

Agenda Item No.3.3

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY – PLANNING COMMITTEE**

**20 May 2019**

Report of the Strategic Director – Economy, Transport and Environment

- 3 THE PROPOSED EXTENSION TO THE SITE AND CONSTRUCTION OF A WASTE HANDLING BUILDING FOR THE STORAGE, TREATMENT AND PROCESSING OF REFUSE DERIVED FUEL AT THE FORMER RAILHEAD, CADLEY HILL PARK, BURTON ROAD, SWADLINCOTE, DERBYSHIRE**  
**APPLICANT: WILLSHEES SKIP HIRE LTD**  
**CODE NO: CW9/1018/63**

**9.1561.6**

**Introductory Summary**

The proposal is for the construction and use of a waste handling facility for the storage, treatment and processing of refuse derived fuel (RDF) for use in waste to energy plants.

In considering the proposal, I have had regard to concerns relating to landscape and visual amenity, ecology and biodiversity, land contamination, flood risk, emissions to air, highways impacts and their effects on local amenity and I am satisfied that the effects of the development can be managed and mitigated through an appropriate suite of conditions.

The proposed development would provide an end use for locally produced waste reducing the need for landfill and for the export of waste. I therefore consider that the proposal would provide a facility that would meet the needs of the local area, and in creating a fuel product from that waste, would be in accordance with the national policy goals of moving waste up the waste hierarchy and contributing towards sustainable waste management objectives.

The development is considered to be in accordance with the development plan and is therefore recommended for approval.

- (1) Purpose of Report** To enable the Committee to determine the application and for the Committee to endorse the conclusion of the assessment work relating to the application for the purposes of the Conservation of Habitats and Species Regulations 2010.

## (2) Information and Analysis

### Site and Surroundings

The proposed development site covers an area of 2.12 hectares (ha) of land within a former rail yard, 'Depot 3', at Cadley Hill Park, Burton Road, Swadlincote. The site now consists of an area of hard standing accessed via a track within areas of grassland and scrub vegetation. The applicant currently operates an inert waste and wood waste recycling and skip storage facility at the site under a permission granted by the Council in 2017.

The former rail yard is owned by the applicant and consists of predominantly flat land in a semi-rural setting on low lying ground on the western outskirts of Swadlincote, and south-west of Newall. Directly east of the site is the former Tetron Point Opencast Coal site, which is now part of the large Abbey Glade industrial and recreational area and the extensive Bison Concrete Works. On higher ground directly east of the site is the A444 Burton Road. Within 150 metres (m) to the north is a large Sewage works. Approximately 300m to the north-west is a large working farm and a small number of residential properties and to the north-east are residential properties and a boarding kennel on the A444. Two hundred metres to the south beyond the wooded areas is a former farm now converted into complex of residential properties. All access to the site is from Cadley Hill Road (A514), then via the industrial area to the east on a hard surfaced road which travels under the A444.

Much of the site is in a part derelict condition, overgrown with shrubs, self-set trees and undergrowth and, on rising ground within the southern part of the site, there is a thickly wooded area.

There are the remnants of previous industrial uses including a former railway and a large irregular shaped concrete pad extending to approximately 80m by 40m, with a 1m high bund on the northern edge, all of which was used previously as a coal yard and depot, constructed by the previous occupiers of the site. The rail yard largely constitutes, the Cadley Hill Railway Area Local Wildlife Site (LWS), and the application site is within the LWS.

### Planning Background

Planning permission CW9/0816/45, issued in October 2017, allows the importation of 70,000 tonnes of inert wood waste per annum, the use of screening, crushing and shredding equipment in processing this material, and stockpiling of processed and unprocessed waste materials. It also requires the construction of a 3m high concrete wall noise barrier along the northern edge of the concrete pad. The planning permission is time limited to 10 years.

Planning permission CW9/0418/3, issued in September 2018, allows the construction of a weighbridge and canteen on the internal access road into the site.

## The Proposals

The application is for the construction of a waste handling building for the storage, treatment and processing of waste to produce RDF. The applicant envisages that the RDF would then be despatched to various waste to energy plants including the Drakelow Renewable Energy Centre (once built).

Operations within the building would involve processing of mixed plastic, paper and cardboard and other non-putrescible wastes to create RDF. Material would be manually and automatically sorted through a staged process to produce RDF with types of recyclable materials such as metals, inert waste and oversized wastes separated out. The product would then be baled and wrapped before being removed from the building and stored outside on the concrete pad, awaiting collection and dispatch to waste to energy plants. Leftover fines stored within the building may also be used as RDF Fuel and would also be sent for energy recovery.

The building would be located towards the western end of the site with access to the building created and circulation space provided around the building. It would be a single storey structure with a footprint of 102m x 36m and would be 10m high to the eaves and with a maximum height of 14m to the ridgeline. The building would be steel frame construction with concrete and panel walls and steel sheet roofing. The main finish colour would be slate grey (BS 18B29). The proposals include the installation of a roof mounted solar photovoltaic (PV) system.

In order to manage surface water and provide flood compensation, an area of the existing railway embankment to the north-east of the proposed building would be removed and an area of existing hard standing to the south-east of the building would be lowered. An access would be created from the existing track to the building and the hard standing to the rear of the building would be retained for vehicular circulation.

The application site under the proposal involves some of the area covered by planning permission ref: CW9/0816/45 and an adjacent area of 1,320 square metres (m<sup>2</sup>), giving a total site area of 3,672m<sup>2</sup>. This would provide an additional capacity of 120,000 tonnes per annum of waste at the site. The applicant currently has three employees based at the site and this would increase to 25 as a result of these proposals.

The total HGV movements for the former rail yard, including those permitted under planning permission CW9/0816/45, would be 500 per week (250 in/250 out).

Twenty-eight car parking spaces would be reserved for staff and visitor parking immediately adjacent to the weighbridge, with an additional car park

on the access road on the eastern side of the A444 capable of parking up to 31 cars.

The applicant states that the proposals seek to address the national need for RDF recycling plants within the UK and the potential need to find alternatives to the export of wastes to the EU and the Far East. It also states that currently, the applicant exports 50,000 tonnes of RDF type wastes to Norway and Sweden each year and considers that processing this waste closer to its source would accord with the Proximity Principle set out in national and local policy and would reduce CO<sub>2</sub> emissions associated with the transport of waste for export.

The applicant also notes that, in addition to the planning process, prior to the site entering operation, the site would require a bespoke environmental permit from the Environment Agency, and that the Agency would also need to be satisfied that the site would not create unacceptable environmental impacts.

It is clear from analysis of the documents supporting the application that the current application was conceived as proposing a development that would be undertaken concurrently with the existing permitted development for wood waste permission (under planning permission CW9/0815/45). However, the proposed development as described in the current application does not incorporate the existing development, and appears to be incompatible with some aspects of the existing permitted development. The determination of this application cannot generate any new permission which would integrate the proposed development with the existing permitted development.

The site of the current application overlays part of that of planning permission CW9/0816/45 and, if approved, the building and operational areas of the current proposal would restrict the areas available for the operations approved by CW9/0815/45. The applicant has agreed to discuss the need for a subsequent application for the wood waste importation business to have a future at the existing permission site. This matter is not considered to present any material issues in the determination of this application.

