

Agenda Item No. 3.1

DERBYSHIRE COUNTY COUNCIL
REGULATORY - PLANNING COMMITTEE

6 August 2018

Report of the Strategic Director – Economy, Transport and Environment

- 1 SECTION 73 APPLICATION WITH PROPOSAL TO AMEND
REQUIREMENT OF CONDITION 1 (FORM OF DEVELOPMENT) AND
CONDITION 3 (TONNAGE) OF PLANNING PERMISSION
CW2/0515/24, UNITS 2-3 TURNOAKS BUSINESS PARK, BURLEY
CLOSE, CHESTERFIELD
APPLICANT: PPX METAL MANAGEMENT LTD
CODE NO: CW2/0118/80**

2.714.6

Introductory Summary This proposal seeks variations of the current controls on the development which are set out in conditions 1 (Form of Development) and 3 (Tonnage) of current planning permission reference CW2/0515/24. These would include changes to the layout of the site by reducing the number of containers, having an area for the temporary bulk storage of scrap metal and relocating the staff car parking spaces. An increase in the amount of scrap metal waste to be imported and processed at the site is also proposed from the current 3,000 tonnes per annum limit under the current permission to 5,000 tonnes per annum.

The facility would continue to contribute towards sustainable waste management objectives and move waste up through the waste hierarchy.

Subject to the suggested conditions being imposed, I consider that a grant of planning permission in accordance with the application would not have an adverse impact on the surrounding area and would conform with the development plan and current Government guidance. I am, therefore, recommending that the application is approved accordingly.

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

(2) **Information and Analysis**

The Site

The application site is in use as an established scrap metal recycling facility for which planning permission was granted, subject to conditions in 2015

(reference CW2/0515/24). It is within an industrial estate called Turnoaks Business Park in Chesterfield. The application site area is 0.37 hectares (ha) and consists of two low rise steel framed units, surrounded by a hard surfaced yard area that is enclosed by palisade fencing and security gates. There are further industrial and business units located to the north and east of the site.

Birdholme House, a Grade 2 listed building, is located adjacent to the west of the southern portion of the application site and there are residential properties located to the north-west on Derby Road. The River Rother is located approximately 200 metres to the south-east and the Birdholme Brook is 70 metres to the south of the site. A Local Wildlife Site (Birdholme Nature Reserve) is located approximately 100 metres to the east of the site.

Planning History

The site has had a history involving scrap metal recycling since 2012. Scrap metal development commenced at this time without the benefit of planning permission and was unauthorised. In 2014, the previous site operator, TME Recycling Ltd, submitted a retrospective planning application to Derbyshire County Council (reference CW2/0214/158) to regularise the development then being carried out. Planning permission for this was granted in June 2014.

PPX Metal Management Ltd, the applicant for this planning application under consideration, subsequently took over this waste metal recycling facility. Part of the original planning application site was occupied by a Drive and Rider Training (DART) facility. The operational area and layout of the scrap metal recycling facility had been changed to that approved in 2014. The applicant submitted a planning application (reference CW2/0515/24) to regularise the scrap metal activities, area and layout at the site. Planning permission was granted in August 2015.

The Proposal

This is a Section 73 planning application, for permission for carrying on this development without complying with the requirements of Condition 1 (Form of Development) and Condition 3 (Tonnage) of the conditions subject to which the current planning permission (reference CW2/0515/24) was granted. It is accompanied by a design and access statement which describes proposed changes to the site layout and the maximum annual tonnage.

The proposed changes to the site layout include reducing the number of containers on site and including an area to temporarily store bulk material for transportation off the site. Where seven large waste containers are presently sited at the north portion of the site adjacent west of the vehicular access/egress, the operator proposes to install five staff car parking spaces and two parking spaces for HGV's. The two HGV parking spaces are presently sited at the south-east portion of the site. It is proposed to utilise the southern part of this existing HGV parking area for the temporary storage of

bulk waste. The staff car park is currently at the south-west of the site. There have been problems with staff entering the site access at the north and having to drive across the length of the waste facility to get to the car park, encountering punctures from site debris. There is also a health and safety issue regarding staff driving private vehicles across an operational waste management site.

