendar year (for the avoidance of doubt a calendar year shall represent the period from 1st June to 31<sup>st</sup> May inclusive).

**Reason:** To define the scope of the development for which the use of the Site at a higher rate of input could raise environmental and amenity issues not considered in the determination of this proposal in the interests of safeguarding the amenity of neighbouring occupiers/residents, highway safety and for the avoidance of any unacceptable impacts on the highway network and to correspond to the completion date stated on the application form.

11) The operator shall keep accurate records of the amount of inert waste arriving at the site, and this record shall be submitted to the Waste Planning Authority every 3 months and made available for inspection by the Waste Planning Authority on request.

**Reason:** In order to monitor compliance with the authorised waste input tonnage.

## Highways

12) The parking spaces shown on the 'Proposed Parking Plan' (ref GPP/B/B/17/04 Rev 1 dated 13.3.17) shall be used only by vehicles involved in the waste management operations hereby approved and shall be maintained as such for the duration of the development. No other use of those parking spaces shall take place at any time and no other vehicles shall be parked or maintained on the site where the parking is indicated.

**Reason:** To maintain control over the site in the interest of highway safety

13) Vehicular access to the Site from the public highway and egress from the Site to the public highway shall only be obtained via the private access road leading from the entrance to the Site to High Hazels Road shown on the 'Site Layout Plan' (ref GPP/B/B/16/03 dated 5.1.16).

**Reason:** In order that access to the waste site can be controlled in the interests of highway safety.

14) The private access road shall be kept free from potholes and kept free from mud and debris for the duration of this permission

**Reason:** in order that the private access road is maintained to a standard that does not allow or contribute to spillage of material onto the public highway and in the interests of highway safety.

15) No commercial vehicles shall enter the public highway from the site unless their wheels and chassis are clean to prevent materials being deposited on the highway.

**Reason:** In the interests of highway safety to prevent mud and dust getting on the Highway.

16) The total number of Heavy Commercial Vehicle movements (HCV movements) associated with the delivery or removal of waste, recyclable materials, recycled materials to/from the Site shall not exceed an average of 16 HCV movements per full working day (8 in and 8 out) calculated over a full working week (Monday to Saturday).

**Reason:** To maintain control over the site and in the interest of highway safety.

17) All waste, recyclable materials, recycled materials in HCVs entering or leaving the Site shall be netted, sheeted, or placed within containerised vehicles



**Reason:** To minimise dust and spillage in the interests of amenity and highway safety

18) No vehicles associated with the development hereby permitted shall leave the Site in a condition whereby mud, dirt or other deleterious materials may be deposited on the private access road or public highway.

**Reason:** in the interests of highway safety and to prevent mud and dust being deposited on the highway.

### **Environmental Protection**

19) No external lighting shall be installed except in accordance with a scheme that has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include precise details of the lighting proposals including lux levels. The scheme shall then be implemented as approved.

**Reason:** To minimise the nuisance and disturbances to neighbours and the surrounding area.

20) There shall be no burning of waste on the site.

**Reason:** In the interest of amenity

21) All rubbish, debris, scrap and other waste material generated on the site shall be regularly collected and stored in a suitable container until disposed of off-site in a suitable facility.

**Reason:** In the interests of amenity of the area and of the environment

### **Surface Water Drainage**

22) Within two months of the date of this permission, a scheme for the surface water drainage of the site shall be submitted for approval of the Waste Planning Authority. The approved details shall be fully implemented and maintained throughout the lifetime of the temporary permission.

**Reason:** To protect the water environment and flooding.

### **Dust**

23) Within two months of the date of this permission, a scheme to minimise dust emissions shall be submitted for the approval in writing of the Waste Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The scheme shall then be implemented as approved with the

approved dust suppression measures being retained and maintained in a fully functional condition for the duration of the development hereby permitted.

**Reason:** To reduce the impacts of dust disturbance from the site on the local environment.

**Skips to be Incidental to Main Use**

24) Within two months of the date of this permission, details of skip storage, including the maximum number of skips, purpose and a location area within the Site shall be submitted to and approved in writing by the Waste Planning Authority. Skips shall then be stored in accordance with the approved details.

**Reason:** In the interests of local amenity

**Waste**

25) Non-conforming wastes shall be stored in a sealed container or skip and removed from Site within 7 days

**Reason:** in the interests of amenity and management of waste not authorised to be received and processed at the Site.

26) No later than two months of the date of this permission, the layout of the Site, including stock pile area(s), processed material bays, crusher location(s), car parking and waste vehicle bays, internal fencing and gates, water sprinklers location, boundary treatments and access gates shall be marked out as shown on the 'Site Layout Plan' (ref GPP/B/B/16/03 Rev 3 dated 5 January 2016) or submitted for approval in writing by the WPA and shall thereafter be fully implemented and maintained in good condition and fit for purpose in accordance with the approved plan unless otherwise approved by other conditions contained in this planning permission.