### **Environmental Statement**

The application is accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The ES includes background information, descriptions of the site and surrounding area, and the proposed development, together with a summary of what the applicant considers to be the relevant local and national policies relating to the proposal. The ES sets out the potential impacts of the development in terms of ecology and biodiversity, water and drainage, traffic transport and access, air quality, noise and vibration, ground contamination and cumulative effects. It also sets out a consideration of alternatives to the proposal as submitted. Where appropriate,

these issues are addressed in more detail in the Planning Considerations section below.

### **Post Application Submission**

The applicant has also submitted further and additional information to the Environmental Statement comprising of:

- a Herpetofauna Method Statement (for the protection of reptiles and amphibians);
- a Woodland Management Plan; and
- a Surface Water Drainage Strategy.

### **Consultations**

#### **Local Members**

Councillor Bambrick stated that he had no comments on the application.

#### **South Derbyshire District Council**

South Derbyshire District Council (SDDC) had no objections, subject to:

- the mitigation measures outlined within the ES are secured by condition(s) as it is imperative that these measures are carried out. In particular; The Construction Environment Management Plan; A Dust and Odour Management Plan; and Noise Action Plan;
- the loss of part of the Cadley Hill Railway Area LWS needs to be adequately mitigated for which should go beyond the management required by the previous permission on the site. This may be provided through biodiversity offsetting;
- the scheme should include National Forest Planting which, in accordance with Policy INF8 of the South Derbyshire Local Plan (SDLP), the site should provide 20% of the development area as woodland planting and landscaping. If this is not achievable on-site, this could be provided as an off-site financial contribution; and
- in order to safeguard the long term potential for the provision of a rail freight terminal on the site, a similar condition to that imposed on the previous permission for the wider site (CW9/0816/45) for a 10 year permission (from implementation) should also be imposed if permission is granted.

The Waste Planning Authority (WPA) sought clarification with regard to the final bullet point as it considers such a requirement would make the proposed development un-implementable. The WPA therefore sought SDDC's views on the report included in the application that discussed the likely feasibility of a railhead development at the site. SDDC did not offer further clarification or justification for the comment other than stating that it relied on the advice of the Council in relation to transport policies, including those relating to rail

transport. This issue is discussed further in the Planning Considerations section of the report.

### **Castle Gresley Parish Council**

The Parish Council did not have any objections but did have general concerns regarding the volume of extra traffic on the A514 and the A444 Island at Cadley Hill.

### **Environment Agency**

The Environment Agency had no objections to the proposed development in principle. It did, however, request conditions to ensure that the flood risk, groundwater protection and contaminated land management measures, set out in the application, are carried out appropriately. It also included advisory notes to the applicant on the management of waste on site and leaving the site, and on groundwater protection.

### **Natural England**

Natural England had no objections and advised that it considered that the proposed development would not be likely to have significant effects on the River Mease Special Area of Conservation (SAC) and, in relation to the requirements of the Habitats Regulations, advised the WPA to record a decision that a likely significant effect can be ruled out. It also advised that, with regard to the River Mease Site of Special Scientific Interest (SSSI), it considered that the proposed development would not damage or destroy the interest features for which the site has been notified.

### **The National Forest Company**

The National Forest Company (TNFC) noted that the proposed development is of a scale where adopted SDLP Policy INF8 would require 20% of the site area to be National Forest woodland planting and landscaping. The site area extends to 2.12ha, therefore, 0.42ha of woodland planting and landscaping would be required. It also noted that there would appear to be limited opportunity for this to be accommodated within the application site. In these circumstances, the adopted policy allows the required planting to be met by way of a financial contribution. As an alternative, TNFC suggests that the enhancement of the mature woodland within the wider site owned by the applicant would be a suitable alternative to on-site planting or a financial contribution. TNFC therefore suggests a condition for the submission, agreement and implementation of a Woodland Management Plan for all areas of woodland within the blue line area.

### **Derbyshire Wildlife Trust**

Derbyshire Wildlife Trust (DWT) raised no objections but did have concerns regarding encroachment into the grassland habitats within the Cadley Hill Railway Area LWS and the impacts on the flora and fauna within the site; in particular the potential impacts on reptiles and amphibians. Following the

submission of a Herpetofauna Method Statement and a Woodland Management Plan, DWT was satisfied that, with some amendments, the measures set out in these documents, together with off-site compensation on adjacent land in the control of the applicant, would ensure that there would be no net loss of biodiversity as a result of the proposed development. DWT wished to see these measures secured by relevant conditions.

### **Local Highways Authority**

There are no highways objections.

### **The Lead Local Flood Authority**

The Lead Local Flood Authority (LLFA) raised no objections but did request conditions for a Flood Risk Assessment (FRA) and drainage strategy.

### **The Coal Authority**

The Coal Authority has no objections to the application.

### **Network Rail**

Network Rail stated that it had no observations to make.

### **Ministry of Housing, Communities and Local Government**

The Ministry acknowledged receipt of the ES and that it had no comments to make.

### **Publicity**

The application was advertised by site notices and notices published in the Burton Mail with requests for observations by 25 March 2019.

In response to the publicity, five representations were received raising objections and/or concerns regarding the proposals. The issues raised in the objections can be summarised as follows.

- The proposal falls outside the requirements or vision of the local development plan then it should fail. If allowed, a dangerous precedent would be set undermining the very reasons why a development plan is determined in the first place.
- The building will have a negative visual impact on the landscape.
- A building of this size will have a negative impact on the ecological value of the site, there are a number of ponds and natural habitats that once gone cannot be replaced.
- The proposal to plant “a screening belt of trees” will not be sufficient to mitigate the visual impact.
- The storage of up to 300 tonnes of bales outside the building awaiting collection will also have a negative impact on the appearance of the site.
- The increased movement in traffic to and from the site will have an impact on traffic flow.

- Increased noise levels from traffic and RDF processing.
- The applicant has failed to adhere to existing planning conditions; working outside clearly defined operating times; not using adequate measures to reduce the amount of dust and noise emanating from the site; not replanting new trees to replace those removed; waste has been burned on site.

Where relevant to the consideration of the proposed development, these issues are addressed in the Planning Considerations section below. With regard to the applicant adhering to the conditions of the existing planning permissions, this is an enforcement matter for the Council to deal with separately from the determination of this application and not a consideration in that determination.

## **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The development plan consists of the saved policies contained within the Derby and Derbyshire Waste Local Plan (DDWLP) (adopted 2005), the adopted policies of the South Derbyshire Local Plan Part 1 (2016) and Part 2 (2017) (SDLP).

The National Planning Policy Framework (NPPF) (2019) and associated Planning Practice Guidance (PPG), together with the National Planning Policy for Waste (NPPW) (2014), form the national guidance for the determination of planning applications.

### **Saved Policies of the Derby and Derbyshire Waste Local Plan**

Within the DDWLP, the most relevant development plan policies for this proposal are:

- W1b: Need for the Development.
- W2: Transport Principles.
- W5: Identified Interests of Environmental Importance.
- 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.
- W13: Sorting of Waste Before Disposal.



## **South Derbyshire Local Plan**

The SDLP Part1 was adopted by SDDC on 13 June 2016 and Part 2 was adopted on 2 November 2017.

Within the SDLP, the most relevant policies are:

SD1: Amenity and Environmental Quality.

SD2: Flood Risk.

BNE3: Biodiversity.

BNE4: Landscape Character and Local Distinctiveness.

BNE5: Development in Rural Areas.

INF2: Sustainable Transport.

INF8: The National Forest.