The statement suggests that, at the time of the original approval, the bulk of the waste was anticipated to be coming from private individuals, that they would bring relatively small quantities of waste on an ad hoc basis, and that in recent times, the nature of the waste metal business has changed and the business has moved to taking bulk (25 tonnes) loads. This suggests that, the operator would like to increase the permitted throughput of metal waste from 3,000 to 5,000 tonnes per annum. Overall, fewer vehicle movements are envisaged at the 5,000 tonnes annual limit compared to the number of vehicle movements that would be associated with the acceptance of waste from private individuals up to the 3,000 tonnes annual limit because each 25 tonnes bulk delivery by lorry would be several times the weight that an individual would deliver in a car or van.

Consultations

Local Member

Councillor Allen (Birdholme) was consulted and comments were requested by 1 March 2018.

Chesterfield Borough Council (Planning)

Chesterfield Borough Council (Planning) was consulted and comments were requested by 1 March 2018.

Chesterfield Borough Council (Environmental Health Officer)

Chesterfield Borough Council Environmental Health Officer (EHO) responded on 23 March 2018 confirming that a single complainant contacted them regarding noise issues at the site in July 2015.

Environment Agency

The Environment Agency (EA) responded on 21 February 2018 and states that it has no comments to make. The EA also states that the proposed layout changes would fall within the registered Exemptions limits (the site waste permit) for the site.

Internal Consultations

The County Highway Authority responded on 21 February 2018, initially raising concern that an area demarcated on the submitted plans for the temporary storage of bulk waste material was, at present, a parking area for two HGVs as per the planning permission. The County Highway Authority

requested that the parking area for the two HGVs should be shown elsewhere within the site.

The County Highway Authority also confirmed that whilst there would be an increase in the throughput of scrap metal at the site, and the submitted information indicates that this would not result in additional vehicular movements, it considers that this would not be an issue at this business/ industrial park location.

In response to the concerns of the County Highway Authority over the loss of the two spaces for HGV parking, the applicant submitted a revised site layout showing parking for two HGVs to replace the two spaces lost by the proposed area for the bulk storage of waste material. The County Highway Authority has confirmed in a further response, dated 26 June 2018, that it is satisfied and has no further comments.

Publicity

The application was advertised by three site notices on 8 February 2018 and a press advert (Derbyshire Times) on 8 February 2018, with a request for observations by 1 March 2018. Site notices were also hand delivered to two nearby residences and a nearby business. As a result of the publicity, two representations in objections have been received. One, a representation from a media business which uses Birdholme House, received 15 March 2018, is summarised as follows:

- Existing problems of noise i.e. when moving scrap around, and the proposal would exacerbate this.
- The site is unsightly and the objector is a customer focussed business with many visitors.
- Risk to the Grade II Listed Building (Birdholme House) from piles of scrap.
- The road is used by pedestrians and many lorries would create a safety risk to the public.

The second representation, from a local resident, was received on 17 March 2018, and is summarised as follows:

- Householders backing on to the site have not been informed of this planning application.
- Numerous complaints have been made about noise from this site.
- This is not an industrial estate but a business park.
- Detriment to quality of life.
- Not consulted when the business started.
- Cannot enjoy own garden because the noise is horrendous.

Comment

Where relevant, these issues are addressed in the 'Planning Considerations' section below.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the Derby and Derbyshire Waste Local Plan (2006) (DDWLP), the Saved Policies of the Replacement Chesterfield Borough Local Plan (RCBLP) (2006) and the Chesterfield Borough Local Plan Core Strategy (CBLPCS) (2013). Other material considerations include statements of Government policy in the National Planning Policy Framework (2012) (NPPF), National Planning Practice Guidance (NPPG), the National Waste Management Plan for England 2013 and National Planning Policy for Waste (NPPW) (2014).

National Planning Policy Framework

The NPPF states that local authorities taking decisions on waste applications should have regard to policies in the NPPF, so far as relevant. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Planning applications must still be determined in accordance with the development plan unless material considerations indicate otherwise. It states that the purpose of the planning system is to contribute to the achievement of sustainable development and adds that there should be a presumption in favour of sustainable development. The NPPF states in its introduction that it does not contain specific waste policies and adds that national waste planning policy will be published as part of the National Waste Management Plan for England. The NPPF seeks that local authorities taking decisions on waste applications should have regard to policies in the NPPF so far as relevant.

