

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

19 August 2013

Report of the Acting Strategic Director – Environmental Services

- 2 PROPOSED RETROSPECTIVE CHANGE OF USE OF AN INDUSTRIAL UNIT FROM INDUSTRIAL B8 USE (STORAGE AND DISTRIBUTION) TO A WASTE TRANSFER STATION, TO ALLOW THE STORAGE AND BULKING UP OF DRY RECYCLABLES COLLECTED FROM AMBER VALLEY RECYCLING KERBSIDE COLLECTIONS ON LAND AT THE LOCKWOOD HOLDINGS INDUSTRIAL ESTATE, OFF RIPLEY ROAD, SAWMILLS**
APPLICANT: VEOLIA ES LIMITED
CODE NO: CW6/0513/38

6.459.10

Introduction Summary This is a retrospective application that seeks to use an existing industrial unit on the Lockwoods Industrial Estate for the storage of dry recyclable waste materials, such as glass, plastic, tin, paper and cardboard, that has arisen from local kerbside recycling collections. These waste streams are bulked up within the existing building and transferred by Heavy Goods Vehicles (HGVs) to a treatment facility for reprocessing into a product for subsequent use. The facility handles an estimated 11,000 tonnes of dry recyclable waste materials per year and would be an integral part of a sustainable method of waste management. I consider that the continued use of this site as a Waste Transfer Station would not conflict with the relevant development plan and I am therefore recommending that the application be approved subject to the conditions set out in my recommendation.

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

(2) **Information and Analysis**

The Site and its Surroundings

The application site lies within the large and now well established Lockwood Holdings Industrial complex situated at Sawmills, approximately 5 kilometres west of Ripley, 400 metres south-east of Bullbridge, with the A610 (Ripley-Ambergate) Road 250 metres to the north. The extensive industrial estate

which was historically part of former quarry workings, has become established over the last 40 years and now comprises of a series of large high-sided, modern industrial units and open concrete yards which house a collective mix of industrial and food processes, together with haulage, goods storage and distribution. The site of the application is situated on roughly level ground, close to the southern boundary of the industrial estate and consists of a rectangular shaped, single-storey, pitched roof building which extends to 15 metres by 30 metres and approximately 3 metres to ridge height. A large doorway on the north facing flank of the building provides vehicular access into the building. Fronting the building to the north is a large sloping open concreted yard area. To the east of the building are the open areas of the industrial estate. To the west, adjoining the building, are further industrial units and directly to the south is a wooded area. Beyond this lies open agricultural areas. The nearest residential properties are Waterloo Farm, approximately 160 metres to the north-east, and the corridor of houses fronting Ripley Road (A610), on lower ground approximately 180 metres to the north. All access to and from the site is via an established industrial estate entrance from the A610 (Ripley-Sawmills Road), then by way of approximately 300 metres of concreted internal access road within the industrial estate. Also related to this application are the applicant company offices, staff car park and enclosed works compound, situated on higher ground approximately 50 metres to the south-west of the application site.

Planning History

The industrial estate has emerged over the last 40 years from food production (canned/frozen peas and vegetables), to now include that of a large industrial estate where there is a general mix of uses including a lorry park, industrial storage, warehousing and goods distribution. The application site was first granted planning permission by Amber Valley Borough Council in the late 1970's for use in connection with materials storage in relation to brick making relating to the former quarry and later, during the 1980's, the land adjoining was used for road haulage and a contractor's plant yard. Since 2005, the Borough Council has confirmed that the application site has been used by the applicant company for the transfer of dry recyclables. Prior to this date, the building was also used similarly for a number of years by a local waste company.

The Application Details

The application proposes to continue to use the existing building as a bulking-up facility to accept (annually) approximately 11,000 tonnes of dry recyclable waste, all of which arise from local kerbside collections within Amber Valley Borough. The selected wastes which comprise of a mix of paper, card, plastics, can and glass only, would be delivered to the site in company vehicles. The vehicles would reverse into the building and discharge the materials into allocated internal bays. The waste materials would then be

collected and loaded into a larger vehicle (from inside the building) and the waste removed from the site for further recycling.