## **National Planning Policy Framework**

A revised NPPF was published in February 2019. The NPPF provides guidance on material considerations in the context of determining planning applications. It states that the purpose of the planning system is to help deliver sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined, but is said to have interrelated economic, social and environmental aspects. The economic aspect is to provide sufficient land for the right type of development, in the right place at the right time. The social role is to support strong and vibrant communities by providing for the needs of the community whilst fulfilling the environmental role of protecting and enhancing the natural, built and historic environment.

## **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 NPPW.

## **National Planning Policy for Waste**

The NPPW, published in October 2014, sets out the current detailed Government policies for the determination of planning applications for waste related developments. It reinforces established Government waste policy of driving the management of waste up the waste hierarchy whilst stating that local planning authorities need to ensure there are sufficient opportunities to meet the identified needs of the area. Appendix B of the NPPW sets out the locational criteria for consideration of the likely impacts of a proposed development on the local environment and amenity.

## **Need for the Development**

The NPPW states that when determining WPAs, WPAs should (*inter alia*) 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, waste planning authorities

should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

Policy 1b of the DDWLP: Need for the Development states that; *“waste development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management.”*

As waste management evolves in response to the emergence of new markets for products derived from waste, it is inevitable that new kinds of waste management and processing facilities, intended to meet national and local needs, will come forward for planning approval. The applicant has set out how it is currently producing and exporting a significant tonnage of RDF type material from its operations in Derbyshire and Staffordshire. Together with other waste to energy plants, the recently approved Drakelow Renewable Energy Centre would provide a ready local destination for the RDF produced by the proposed facility. The combination of these developments would provide an end use for locally produced waste reducing the need for landfill and for the export of waste.

I therefore consider that the proposal would provide a facility that would serve the needs of the local area and so would be in accordance with the ‘proximity principle’ as set out in Policy W1b of the DDWLP, and would also be in accordance with the policy goals of moving waste up the waste hierarchy as set out in the NPPW.

### **Environmental Impacts of the Development**

Due to the location and nature of the proposed development (as set out above), I am satisfied that, amongst the criteria set out in Appendix B of the NPPW, the potential impacts in relation to: *“land instability; conserving the historic environment; odours; vermin and birds”*; and *“litter”*; are negligible and therefore not so significant as to warrant detailed discussion in this report. I will, however, discuss the remaining relevant criteria of: *“protection of water quality and resources and flood risk management; landscape and visual impacts; nature conservation; traffic and access; air emissions, including dust; noise, light and vibration”*, and *“potential land use conflict”* in the considerations set out below.

### **Hydrology, Hydrogeology and Flood Risk**

The proposal site lies predominantly within Flood Zone 3 with a 1 in 30 year chance of flooding, therefore, a FRA has been required.

Policy SD2: Flood Risk of the SDLP sets out that development in areas that are identified as being at risk of flooding will be expected to be resilient to flooding through design and layout; incorporate appropriate mitigation measures, such as on-site flood defence works and/or a contribution towards

or a commitment to undertake and/or maintain off-site measures; not increase flood risk to other properties or surrounding areas; and not affect the integrity or continuity of existing flood defences.

Paragraphs 155 - 165 of the NPPF set out that it is the Government's policy that inappropriate development in areas at risk of flooding should be avoided. The accompanying PPG sets out a checklist for a Site-Specific FRA that should be applied in relation to flood risk when considering new proposals.

The applicant has carried out a Flood Risk and Surface Water Drainage Assessment to consider the impact of the proposals on surface and groundwater. The assessment concluded that surface water outflow from the site would need to be controlled with excess water temporarily stored on site using an underground storage tank. It considers that the proposals would have a negligible impact on the surrounding existing properties, subject to ensuring that the surface water run-off is retained on site and directed into a fully designed surface water system. The building would be designed to be resilient to flooding incorporating basic flood protection measures and the existing Flood Response Plan for the site would remain in place. The assessment concludes that surface water drainage can be accommodated in the design of the development and that Sustainable Drainage Systems would be a fundamental part of the surface water drainage design.

The LLFA accepts the conclusions of the assessment and recommends a condition for detailed design, management and maintenance plan to be implemented prior to the building being taken into use.

Taking into account the analysis set out in the assessment, and the conclusions of the LLFA, I consider that the proposals include appropriate measures to deal with risk of flooding and to manage surface water and drainage at the site. Therefore, subject to the condition set out above, I consider the proposal is in accordance with the requirements of Policy SD2 of the SDLP.

### **Land Contamination**

DDWLP Policy W6: Pollution and related nuisances 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 to people or communities, the site of the development, nearby land uses or the wider environment.

The ES included an assessment for ground contamination at the site and also the impact the development may have on the environment in relation to contamination. Trial pitting found that through its former use as rail sidings, the site contained large areas of made ground containing an inert fill made up of gravel and cobble including concrete, brick, rock, shale, sand and ash.

Elsewhere, the ground was made up of natural alluvial gravel deposits. All these deposits were found to be underlain by an alluvial clay deposit. Groundwater levels were found to be around 2m below ground level. The assessment concluded that the site is not considered to be contaminated. It did, however, recommend that landfill gas monitoring be a requirement for any new permanent structures.

In considering the use phase of the proposal, the assessment concluded that the site could have an effect on land quality through the introduction of contaminants from off-site, mainly in the form leachable substances within imported wastes, but stated that such operational risks would be mitigated by the intended use of a drained impermeable pavement across the operational areas.

I consider that the risks associated with land contamination in relation to the proposal are limited and that these risks can be properly addressed through conditions securing mitigation measures set out in the assessment. Subject to an appropriate condition for a landfill gas monitoring scheme, I consider the proposal meets the requirements of Policy W6 of the DDWLP and Policy SD2 of the SDLP in respect of land contamination issues.

### **Landscape and Visual Impacts**

DDWLP Policy W7: Landscape and other visual impacts, presumes in favour of waste development where the appearance of the development would not materially harm the local landscape or townscape, and would respect the local distinctiveness of the area. This policy also seeks to minimise visual impact and to protect the character of landscape.

Policy BNE4 of the SDLP: Landscape Character and Local Distinctiveness seeks to protect South Derbyshire's landscape and soilscape through careful design of new development. Developers should give close regard to landscape character and woodland and tree planting, landscape management and habitat creation, and management should be appropriate to the character of the landscape. Development that would have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted.

Policy BNE5 of the SDLP: Development in Rural Areas states that within rural areas development will be permitted where (inter alia) it will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

Policy INF8 of the SDLP: The National Forest expects developments of this scale to incorporate woodland planting and landscaping in accordance with National Forest Planting Guidelines. These would expect 20% of the site area

to be woodland planting and landscaping. Where on-site planting is not feasible, enhancements to existing woodlands are an appropriate alternative.

The NPPF recognises the importance of creating a high quality built environment, and the protection and enhancement of our natural environment, recognising the intrinsic character and beauty of the countryside. The conservation and enhancement of the natural environment is sought through the protection and enhancement of valued landscapes. It requires that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which it states should have the highest status of protection. However, the NPPF does not include a policy that seeks to protect the setting of such areas or the wider undesignated landscape.

The Landscape and Visual Appraisal (LVA) notes that neither the site, nor the wider context are covered by any designations for landscape value or quality, it also notes that it is adjacent to Green Belt, is within the National Forest and is designated as a LWS. It states that visual receptors are limited to those in the immediate vicinity of the site and include residents in properties to the south off Cadley Lane, to the north adjacent to the sewage works and to the north-east off the A444.