National Planning Policy for Waste

This document sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management, and states that positive planning plays a pivotal role in delivering this country's waste ambitions through the delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy. Appendix A of the NPPW details the waste hierarchy.

Annex B of NPPW sets out locational criteria for waste planning authorities to consider in determining planning applications. Of these, the potential for noise and dust are considered to be the most relevant.

Derby and Derbyshire Waste Local Plan

Policy W1b: Need for the Development presumes in favour of waste development where it would cater for the needs of the area as part of an integrated approach to waste management.

Policy W2: Transport Principles seeks to avoid granting planning permission where there is likely to be an overall significant increase in the number or distance of waste related journeys for people, materials or waste.

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.

Policy W8: Impact of the Transport of Waste presumes in favour of development where the methods and routes of waste transport would not cause significant disturbance to the environment, people or communities, the transport network is adequate to accommodate the traffic which would be generated and the proposed access arrangements, and the impact of traffic generated would not be detrimental to road safety.

Chesterfield Borough Local Plan Core Strategy/Saved Policies of the Replacement Chesterfield Local Plan

The original planning permission (reference CW2/0515/24) was granted, having been considered to be in accordance with the policies of the RCBLP, particularly Policy EMP7: Development in Existing Business and Industrial Areas. Policy EMP7 has not expired (the Policy has been saved) with the advent of the CBLPCS and this therefore runs in tandem with Policy CS13: Economic Growth of the CBLPCS.

Saved Policy EMP7 of the RCBLP presumes in favour of planning permission for employment development in identified employment areas. The site is designated within an employment area in the Submission Policies map for the CBLPCS.

CBLPCS Policy CS2: Principles for the Location of Development requires all developments to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

CBLPCS Policy CS8: Environmental Quality seeks to protect and enhance environmental quality (air quality, water contamination and unstable and contaminated land).

CBLPCS Policy CS13: Economic Growth, presumes in favour of development which will contribute towards delivering sustainable economic growth by supporting existing jobs and businesses and delivering inward investment.

CBLPCS Policy CS19: Historic Environment presumes in favour of new development that preserves or enhances the local character and distinctiveness of an area and seeks to protect designated heritage assets, such as Listed Buildings and Conservation Areas.

I consider that the main issues that need to be considered for this proposal are the need for the development, the location of the development and local amenity and environmental impacts.

Need for the Development

This is a busy and well established metal waste site with an established customer base. The general nature of the scrap metal industry has moved away from private individuals bringing small loads of waste towards more bulk deliveries and the proposal to increase the annual throughput from 3,000 to 5,000 tonnes per annum reflects this.

The NPPW emphasises the need to divert as much waste as possible away from landfill. To achieve this, the movement of waste up the waste hierarchy is essential. Appendix A of the NPPW details the waste hierarchy. The reduction and reuse of wastes sit at the top of the waste hierarchy, however, once wastes are actually discarded, recycling is one of the preferred management routes, where value is recovered in terms of secondary materials that can be substituted for virgin resources.

Policy W1b of the DDWLP 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.

Metal waste is delivered to the site from the surrounding area and this site provides a useful and well used local waste management facility for the recovery and recycling of metal waste in and around Chesterfield. The size of the proposed increase, at 2,000 tonnes per annum, is modest, but it would be a useful addition to the overall waste management capacity in the area.

I am therefore satisfied that there is a need for the proposal to cater for a local need and that the proposal would contribute towards the sustainable waste management objectives of the NPPW and accord with Policy W1b of the DDWLP.

Location of the Development

The application site is located on an established industrial estate that is identified in the RCBLP and the CBLPCS as an existing business and industrial area. Saved Policy EMP7: Development in Existing Business and Industrial Areas of the RCBLP and Policy CS13: Economic Growth of the CBLPCS are relevant. EMP7 permits industrial and business uses, including those falling outside the B1 (Business), B2 (Industrial) and B8 (Storage) use classes. The objective of CS13 is to facilitate development which should deliver sustainable economic growth by supporting existing jobs and businesses, and delivering inward investment. Although this type of facility is “Sui Generis” (which means it is not within any use class) and it is, in principle, also suited to an industrial estate location.