**Reason:** For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment

27) Within two months of the date of this permission, a scheme providing details of the construction of the finished surface and datum level of the yard where unprocessed and processed waste is stored shall be submitted in writing for approval by the Waste Planning Authority.

**Reason:** In order to minimise any pollution of the ground having regard to gas migration and to monitor stockpile heights in the interest of visual amenity.

28) The maximum heights of any materials in the external materials handling bays shall not at any time exceed the height of the storage bay walls

and in any event the storage of recyclable and recycled materials shall not exceed 3 metres in height or (measured from the finished level of the yard) and the storage of waste in stockpiles shall not exceed 5 metres in height.

**Reason:** in the interests of visual amenity as the site is located near to an adopted unclassified highway and proposed cycle network route

### **Noise**

29) Noise monitoring shall be undertaken in accordance with a noise scheme which has been submitted to and agreed in writing by the Waste Planning Authority. The scheme shall include the recommendations contained in the noise assessment report LF Acoustics: Proposed Inert Waste Recycling Facility at Magnet Business Park, Barlborough - Noise Assessment; (December 2016).

Noise from the development hereby approved shall not exceed the rating level presented in Table 4.2 in relation to the BS4142:2014 assessment undertaken at Brickyard Farm and the internal predicted noise levels presented in Table 4.3 relating to the BS8233:2014 internal noise assessment at 6 Midland Court, Magnet Business Park and Brickyard Farm.

The noise scheme shall be submitted for approval within four months of the date of this permission. The approved scheme shall then be fully implemented throughout the temporary period of the planning permission.

**Reason:** In the interest of the amenity of the area and occupiers of neighbouring commercial activities

30) All vehicles, plant and machinery operated on the site shall be maintained in accordance with the manufacturers specifications at all times and shall be fitted with and use effective silencers.

**Reason:** To control the impact of noise generated by the development in the interests of amenity of the area.

31) All reversing warning systems used on plant and vehicles on the site shall either be non-audible, ambient related or low tone devices.

**Reason:** To control the impact of noise generated by the development in the interests of the amenity of the area.

### **Landfill Gas**

32) Within four months of the date of this permission a landfill gas risk assessment (GRA) shall be carried out for the buildings erected for this development. The GRA shall be carried out in line with current guidance. The GRA shall include:

- a. A survey of the extent, scale and nature of the current gas regime on this site;
- b. An assessment of the potential risks to human health, property (existing or proposed), adjoining land and its receptors; and
- c. An appraisal of remedial options as may be required and a proposal for any necessary remedial option.

A report of the findings of the GRA shall be submitted to and approved in writing by the Waste Planning Authority. Any gas protection measures deemed necessary shall be fully implemented, in accordance with a timescale to be agreed in writing with the WPA, and carried out by a suitably qualified person and a verification report, prepared by a competent person must be approved in writing by the Waste Planning Authority.

**Reason:** In the interest of the amenity of the area and occupiers of neighbouring commercial activities

### **Landscaping**

33) Within two months of the date of this permission a landscaping and aftercare scheme shall be submitted to and approved in writing by the Waste Planning Authority.

The scheme shall include details of:

- Planting species, size of plants, density of planting and means of protection
- Ground preparation
- The arrangement for maintenance and aftercare for a period of three years (including cutting, trimming, watering, protection from pest damage and weed control and replacement).

The approved scheme shall be implemented in the first planting and season following the written approval of the scheme.

**Reason:** To minimise the visual impact of the development.

34) Any tree or plant, or any replacement of it, that is removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

**Reason:** To minimise the visual impact of the development.

## Cessation

35) In the event of the cessation of use of the facility for a period in excess of six months, a written scheme for the restoration of the site shall be submitted to the Waste Planning Authority within six months of the cessation of the use. The scheme shall then be fully implemented within two months of the notification of approval of the scheme.

**Reason:** In the interest of the amenity of the area and of the environment.

### **Statement of Compliance with Article 35 of the Town and Country (Development Management Procedure) (England) Order 2015**

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application and post application discussions and meetings with relevant officers in the Authority prior to the submission of the application.

Signed.....Dated.....

**Mike Ashworth**

**Strategic Director – Economy, Transport and Communities**