The LVA concludes that the construction of the proposed RDF building would inevitably result in adverse effects on the landscape of the site, however, these are assessed as minor adverse in the long term due to the edge of settlement and industrial context, and effects are restricted to the site itself as a result of the existing enclosure and surrounding woodland. Long term effects on the wider landscape character areas are assessed as negligible.

The LVA states that the site has a limited visual envelope due to the nature of the landform and presence of existing mature woodland. Local sensitive visual receptors are identified as a low number of residents, users of the local footpath network and the local road network including the A444 which passes the site to the east. Views to the site are considered to be generally restricted due to the landform and presence of existing vegetation around the site and associated with disused railway lines and road corridors. An area of woodland planting will be implemented to the east of the building as part of an existing planning approval associated with the site. It is considered that the recessive slate grey colour of the building would help it to blend with the existing context and the woodland planting would mature and screen views of the building for local receptors. Long term visual effects for local receptors are assessed as negligible.

The LVA concludes that, whilst there would inevitably be some adverse landscape and visual effects at completion, the effects of the proposed development would be localised and limited in their physical extent. It is

considered that the site and local landscape have the capacity to accommodate development of the scale and nature proposed.

I consider the LVA to be a fair assessment of the landscape and visual effects of the proposed development and I agree with the judgement that in landscape terms, the site is of medium to low landscape value and the development is unlikely to have any direct impact on existing vegetation. Proposed mitigation includes finishing the building in a dark recessive colour (Slate grey to BS 18B29) and implementing a small area of tree planting to the east of the proposed building already required as part of the existing planning permissions for the site. The current proposals rely on the screening value of existing vegetation, therefore, I consider it appropriate to include a condition to prepare a woodland management plan. This would not only ensure that the vegetation is protected and maintained as a screen in perpetuity but could also provide the opportunity to enhance it for nature conservation. The supporting plans suggest that feedstocks and stockpiles of processed materials would be restricted to a height of 4.0m. I consider this to be an appropriate height and it would be prudent to apply a condition to control the height of stockpiles and ensure that they do not become visually intrusive features or spill onto other parts of the site, particularly where there might be ecological interest.

Subject to conditions set out above, I consider that the proposal would be in accordance with Policy W7 of the DDWLP and Policy INF8 of the SDLP.

### **Ecology and Nature Conservation**

DDWLP Policy W5: Identified interests of environmental importance, provides that waste development will be permitted only if it would not materially harm identified interests of environmental importance.

Policy BNE3: Biodiversity of the SDLP sets out that proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: internationally important sites; nationally important sites (such as SSSIs); sites of County importance (such as Local Nature Reserves, LWS and Local Geological Sites); ancient woodlands, veteran trees and hedgerows; and priority habitats and species will need to be supported by appropriate surveys or assessments sufficient to allow the Planning Authority to fully understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

The requirements of Paragraph 175 of the NPPF are reflected in Policy BNE3 of the SDLP.

The Conservation of Habitats and Species Regulations 2010 provide that a competent authority, including a planning authority must, in the exercise of any of its functions, have regard to the requirements of the Habitats Directive. These requirements in relation to European Protected Species (EPS) and designated sites, are transposed into the Regulations. The nearest European designated site is the River Mease SAC. Natural England has advised that the proposal would be unlikely to have any significant effect on the River Mease SAC. Natural England has also advised that it considers that the proposals would not damage or destroy the River Mease SSSI.

The Biodiversity (Ecology and Nature Conservation) section of the ES considers the potential effects on features of ecological value have been evaluated and includes consideration of potential direct and indirect effects during both the construction and operational phases of the proposed development.

Ecological surveys were carried out in 2016, 2017 and 2018. The overall conclusion drawn from these surveys is that the LWS and former railway land area meets the LWS criteria for grassland which contributes to the established open mosaic criteria value habitat. The application area itself comprises hardstanding and a small area of LWS quality semi-improved grassland, ephemeral vegetation and scrub. Species observed as being present or potentially utilising the application site's habitats and wider environs were bats, great crested newts and other amphibians (frogs, smooth newts and toads), reptiles (specifically grass snake), badgers and birds.

The assessment states that the application site itself is mostly comprised of concrete hardstanding with limited conservation value, with approximately 0.71ha of habitat (comprising grassland, ephemeral and scrub habitat) being lost to development that represents approximately 6.1% of the total LWS size (total 11.6ha), with other areas either covered by previously approved development (skip storage) or retained in their current state, concluding that the integrity of its designation would remain unaffected.

The remaining surrounding woodland and other habitats making up the significant survey area and current LWS designation would be retained. In the absence of mitigation measures, areas of retained woodland and other habitats immediately adjacent to the working areas could be subject to indirect disturbance, such as root compaction or damage by straying into non-working areas which would damage its conservation status. The assessment considers that, without mitigation, this would constitute a minor adverse effect on a receptor of County significance – the wider Cadley Hill Railway Area LWS. The impacts on species present are considered to be minor adverse or of local significance. The assessment includes a series of mitigation measures for the construction and operational phases intended to reduce these impacts.

These measures are set out in a Herpetofauna (amphibian and reptile) Method Statement and a Woodland Management Plan.

I am satisfied that the assessment has been undertaken based upon adequate ecological survey information, having taken account of a number of surveys completed since 2016. I am also satisfied with the results of the ecological survey and the assessment of the presence and absence of species and habitats within the site.

I note that DWT and TNFC have differing views on some of the long term objectives set out in the Woodland Management Plan, however, these are not significant and can be resolved through further consultation on a revised scheme required under a condition.

For the wider site controlled by the applicant, including the LWS, I concur with DWT that an Ecological Management Plan, based on the measures set out in the ES together with those set out in the email from FPCR to DWT dated 13 February 2019, and incorporating areas to the west of the LWS in control of the applicant as set out on the plan titled Mitigation Reference Plan 7233-E-1, should be required by condition.

Subject to conditions requiring the implementation of the range of measures set out above, I am satisfied that the proposal would not result in a net loss of biodiversity or have an unacceptable impact on protected species and other flora and fauna. I therefore consider the proposal to be in accordance with Policy W5 of the DDWLP and Policy BNE3 of the SDLP.

### **Traffic and Access**

DDWLP Policy W8: Impact of the transport of waste, states that waste development will be permitted if the proposed access arrangements and the impact of traffic generated will not be detrimental to road safety.

SDLP Policy INF2: Sustainable Transport, states that permission will be granted for development where travel generated by development, including goods vehicle movement, should have no undue detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services. Applications for development with significant transport implications should be accompanied by a Transport Assessment.

A Transport Assessment included in the ES considers the likely significant effects of the proposals on the environment with respect to transport and access. The capacity of the local road network was reviewed using traffic count data for peak hours and was found to be acceptable in terms of its safety record and capacity. The assessment concluded that the traffic generated by the development would be of negligible significance in terms of



impacts on the overall traffic and HGV volumes currently travelling on the local road network.

There are no highways objections to the proposals and, subject to a condition limiting the total number of HGV movements, I am satisfied that there would not be any significant effects on the highways networks as a result of the proposals and that it would therefore accord with the requirements of DDWLP policies WP2 and WP8 and Policy INF2 of the SDLP as it relates to road transport.