The NPPW provides guidance on selecting suitable sites for waste management in its Locational Criteria (Appendix B) and also in Chapter 4: Identifying Suitable Sites and Areas, where the fourth criterion states that Waste Planning Authorities should consider a broad range of locations, including industrial sites.

This is a successful local business providing employment that wishes to invest in the site as evidenced by the desire to increase waste throughput by a further 2,000 tonnes per annum within the parameters of the existing EA waste permit. As such, it is considered the proposals accord with the requirements of RCBLP Policy EMP7 and CBLPCS Policy CS13.

Amenity and Environmental Impacts

The application concerns an existing facility in an established industrial area. This type of facility has the potential to create impacts such as noise, dust, odours and visual impacts. Operations are undertaken in the open, involve vehicle movements into and out of the site, plus the use of equipment and machinery which has the potential to cause such impacts. The proposed increase in annual throughput should not provoke any undue increase in overall vehicle movements since the business will rely on loads of scrap metal being delivered as bulk loads by 25 tonne lorries rather than as small loads by car or van.

The application site is within a well-established industrial area and is surrounded by other industrial units and buildings.

There is a Grade II Listed Building, Birdholme House, very near to the south-west portion of the application site. I am satisfied that the setting of the Listed Building would not be impacted to any significant degree, being in a dense urban setting, with many modern developments of varying typologies surrounding it, including housing, offices and Turnoaks Business Park, a well-established industrial estate, which forms much of its immediate setting. The submitted information states that no scrap metal or waste material is to be

placed or stored in the south-western section of the site so as not to detract from the setting of Birdholme House. The proposed area for the temporary storage of bulk metal waste is also at the south-east portion of the application site, some distance away from the Listed Building. The south-west section of the application site comprises an open yard bounded by a palisade fence, beyond which is a line of mature trees which serves to provide some screening to Birdholme House. It is therefore considered that the changes in the development that the granting of permission for this proposal under this application would allow, would have no more than a negligible impact on Birdholme House and its setting. It is considered that the proposal accords with the requirements of CBLPCS Policy CS19.

Chesterfield Borough Council's EHO has confirmed that it received noise nuisance complaints from the same individual in 2015 and 2016. In 2016, the EHO correctly forwarded the complaint to the EA as the relevant permitting authority. However, it is noted that the representations in objection to the planning application received from a local business and a local resident partly concern noise from the site. Paragraph 122 of the NPPF states that planning authorities should focus on whether the proposed development is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves, where these are subject to approval under pollution control regimes. Neither the EA nor the Borough Council as relevant consultees have not raised any objections to the proposed development, or indicated that there would be any unacceptable impacts on the amenity respective noise, dust, visual or other impacts.

In considering the location of the development and the nature of the operation, I am satisfied that there would be no unacceptable impacts on amenity associated with the proposed development.

Given the above, it is considered that the proposals accord with the requirements of the NPPF, Saved Policy EMP7 of the RCLBP, CBLPCS policies CS2, CS8 and DDWLP policies W2 and W6.

Conclusion

In conclusion, I consider that the proposed revisions to the site layout, the bulk storage of metal waste and the proposed increase in annual throughput of metal waste are modest changes but would help the facility to cater for the needs of the local area, continuing to be part of an integrated approach to waste management. I consider that this would continue to bring benefits in the form of a contribution to more sustainable waste management, which would not give rise to other unacceptable environmental, traffic related impacts or detrimental impact on the adjacent Listed Building. I am satisfied that the proposal would accord with national and local planning policies, subject to conditions. The application is therefore recommended for approval, subject to conditions which are similar to those for the existing permission, except that

the draft conditions (numbered 1 and 3) are drafted to accommodate the proposal.

No objections have been received to the proposed development and I consider that it meets the criteria for determination under the Officer's Recommendation.

(3) **Financial Considerations** The correct fee of £195 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.

In considering whether to grant planning permission for any development affecting a listed building and/or its setting, the Authority is required to have special regard to the desirability of preserving the building and/or its setting, and any features of special architectural or historic interest which it possesses.

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.