The proposed hours of operation at the site would be 0600 hours to 1700 hours weekdays and Saturdays only, with no working on Sundays or Bank Holidays. All access to the site would be from the industrial estate entrance/exit off Ripley Road, Sawmills, then a one-way traffic system via the internal estate access roads. The applicant contends that currently, the kerbside collection requires a maximum of 5 dedicated collection vehicles that visit the site up to twice a day, resulting in up to a maximum of 20 vehicle movements per day. These vehicles return to the site at the end of the working day and are parked at the applicant company offices/compound on higher ground, south-west of the application site. In addition to this, it is estimated that up to 5 larger goods vehicles would be required to visit the site to collect and export the waste off to an authorised materials recycling facility (resulting in a further 10 vehicle movements). The anticipated maximum total for vehicle movements generated daily is therefore 30.

Consultations

Local Member

Councillor D Williams objects to the proposal on the following grounds:

- The applicant company has effectively been breaking the law during the time the development has operated (from 2006) without planning permission and the Borough Council has failed to notify the County Council.
- The applicant company also has an existing waste management facility close to the application site.
- Incompatibility of the proposed works in proximity to a food processing plant.

Comment:

- **Breach of Planning Control:** *I have discussed this matter with planning officers at Amber Valley Borough Council and I believe this to be a simple oversight on the Borough Council's part. At the time of the original enquiry in 2005, it is likely that the building (subject of this current application) would be in use for storage of materials. When the applicant company first used the site, it may well have been that full consultation did not take place with the planning department at the Borough Council and a greater emphasis was placed on the element of storage, rather than the transfer of waste. This would have led to the operations at the site being overlooked with the applicant company under the impression that the transfer of waste being undertaken was in fact authorised by the extant permission. The issue was not discovered until enquiries were made by the company to the Environment Agency*

in January 2013 and this led to the submission of an application for an Environmental Permit.

- ***The applicant company has an existing waste management facility close to the application site and they should use this rather than the application site:*** *I have been advised that the applicant company is currently renting part of an approved waste recycling facility in a yard close to the application site. It is contended that the kerbside wastes are being temporarily managed at this site such to continue the service provided to householders whilst this application is determined.*

Amber Valley Borough Council

Planning: No objections, subject to the County Council being satisfied that the proposal will not significantly affect any adjacent residential amenity through noise or disturbance and that no significant trees are affected by the proposal.

Environmental Health Officer: Confirm that the waste transfer facility has operated at the application site since June 2005 and during this time there has been no recorded complaints received. They have advised that the proposed development lies within an area which could be subject to coal mining or hazards resulting from past coal mining and that the applicant should obtain information on any past, current and proposed surface and underground coal mining activity, and any other ground stability information in order to make an assessment of risk.

Ripley Town Council

Raised concerns that this site has been used for waste transfer for almost six years without an appropriate permission.

Comment: *I refer to these concerns in my Planning Considerations.*

Environment Agency

No objections and advise that the proposal will require an Environmental Permit.

Publicity

The application has been advertised by notices placed on the site and in the Derby Telegraph with a request for observations by 26 June 2013. As a result of this publicity, two representations have been received which raise objections to the proposal. I have also been contacted separately by telephone by the Bullbridge and Sawmills Area Civic Society. I have summarised all the comments and objections as follows:-

- applicant company already have a waste transfer facility in the village;
- waste development close to food processing;
- smell of contaminated packaging;

- increase in traffic;
- highway safety;
- lorries leaving Lockwoods site disturbing residents' sleep;
- noise from the estate;
- increase in vermin; and
- estate is getting bigger and becoming an eyesore.

Comment: *Where relevant, I refer to all these issues in my planning considerations.*

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 development plan comprises the saved policies of the adopted Derby and Derbyshire Waste Local Plan (DDWLP), and the saved policies of the adopted Amber Valley Borough Local Plan (AVBLP). The National Planning Policy Framework (NPPF) must now also be taken into account when considering this proposal. The policy considerations which the proposal gives rise to are, therefore, addressed by national policy and by local development plan policies. I have also taken into account the following policies:

The Derby and Derbyshire Waste Local Plan (DDWLP)

The relevant policies are:

W1b: Need for Development.

W2: Transport Principles.

W4: Precautionary Principle.

W6: Pollution and Related Nuisances.