### **Emissions to Air, including Dust**

DDWLP Policy W6: Pollution and related nuisances, 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 to people or communities, the site of the development, nearby land uses or the wider environment.

The associated guidance note advises that developers should seek to demonstrate that; *“the development would not produce dust or other harmful emissions”*, and *“emit odours having an adverse impact on the health or environment of local people or communities”*, and that; *“development should not emit gases in quantities which would harm the health of people, livestock or wildlife, pollute areas of watercourses, have harmful visual impact, contribute to global warming or materially reduce the quality of life of local communities.”*

Policy SD1 of the SDLP supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The policy requires consideration be given to: *“the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker.”*

The Air Quality Assessment included in the ES considers the potential air quality impacts of the development, specifically the potential of the development proposals to generate dust during the construction and operational phases and the potential impact of dust from development generated traffic. The potential for nuisance dust impacts at the nearest residential receptors arising from the development is considered to be negligible. For the construction phase, the effects are predicted to be ‘not significant’, for the operational phase and development generated traffic it is considered to be negligible. The assessment recommends that a Dust Management Plan be implemented for the site.

In considering the proximity of sensitive ecological sites and residential properties to the site, I am satisfied that emissions to air would be negligible and would not adversely affect the amenity of the area. The provision through a condition of a Dust Management Plan, as suggested in the Air Quality Assessment, would ensure the management and mitigation of dust generating activities at the site. I do not anticipate any other impacts on air quality or emissions to air that would be associated with the proposed development. Taking these factors into account, I am satisfied that the proposals would be in accordance with the guidance set out in the NPPF and the PPG, and would not conflict with the requirements of Policy W6 of the DDWLP and Policy SD1 of the SDLP.

### **Noise and Vibration**

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 to people or communities; the site of the development; nearby land uses; or the wider environment”*.

The associated guidance note advises that developers should seek to demonstrate that: *“the development would not emit noise or vibration with an adverse impact on the quality of life or health of local communities and that the proposed hours of operation or other mitigation measures would minimise any impact”*.

Policy SD1 of the SDLP supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The policy requires consideration be given to: *“the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker.”*

Paragraph 180 of the NPPF states that planning application decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should seek to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The noise and vibration assessment states that assessments carried out prior to the existing development commencing have been used to establish the background noise levels for the site, and that a target noise level at the ownership boundary for the operational site (under planning permission

CW9/0816/45) has been agreed with the SDDC's Environmental Health Officer (EHO). Estimations of noise levels from the proposed development have been calculated to determine noise impacts at the nearest sensitive receptor (residential properties to the north of the site).

The assessment proposes a Construction Environmental Management Plan (CEMP) be implemented during the construction phase to ensure that noise during the construction phase is minimised.

During the operational phase the assessment proposes a limit of 46.5dBA LAeq, 1 hour at the nearest sensitive receptor which is 5dBA above the average background measurement and is the limit set by the EHO for permission CW9/0816/45.

I am satisfied that the ES has provided a competent assessment of the noise that would be generated by the proposed development and that the proposed mitigation measures are considered best practice. In considering the proximity of sensitive noise receptors and residential properties to the site, I am satisfied that the noise generated at the site would not adversely affect the amenity of the area.

In accordance with the advice of the EHO I consider a condition setting maximum noise levels at identified sensitive locations would ensure that noise and vibration levels at the site would remain within acceptable parameters. I also consider a condition requiring a CEMP to ensure that the environmental effects of the construction phase of the development are kept to a minimum would be appropriate, as suggested in the Noise Assessment. Taking the above factors into account, I am satisfied that the ES demonstrates that the noise impact of the development would be within the guidance limits set out in the PPG and in accordance with the advice contained in the NPPF, and would therefore not conflict with the provisions of Policy W6 of the DDWLP and Policy SD1 of the SDLP.

### **Light Emissions**

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 to people or communities; the site of the development; nearby land uses; or the wider environment"*.

Policy SD1 of the SDLP supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The policy requires consideration be given to: *"the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours,*

*fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker.”*

Paragraph 180 of the NPPF states that planning application decisions should ensure that new development is appropriate for its location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

The proposals do not include any details of lighting to be used during the development, and there may not be a need for lighting other than that fitted to plant and vehicles used in the operations. However, given the policy requirements and the potential amenity impacts associated with external artificial lighting, I consider it appropriate to impose a condition requiring the submission of a scheme should the operator wish to install external lighting. With this requirement, I consider the proposal would not conflict with the requirements of Policy W6 of the DDWLP and Policy SD1 of the SDLP in relation to the effects of lighting associated with the development.

### **Potential Land Use Conflict**

Policy INF2: Sustainable Transport, sets out requirements for all types of transport in South Derbyshire. Within the policy subsection D: Road and Rail Freight, Paragraph iii is specific to an area of land which includes the proposed development site.

Policy INF2 (D iii) states:

*“Land at Tetron Point and the associated rail siding connecting to the Burton to Leicester railway line, is protected from development that would compromise its capacity to be used for rail freight purposes.”*

The supporting text states, at Paragraph 9.24, that the: *“transfer of freight from road to rail can help to relieve road congestion and improve highway safety. The site of a former rail head at Cadley Hill, Swadlincote offers rail freight opportunities on adjacent land, which is in employment use. This policy seeks to ensure that this opportunity is not lost by protecting the railway sidings and their connections onto the running lines. The protection of the site for rail freight shall not apply if it can be demonstrated that rail freight use is not feasible or deliverable.”*

The application includes a Rail Freight Feasibility Study which addresses the exception set out in the last sentence of the above policy. The study identifies a need for the planning system to bring forward new large-scale warehousing alongside rail terminals. However, the study sets out how the Tetron Point site

does not meet the feasibility criteria in terms of the scale of land that could be available in the area compared with that needed for a commercially viable facility and, therefore, that it cannot be considered an appropriate location for a rail freight terminal in both planning and commercial terms. It concludes that the current proposals could not support the construction of a freight terminal on the site for its exclusive use.

I consider that the Rail Freight Feasibility Study provides a robust analysis of the likelihood of a rail freight link to Tetron Point being feasible or deliverable and I concur with the conclusion that it is not. I note that SDDC did not seek to challenge the conclusions of the study. Taking this into account, together with the fact that no such proposal has come forward in the considerable timescale that the site has been idle, and that the Tetron Point site now has a number of existing commercial and industrial facilities in place that would presumably need to be removed or significantly changed to accommodate a rail terminal, I have to concur with the conclusions of the study.

I therefore consider the proposal has sufficiently demonstrated that the exception to the application of Policy INF2 (Diii) should apply and that protecting the site for use as a rail freight terminal or as part of a connection to one at Tetron Point would not, in practice, serve a useful purpose. I also conclude that the proposal is not in conflict with Policy INF2 (D iii) of the SDLP, since as the Study demonstrates, the land effectively no longer has the capacity to be used for rail freight purposes.

In reaching this conclusion, I am mindful of the comments from SDDC that any permission should be limited to ten years, as was the case with planning permission CW9/0816/45. However, as set out above, I consider the exemption within the policy has been sufficiently demonstrated. Furthermore, I consider such a condition would be unreasonable in this instance as, given the scale of the proposed development and the considerable financial investment that would be needed to carry out the development, a ten year time limit would effectively undermine the viability of the development and so make any permission un-implementable.