W8: Impact of the Transport of Waste.

W9: Protection of Other Interests.

Amber Valley Local Plan (AVLP)

The relevant policies are:

LS1: Sustainable Development.

EN16: Pollution.

TP1: Impact of Traffic on the Transport Network.

National Planning Policy Framework

The NPPF, published in March 2012, replaced many of the Planning Policy Statements; however, the Waste Planning Policy Statement (PPS10), which is a material consideration in determining this application, remains in force until the National Waste Management Plan for England is published. The NPPF states that local authorities taking decisions on waste applications should have regard to policies in the NPPF, so far as relevant.

The relevant references of the NPPF are:

Chapter 17: Core planning principles.

Chapter 69: Promoting healthy communities.

Chapter 186: Decision taking.

Planning Policy Statement 10 (PPS10)

Still relevant is PPS10: Planning for Sustainable Waste Management, that sets out guidance on how planning can contribute to the delivery of sustainable waste management (including the delivery of the Waste Management Hierarchy).

Paragraph 29 of PPS10 advises that in considering planning applications for waste management facilities, planning authorities should consider the likely impact on the local environment and amenity. Annex E of PPS10 also sets out more locational criteria as regards impacts on local environment and amenity including protection of water resources, visual intrusion, traffic and access, air emissions, odours, vermin, noise, litter and potential land use conflict.

One of the key priorities of the County Council is to ensure that waste development increases sustainable waste management achieved through moving the management of waste up through the waste hierarchy. This can only be achieved by recycling, recovery and reuse of waste materials. As a consequence, there is a continuing need to provide sustainable waste management facilities but this, of course, has to be balanced against the suitability of the proposed site and its potential impacts on this local environment. Bearing this in mind, the key issues relevant to this proposal are:

- The need for the development.
- Location of the development.
- Local amenity impacts.

The Need for the Development

DDWLP Policy W1b: Need for the Development, states that

“Waste development will be permitted if the development would help cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management...”

The proposal is for a waste transfer station that would receive waste collected from kerbside collections in the Amber Valley area. The site would act as a local bulking point prior to the waste being transported to other recycling facilities for processing. The facility would continue to play an important part in the delivery of the existing recycling collection service in the area. It would move waste up through the waste management hierarchy and would cater for the needs of local people. I consider that the proposed facility would contribute

towards sustainability objectives and would accord with the requirements of DDWLP Policy W1b and PPS10.

Location of the Development

Whilst the site is located in a well-established industrial estate that has developed over the last 40 years, the complex is not allocated within the AVBLP as business or employment land, and there are no specific policies for this site. The application site is integral to the industrial complex and is surrounded by other industrial units and buildings; there are no residential properties in close proximity to the site. This proposal seeks to change the use of an existing building from B8 (storage and distribution) to waste development. I consider that this location is appropriate, and is accordance with PPS10 that supports waste development within existing industrial areas.

I acknowledge the concerns that have been raised regarding the compatibility of the proposal close to industrial units where food is produced. Also, Policy LS1 of the AVBLP states amongst other things that:

“Proposals for development should be... well related to existing patterns of development.. to reuse previously developed land in preference to Greenfield sites.....”

The nature of the waste materials to be handled comprises specifically of plastics, card, paper, cans and glass. No food or putrescible wastes that would otherwise give rise to odours, vermin attraction or cross contamination are proposed to be handled at the site. Additionally, the imported waste materials would be deposited within a building and only remain inside for a relatively short period of time prior to their removal. Under the proposed circumstances and that the Environment Agency raise no objections to the proposal, I feel the wastes to be dealt with would not be such to give rise to any element which might otherwise threaten the existing food processing operation or otherwise bring any detrimental impact for the workers on the industrial estate.

I consider that the proposed location would accord with the requirements of DDWLP policies W4, W6 and W9, and PPS10.

Amenity Impacts

The DDWLP states that waste management sites will be permitted only where the impacts on communities and neighbouring land uses, including cumulative impacts, are acceptable and that the development should not affect other land uses to the extent that it would materially impede or endanger the social or economic activities, or interests of the community. Development of this type has the potential to create impacts, such as noise, dust and odours. The development would involve vehicle movements into and out of the site and the

use of equipment and machinery inside the building, both of which have the potential to cause noise disturbance. I have considered these below in turn.

Relative to these considerations are the respective policies of the DDWLP, in particular, Policy W4 of the DDWLP which states that:

‘if there is reasonable cause for concern that a proposed waste development would give rise to a threat of serious or irreversible damage to the environment or to the use or enjoyment of land, the development will not be permitted unless conditions can be imposed or legal agreements made to ensure that precautionary measures are taken to minimise and seek to prevent such damage; and that the risk of such damage is outweighed by the potential benefits of the development’.

Policy W6 is also relevant, as it states that:

‘waste development will not be permitted if the development would result in harm caused by contamination, pollution or other adverse environmental or health effects.’; and

Policy W9 states that:

‘waste development will only be permitted if the development would not affect other development land uses to the extent that they would materially impede or endanger the social or economic activities or interests of the community’.

Also, Policy EN16 of AVLP states that:

‘planning permission will not be granted for development which would lead to a material increase in levels of air, water, noise and light pollution’.

Emissions to Air (noise dust and odour)

Noise, odour and dust pollution arising from waste proposals can be a concern and each type of waste management facility has to be assessed individually. One of the main elements of this proposal which could create emissions to air is the tipping and collecting of the waste material. It is inevitable that this could potentially give rise to an increase in noise and dust emissions, however, as all the handling of the waste material would take place inside the building, then much of the noise and dust would be contained. With regard to odours, due to the nature of the waste proposed to be managed and the short duration that the waste remains on the site, then subject to effective site management, I do not consider that the proposed works would give rise to any significant odours. With regard to impact on residential amenity, there are no residential properties immediate to the application site and the scale of the operations are relatively modest. Members will also be aware that as with other proposals, a full appraisal of the development is undertaken by a number of consultees. In this case, this has included the Environment Agency and the Environmental Health Officer from Amber Valley Borough Council. I note that no objections have been raised with regard to emissions to air.

Overall, I am satisfied that the operations will not give rise to any significant or sustained environmental nuisance.

The application site is located in a well-established industrial estate and the site is surrounded by other industrial units and buildings; there are no residential properties in close proximity to the site. In view of the above and subject to the imposition of conditions in respect of dust, noise, odours and hours of operation, I am satisfied that the proposal would be acceptable in the context of DDWLP policies W6, W9 and W11.

Traffic and Access

Policy W8 of the DDWLP states, amongst other things, that:

'development will only be permitted if the methods and routes of waste transport will not cause significant disturbance to the environment, people or communities; that the transport network is adequate the traffic that would be generated and the proposed access arrangements and the impact of the traffic generated will not be a detriment to road safety'.

Also, Policy W10 of the DDWLP refers to the cumulative impact of development and that proposals for waste development will be assessed in light of the cumulative impact, which they and other developments would impose on local communities, concurrently or successively. Waste development will only be permitted if the development would not result in significant and detrimental cumulative impact on the environment of those communities.

In this case, I consider cumulative impact is predominantly related to the impact of goods traffic proposed in addition to that already visiting and leaving the industrial estate. In traffic terms, however, the access to the application site is of a high standard and the volume of proposed traffic visiting and leaving the application site during normal working hours is not significant. The Highways Authority has not objected to the proposal on highway safety grounds.

Given the use of the industrial site and the proposed number of vehicle movements indicated in the application, I consider it unlikely that this proposal would have any detrimental effect on highway safety or cause any significant loss of amenity to other road users. I am satisfied that the access off Ripley Lane and through the existing yard is acceptable and that the proposal would accord with the requirements of DDWLP policies W2 and W8.

Visual Impact

In visual terms, the main element of the proposal is the existing industrial unit which was constructed some years ago. Due to its location within the industrial estate, it is well screened from view and, other than the adjoining units, is not directly overlooked. Views from the A610 are restricted by the

topography, existing buildings and vegetation. I do not feel any argument on loss of amenity on visual grounds could be upheld.

With regard to the concerns raised by Ripley Town Council, in particular that the site has been operated for a number of years without the relevant permission, I have raised this matter with the Borough Council and it is my opinion that as the building has a valid permission for storage, the Borough Council considered that as no waste element was involved, the works were permitted by virtue of the permission for industry and storage. This oversight led to the anomaly.