### **Cumulative Impacts**

Policy W10 of the DDWLP is concerned with Cumulative Impacts. Proposals for waste development will be assessed in the light of the cumulative impact which they and other developments would impose on local communities, concurrently or successively. Waste development will be permitted only if the development would not result in significant and detrimental cumulative impact on the environment of those communities.

The proposed development would operate alongside the existing wood and inert waste processing and skip storage operation approved under planning permission CW9/0816/45. The ES considers the combined effects of the

existing and proposed developments with regard to traffic, noise and vibration, emissions to air, ecology and biodiversity, flood risk and drainage, ground contamination landscape and visual impacts.

Effects during the construction phase have been assessed in the ES as being negligible to minor adverse, and during the operational phase as being moderate adverse to negligible and residual effects range from minor adverse to minor beneficial. Taking into account the conclusions of the ES, together with the comments from statutory consultees, I am satisfied that the cumulative effects of the proposed development, in conjunction with other developments, would not be significant. Therefore, I consider the proposals meet the requirements of Policy W10 of the DDWLP.

### **Conclusion**

I am satisfied that the development would be in accordance with the NPPF, NPPW, DDWLP and SDLP. The proposed development would provide an end use for locally produced waste reducing the need for landfill and for the export of waste. It would also have benefits in terms of the role it would play in enabling waste to be processed higher up the waste hierarchy and so would contribute towards sustainable waste management objectives. I consider that the effects of the development on the environment and local amenity have been shown to be acceptable and that this can be assured by the use of appropriate conditions.

In conclusion, subject to the recommended conditions, I am satisfied that the proposal would not conflict with national or local planning policies and it is therefore recommended for approval.

(3) **Financial Considerations** The correct fee of £22,599 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 Recommendations.

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

## Other Considerations

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. 9.1561.6

Application documents received from AC Environmental, on behalf of Wilshee's Skip Hire Ltd, dated 12 October 2018 and further information dated February 2019.

Letter from the Environment Agency dated 12 November 2018.

Letter from South Derbyshire District Council dated 19 December 2018 and emails dated November 2018 to April 2019.

Emails from the Lead Local Flood Authority dated 26 October 2018 and 21 March 2019.

Emails from the Highways Officer dated 5 November 2018 and 7 March 2019.

Email from the County Ecologist dated 12 April 2019.

Emails from the County Landscape Architect dated 5 December 2018 and 5 March 2019.

Letters from Derbyshire Wildlife Trust dated 7 December 2018 and 4 April 2019.

Letter from Natural England dated 19 November 2018.

Email from Network Rail dated 28 February 2019.

Email from Councillor Bambrick dated 4 December 2018.

Email from Castle Gresley Parish Council dated 29 November 2018.

Email from the Ministry of Housing, Communities and Local Government dated 28 November 2018.

Letter from the Coal Authority dated 6 November 2018.

Letters and online forms from members of the public dated November 2018 to March 2019.

### (7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that:

- 7.1 The Screening report, set out in Appendix 1 to this report, be **endorsed** as the conclusion of the assessment work relating to the application which is subject of the report (Code No: CW9/1018/63) for the purposes of the Conservation of Habitats and Species Regulations 2010.
- 7.2 Planning permissions be **granted** for application CW9/1018/63 subject to the conditions set out below:

## Commencement

- 1) The development hereby permitted shall be begun before the expiry of three years from the date of this permission. Written notification of the date of commencement of development shall be sent to the Waste Planning Authority within seven days of such commencement.

**Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

### **Permitted Development Rights**

- 2) Notwithstanding the provisions of Part 7, Class L of Schedule 2 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.

- 3) 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.

### **Approved Plans**

- 4) The development shall be carried out in accordance with the following plans and documents:
- 1 App form and certificates dated 12 October 2018
  - Site Location Plan W.PL.1810SLO v1 Rev 1.0 dated October 2018
  - Site Layout Plan W.PL.1810SLAv1 dated October 2018
  - Mitigation Reference Plan 7233-E-1
  - Recycling Building Roof Plan And Section dated 1 March 2017
  - Recycling Building Floor Roof Plan And Elevations dated 1 March 2017
  - Flood Risk and Surface Water Drainage Assessment dated May 2018
  - Flood Response Plan dated September 2018
  - Darklands Brook Flood Risk Assessment dated September 2018
  - Surface Water Drainage Strategy drawing number 882-001 dated May 2018
  - Environmental Statement Volumes 1 and 2 and Appendices
  - Design and Access Statement reference WI.PL.DA.1810 - 01
  - Woodland Management Plan dated February 2019
  - Herpetofauna Method Statement dated February 2019

except in so far as any details of the documents and plans listed above might be superseded by the requirements of the conditions specified below.



**Reason:** To ensure that the development is carried out in accordance with the details submitted.

### **Land Contamination**

- 5) If, during the development, any contamination or evidence of likely contamination of land is identified that has not previously been identified or considered, then the applicant shall, as soon as is reasonably practicable, submit to the Waste Planning Authority for its approval a written scheme to identify and control that contamination, which shall include a phased risk assessment, and appropriate remediation proposals, and be in accordance with the relevant guidance of the Environment Agency on the Environmental Protection Act 1990 Part 2A. Any scheme approved under this condition shall be implemented in accordance with the relevant guidance of the Environment Agency on the Environmental Protection Act 1990 Part 2A and to the satisfaction of the Waste Planning Authority.

**Reason:** To identify, remediate and control any contaminated land, or pollution of controlled waters and to minimise the risks to site workers, end users and ecological receptors.

- 6) Construction of the building shall not commence until a Landfill Gas Monitoring scheme for the building has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall then be implemented as approved.

**Reason:** To mitigate the residual risks to the building relating to potential ground contamination.

### **Flood Risk and Surface Water Drainage**

- 7) No development shall take place above ground level until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. JBA consulting, Darklands Brook, Swadlincote, Flood Risk Assessment, Rev 2.0, September 2018 and CSG Consulting Engineers, Surface Water Drainage Assessment, 882-FRA-02, September 2018, including any subsequent amendments or updates to those documents as approved by the LLFA; and
  - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Waste Planning Authority. The approved drainage system shall be implemented in

accordance with the approved detailed design, prior to the use of the building commencing.

**Reason:** To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Waste Planning Authority.

- 8) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) V 2.0, dated September 2018, Ref: 2017s5404 - Darklands Brook, Swadlincote and the following mitigation measures detailed within the FRA:
1. Finished floor levels are set no lower than 62.30m Above Ordnance Datum (AOD), and 150mm above external finished ground levels - Sections 6.2.1, 6.2.2 and 7.2.
  2. Skip storage areas in areas within Flood Zone 1 or, if not possible, the skips are anchored down/stacked, to avoid them being washed away - Section 6.2.4 and 7.2.
  3. Protection, inspection and regular maintenance of existing culverts will be provided, including access to inspection hatch/es - Section 6.2.4 and 7.2.
  4. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven, including the implementation of the Flood Response Plan and marker boards being installed along the access road - Section 6.2.3 and 7.2.

The mitigation measures shall be fully implemented prior to occupation of the building and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the WPA.

**Reason:** To reduce the risk of flooding to the proposed development and future occupants; to ensure the structural integrity of existing culverts thereby reducing the risk of flooding; to reduce the risk of flooding from blockages to the existing culvert(s); and to ensure safe access and egress from and to the site.