Conclusion

Notwithstanding that this proposal is retrospective, I believe this proposal would continue to help to make a significant contribution to the effective and efficient treatment of waste within the County. The site has the benefit of an established working industrial environment and already has in place relevant planning permission/s for industrial use and storage. The site is well located strategically, both in terms of the waste collection stream and with regard to the primary road network systems. There is an existing access to the site which has been designed to a high standard. The application site is not prominent in the landscape and is screened effectively by features within this industrial landscape as well as existing vegetation. I consider that potential environmental impacts would not be significant and, in any event, could be controlled and managed in such a manner that the overall environmental harm would be minimal. I note that the Environmental Health Officer and the Environment Agency have concluded that in this location, this proposal is acceptable. I do not feel there is conflict with development plan policy. Subject to the conditions set out in my recommendation, I consider that an objection in planning terms could not be sustained.

(3) **Financial Considerations** The correct fee of £385 has been received.

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

(6) **Background Papers** File No. 6.459.10

Application details and associated drawings with subsequent amendments. Planning permission/s related to industrial development. Letters/emails from Amber Valley Borough Council dated 4 June and 18 June 2013. Letter from the Environment Agency dated 18 July 2013. Email from Ripley Town Council dated 4 July 2013. Letters of Representation (and emails) various dates.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission be **granted** subject to the imposition of the following conditions:

Form of Development

- 1) The development shall be carried out in accordance with the details set out in the valid application dated 17 May 2013 and including all supporting information and plans reference nos: VES DTO AMBER 100 001 and VES DTO AMBER 100 002 (REV B) dated 25 April 2013, unless otherwise modified or amended by conditions of this permission.

Reason: To clarify the application details approved.

- 2) A copy of this permission, including all documents hereby approved and other documents subsequently approved in accordance with any condition of this permission, shall be kept available for inspection at the site office during the prescribed working hours

Reason: To enable the Waste Planning Authority to control the form of development and monitor its use in the interests of amenity.

- 3) No more than 11,000 tonnes of waste in any 12 month period shall be imported to the site. The applicant shall keep accurate records of the amount of waste arriving at and leaving the site, and this record shall be made available for inspection by the Waste Planning Authority on request.

Reason: The use of the site at a higher rate of input could raise issues of impacts not considered in the determination of this proposal and could be detrimental to the amenity of the area.

- 4) The sole vehicular access to the site shall be the access onto the A610 Ripley Road, as indicated in the application documents.

Reason: In the interests of highway safety and to ensure that adequate space is provided within the site, and to enable its use without danger to users of the site and other highways users, in accordance with Policy W8 of the Derby and Derbyshire Waste Local Plan.

- 5) No external lighting shall be installed except in accordance with a scheme that has been submitted to and received the prior written approval of the Waste Planning Authority. The Scheme shall include the following:

- precise details of the lighting fixtures to be used at the site;
- a 'lux' plan; and
- a programme of implementation.

Reason: To safeguard the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

Hours of Operation

- 6) No operations shall be carried out between 0600 hours to 1700 hours Monday to Saturdays. There shall be no working on Sundays, Bank Holidays or other National Holidays.

Reason: To safeguard the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

Noise, Dust and Odours

- 7) Reversing alarms used on vehicles on the site shall be either non-audible, ambient related or low tone devices.

Reason: To protect local amenity and to safeguard the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 8) Efficient silencers shall be fitted to, used, and maintained in accordance with the manufacturers' instructions on all vehicles, plant and machinery used on the site. Machinery shall not normally be operated with covers open or removed.

Reason: To ensure the development does not have an adverse effect on neighbouring commercial interests and local amenity in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 9) No plant or machinery, other than that described in the application documents as referred to in Condition 1 above, shall be brought to the site except in accordance with details of any additional plant or

machinery that has been submitted to and received the prior written approval of the Waste Planning Authority.

Reason: To protect local amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 10) At all times, such reasonable measures as may be necessary shall be taken to minimise the emissions of noise, dust and odours resulting from any operations authorised or required by this permission.

Reason: To protect local amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

Environmental Protection

- 13) There shall be no burning of materials on the site.