- 9) The development hereby permitted shall not be proceeded with beyond the ground works phase until ground level raising/Flood Plain Compensation Scheme detailed under Section 5.2.8 (as shown in Figure 5-3 of the FRA v2.0 approved in by the Waste Planning Authority in consultation with the Environment Agency under planning permission CW9/0816/45 dated 9 October 2017) has been completed.

The scheme shall be fully implemented at the ground works phase of the development and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme.

**Reason:** To ensure flood plain lost to the development is adequately compensated for upon completion of the development.

- 10) Upon completion of the floodplain compensation scheme and prior to first occupation, an 'as built' topographical survey of the area of floodplain compensation shall be submitted to the Waste Planning Authority electronically, in both an AutoCAD format (.dwg) and Adobe PDF format (.pdf), for it to approve (in consultation with the Environment Agency).

**Reason:** To safeguard the efficient workings of the area of floodplain compensation from inappropriate development.

### **Scope of Development**

- 11) No waste or recyclable materials, other than those suitable for the production of refuse derived fuel (RDF) and those materials permitted under planning permission CW9/0816/45 (inert construction and demolition waste, and wood waste), shall be imported onto the site. Only those inert waste materials defined in the Supporting Statement and Application Form 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 and for monitoring purposes.

### **Import Limit**

- 12) The total quantity of waste material imported and handled at the site for the production of RDF waste shall not exceed 120,000 tonnes in any yearly period from 1 June until 1 June in the next year.

**Reason:** In the interests of safeguarding the amenity of neighbouring occupiers/ residents, ecology in the area, highway safety and for the avoidance of any unacceptable impacts on the highway network.

- 13) The operator shall keep accurate records of the amount of waste imported for the production of RDF, and this record shall be submitted to the Waste Planning Authority every six months and be made available for inspection by the Waste Planning Authority on request at any other time.

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

### Highways

- 14) The total number of Heavy Goods Vehicle (HGV) movements associated with the delivery or removal of waste, recyclable materials and recycled materials to/from the entire Cadley Hill Site shall not exceed an average of 500 HGV movements (250 in/250 out) per working week calculated over a full working week (Monday to Saturday).

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

- 15) All waste, recyclable materials and recycled materials in HGVs entering or leaving the entire Cadley Hill Site shall be netted, sheeted, or placed within containerised vehicles.

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

- 16) 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.

### Lighting

- 17) 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, the surrounding area and the ecology of the area.

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

**Reason:** In the interest of amenity.

- 19) 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.

### **Dust and Odour**

- 20) Within two months of the date of commencement of development, a dust and odour management plan shall be submitted to the Waste Planning Authority for its written approval. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust and odours arising from the development. The scheme shall then be implemented as approved. The approved measures and methods shall be continued fully for the duration of the development hereby permitted.

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

### **Waste**

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

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

- 22) The maximum height of any storage bays or stockpiles shall not exceed 4 metres in height.

**Reason:** In the interests of visual amenity as the site is located near to a public highway.

### **Noise**

- 23) Noise monitoring and mitigation shall be undertaken in accordance with a noise management plan which has been submitted to and approved in writing by the Waste Planning Authority. The noise management plan shall be submitted for approval within two months of the date of commencement of development. The approved scheme shall then be fully implemented throughout the use under this planning permission.

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

- 24) 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.

- 25) 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.

### **Ecology**

- 26) The development shall not commence until a Construction and Environment Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the County Planning Authority. The CEMP (Biodiversity) shall include the following measures:
- a) Risk assessment of potentially damaging construction activities.
  - b) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction in particular reptiles.
  - c) The location and timing of sensitive works to avoid harm to habitats and species.
  - d) The times during construction when specialist ecologists need to be present on site to oversee works.
  - e) Responsible persons and lines of communication.
  - f) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as required).
  - g) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period, strictly in accordance with the approved details, unless otherwise agreed in writing by the Waste Planning Authority.

**Reason:** To ensure that the construction works are undertaken to the highest ecological standards.

- 27) The development shall be carried out in accordance with the measures set out in Section 3 of the Herpetofauna Method Statement dated February 2019.

**Reason:** In the interests of ecology, protected species and reptiles and amphibians.

### **Landscape and Ecological Management Plan**

- 28) The development shall not commence until a Landscape and Ecological Management Plan, for all retained habitats within the site and adjacent areas under the applicant's control, as set out on the plans referenced: Site Location Plan W.PL.1810SLO v1 Rev 1.0 and: Mitigation Reference Plan 7233-E-1, has been submitted to, and approved in writing by, the Waste Planning Authority. The plan should incorporate

the details provided in the ecological appraisals and the content of the plan should include the following:

- a) Description and evaluation of features to be managed/enhanced or created.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options and methods for achieving aims and objectives.
- e) Timescales.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The plan shall be implemented in accordance with the approved details.

**Reason:** To ensure that the restored areas assimilate into the surrounding countryside in the interests of the landscape and visual amenity of the area.

### **Woodland Management Plan**

- 29) The development shall not commence until a revised Woodland Management Plan, for all new and retained woodland within the site and adjacent areas under the applicant's control, as set out on the plans referenced: Site Location Plan W.PL.1810SLO v1 Rev 1.0 and: Mitigation Reference Plan 7233-E-1, has been submitted to, and approved in writing by, the Waste Planning Authority.

The plan shall be implemented in accordance with the approved details.

**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 post application discussions and meetings with relevant officers in the Authority during the consideration of the application.

### **Footnotes**

- 1) The applicant's attention is drawn to the extensive advice notes – paragraphs A to J - appended to the letter from the Local Lead Flood Authority dated 26 October 2018 and the Advice to Applicant section of the letter from the Environment Agency dated 12 November 2018.

- 2) Informative note on land contamination:

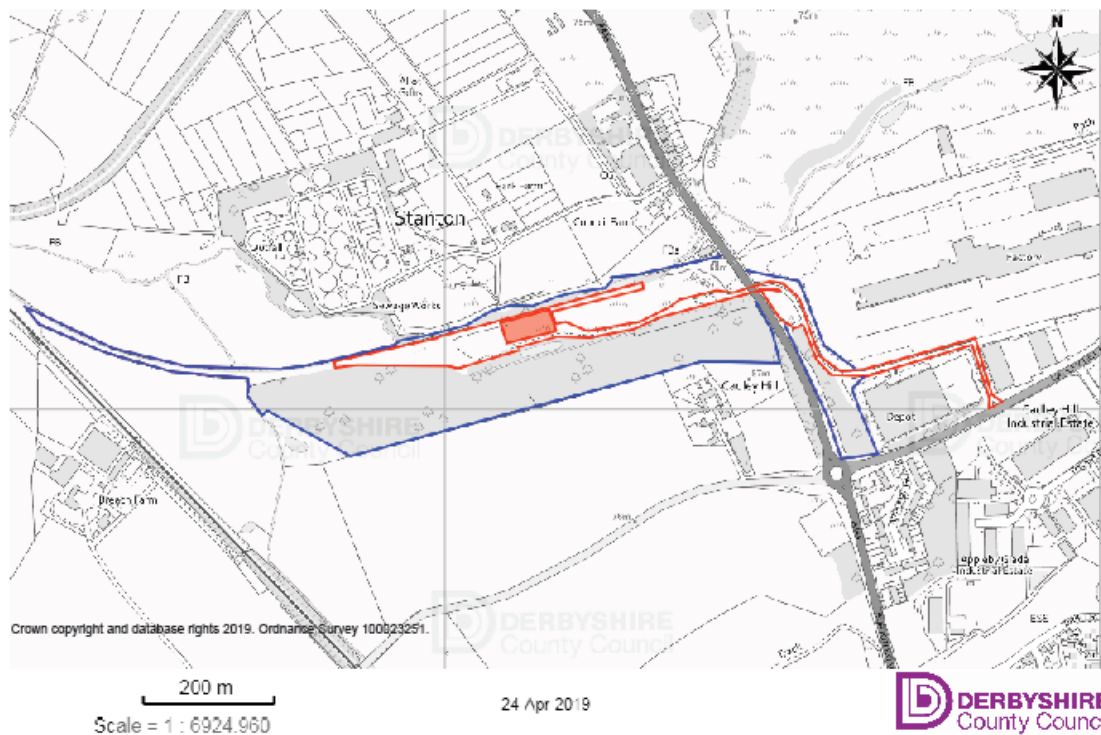
For further assistance in complying with planning conditions and other legal requirements, developers should consult "*Developing Land in Derbyshire – Guidance on submitting applications for land that may be contaminated.*" This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp)

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**



## Location Plan

CW9/1018/63



## Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

### Site, Application Description and Code Number:

THE PROPOSED EXTENSION TO THE SITE AND CONSTRUCTION OF A WASTE HANDLING BUILDING FOR THE STORAGE, TREATMENT AND PROCESSING OF REFUSE DERIVED FUEL AT THE FORMER RAILHEAD, CADLEY HILL PARK, BURTON ROAD, SWADLINCOTE, DERBYSHIRE  
 APPLICANT: WILLSHEES SKIP HIRE LTD  
 CODE NO: CW9/1018/63

**Table 1: Details of project or plan**

Name of plan or project	Planning application for the construction of a waste handling facility for the storage, treatment and processing of refuse derived fuel (RDF) for use in waste to energy plants.
Name and description of Natura 2000 site	The nearest European designated site is the River Mease Special Area of Conservation (SAC). River Mease Site of Special Scientific Interest (SSSI).
Description of the plan or project	The application is for the construction of a waste handling building for the storage, treatment and processing of RDF prior to despatch to various waste to energy plants. The building would be located towards the western end of the site with access to the building created and circulation space provided around the building. It would be a single storey structure with a footprint of 102 metre (m) x 36m and would be 10m high to the eaves and with a maximum height of 14m to the ridgeline.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No. The proposal is not directly connected with or necessary to the management of the site.  At the nearest point these designations are over 5 kilometres (km) from the site. The unnamed watercourse that passes adjacent to the application site is a minor tributary of the River Trent.
Are there any other projects or plans that together with the	None known

project or plan being assessed could affect the site (provide details)?	
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### HRA Screening Statement:

#### The Application Site

The proposed development site covers an area of 2.12 hectares (Ha) of land within a former rail yard, 'Depot 3', at Cadley Hill Park, Burton Road, Swadlincote. The site now consists of an area of hard standing accessed via a track within areas of grassland and scrub vegetation. The site lies within, and the applicant's ownership largely constitutes, the Cadley Hill Local Wildlife Site.

#### Planning Background

Planning permission CW9/0816/45 issued in October 2017 allows the importation of 70,000 tonnes of inert waste per annum. The use of screening, crushing and shredding equipment in processing this material, and stockpiling of processed and unprocessed waste materials. It also requires the construction of 3 m high concrete wall noise barrier along the northern edge of the concrete pad. The planning permission is time limited to 10 years.

Planning permission CW9/0418/3 issued in September 2018 allows the construction of a weighbridge and canteen on the internal access road into the site.

#### The Proposal

The application is for the construction of a waste handling building for the storage, treatment and processing of RDF prior to despatch to waste to energy plants.

#### The Natura 2000 site

Rising in the Coal Measures of north-west Leicestershire, the River Mease flows approximately 25 km westwards across a largely rural and agricultural landscape to its confluence with the River Trent at Croxall. As a relatively un-modified lowland river, the River Mease contains a diverse range of physical in-channel features, including riffles, pools, slacks, vegetated channel margins and bankside tree cover, which provide the conditions necessary to sustain populations of spined loach *Cobitis taenia*, bullhead *Cottus gobio*, freshwater white-clawed crayfish *Austropotamobius pallipes* and otter *Lutra lutra*.

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The proposal is not directly connected with or necessary to the management of the European Site. In considering the location of the site, the proximity of the European Site and the scale and nature of the development I do not consider that there is significant potential for the proposals to adversely affect the nearby statutorily designated sites.

The Environmental Statement submitted with the application includes detailed assessments on ecology, hydrology and hydrogeology and a flood risk assessment.

I have reviewed the Environmental Statement and I am satisfied with the approach that has been taken and the conclusions drawn.

Natural England has reviewed the application documents and advised the Waste Planning Authority to record a decision that a likely significant effect from the proposed development on the SAC can be ruled out.

Natural England also considers that the proposed development will not damage or destroy the interest features for which the River Mease SSSI has been notified.

**Test 1: The Significance test**

The proposed project is not likely to have a significant effect on any European Designated Site, either alone or in-combination with other plans or projects.

**Appropriate Assessment Statement (If required):**

Not required.

**Test 2: The Integrity test**

Not required.

**Conclusions**

In view of the conclusions drawn in the applicants Habitats Regulations Risk Assessment and of the views of Natural England, I am satisfied that the continuing of operations at the site would not be likely to have a significant effect on the River Mease SAC and no further HRA assessment is considered to be necessary.

## Guidance on completing the HRA Screening Matrix

### The Habitat Regulation Assessment process

Any plan or project with the potential to impact upon a European Designated Site (SAC, SPA or Ramsar) must legally be assessed under the Habitat Regulation Assessment (HRA) process.

The HRA screening process essentially considers two tests:

#### Test 1 **The significance test**

Is the proposed plan or project either likely to have a significant effect on a European Designated Site either alone or in-combination?

If the answer to test 1 'significance' is 'yes' or 'unknown' then an *Appropriate Assessment* must be undertaken by the Local Planning Authority (known as the Competent Authority).

#### Test 2 **The integrity test**

In light of the conclusions of the *Appropriate Assessment* the Competent Authority may agree to the plan or project only having ascertained that it will not adversely affect the integrity of the European Site.

### **Appropriate Assessment**

If during consideration of the 'Significance' test a likely significant effect is identified or a potential effect pathway between the proposal and the European Site is identified then further consideration is required. This further consideration is known as an *Appropriate Assessment*.

The scale and scope of an *Appropriate Assessment* varies significantly depending upon the type of plan or project being assessed. The Competent Authority may need to seek additional information from planning applicants to allow an *Appropriate Assessment* of planning applications to be undertaken.

When undertaking an *Appropriate Assessment* the Local Planning Authority must formally consult Natural England and must have regard to the representations of Natural England in making its decision. (In the presence of a Natural England objection on HRA grounds a planning permission cannot legally be granted until NE's objection has been addressed and formally withdrawn).

### **Habitat Regulation Assessment Conclusions**

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.**

### **Duty of the Waste Planning Authority**

It is the duty of the planning case officer, the committee considering the application and the Waste Planning Authority as a whole to:

1. Fully engage with the Habitats Regulation Assessment process;
2. To have regard to the response of Natural England;
3. To determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision;
4. To record the HRA decision in the planning officer's site report and to discuss the application and record the discussion and its outcome in the minutes of any committee meeting at which the planning application is discussed.