Reason: To ensure the development does not have an adverse effect on neighbouring commercial interests.

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

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 discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Footnotes

- 1) Any surface water discharge from the site will require a permit under the terms of the Environmental Permitting Regulations 2010.
- 2) The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation

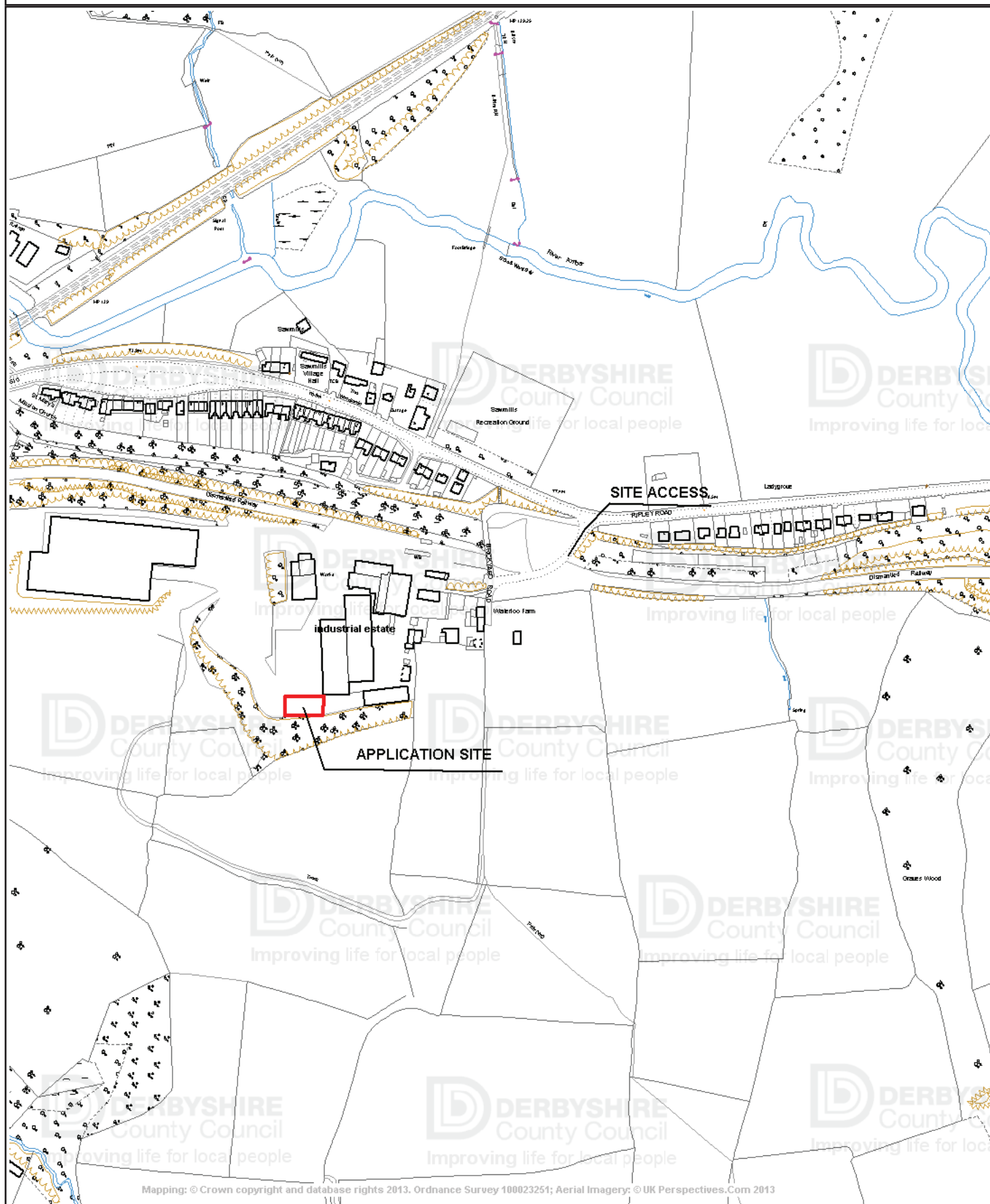
measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk

Mike Ashworth
Acting Strategic Director – Environmental Services



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