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 2.714.6
Application documents received from Baker Barnett Ltd, acting as Agent for PPX Metal Management Ltd.
Planning Application Form dated 12 January 2018.
Planning, Design and Access Statement (Author: Baker Barnett Ltd), dated 24 January 2018.
Location Plan reference 15-2552-01 Rev A dated 13 February 2018.
Existing Site Plan reference 15-2552-03 Rev A dated 13 February 2018.
Block Plan reference 15-2552-02 Rev E dated 14 June 2018.
Letter from the EA dated 21 February 2018.
Emails from the Chesterfield Borough Council EHO dated 23 March 2018, the County Highway Authority dated 21 February 2018 and 26 June 2018, and the

County Conservation and Design (Listed Buildings) Team dated 12 February 2018.

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

Form of Development

- 1) The development shall be in accordance with the details set out in the planning application, and the accompanying plans and drawings of the planning application from Baker Barnett Ltd dated 14 May 2015, unless otherwise modified or amended by conditions of this planning permission. For the avoidance of doubt the approved plans and documents are:

Planning Application Form dated 12 January 2018.

Planning, Design and Access Statement (Author: Baker Barnett Ltd.), dated 24 January 2018.

Location Plan reference 15-2552-01 Rev A dated 13 February 2018.

Existing Site Plan reference 15-2552-03 Rev A dated 13 February 2018.

Block Plan reference 15-2552-02 Rev E dated 14 June 2018.

Reason: To ensure conformity with the details of the application that is approved and to clarify its scope.

- 2) A copy of this permission and any other document subsequently approved in accordance with any condition of this permission shall be kept available for inspection at the site offices during the prescribed working hours.

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

- 3) No more than 5,000 tonnes of scrap metal waste annually shall be imported and processed at the site. The operator shall keep accurate records of the amount of scrap metal 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 environmental and amenity issues not considered in the determination of this proposal and could be detrimental to the amenity of the area.

Hours of Operation

- 4) The site shall only be open to the general public between the following hours:

0800 hours to 1630 hours Mondays to Fridays;
0800 hours to 1300 hours on Saturdays.

All other operations authorised by this permission, including sorting activities, vehicles entering or leaving the site, the maintenance of vehicles, plant or equipment, may be carried out between the following hours:

0700 hours to 1830 hours Mondays to Fridays;
0800 hours to 1630 hours on Saturdays.

No operations shall be carried out on Sundays or Public and Bank Holidays.

Reason: In the interests of amenity of the area.

Access and Highway Safety

- 5) The sole access into and out of the site shall be the existing access on Burley Close, as indicated in the application documents.

Reason: To restrict routes for accessing the site in the interests of highway safety and the amenity of the area.

- 6) No vehicle shall leave the site unless it is in a clean condition so that no mud or dirt is carried out onto the public highway.

Reason: In the interest of amenity and highway safety.

- 7) Space shall be provided within the site curtilage for the safe parking/loading/unloading and manoeuvring of site operative and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of amenity and highway safety.

Environmental Protection

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

Reason: In the interest of amenity.

- 9) All unsorted/untreated scrap metal brought to the site shall only be deposited and stored in the concrete bunded area, shown on drawing number 15-2552-02 Rev B, and at no time shall the stockpile height exceed 3 metres (as measured from ground level). All externally stored sorted scrap metal shall only be contained in skips or containers.

Reason: To minimise the visual impact of the development in the interests of the amenity of the area and to prevent pollution to watercourses.

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

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

Noise

- 11) 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 ensure minimum disturbance from the operations and avoidance of noise nuisance in the interests of the amenity of the area.

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

Reason: To ensure minimum disturbance from the operations and avoidance of noise nuisance in the interests of the amenity of the area.

Dust

- 13) At all times during the carrying out of operations authorised or required by this permission, water bowsters, sprayers, whether mobile or fixed, or similar equipment shall be used to minimise the emissions of dust from the site. No vehicles used for the movement of materials on the site shall be equipped with downward pointing exhaust pipes. At such times that the prevention of dust nuisance by these means is not possible, operations at the site shall be temporarily suspended until site conditions improve and the operations can be resumed without causing nuisance.

Reason: To control the impact of dust generated by the development in the interest of the amenity of the area.

Drainage and Pollution

- 14) The site operator shall ensure that all existing surface water drainage continues to operate in an efficient manner.

Reason: To prevent pollution to the water environment.

- 15) Any facilities for the storage of oil, fuels or chemicals shall be sited on impervious bases and surrounded by imperious bund walls. The volume of the bunded compound shall be equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses shall be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

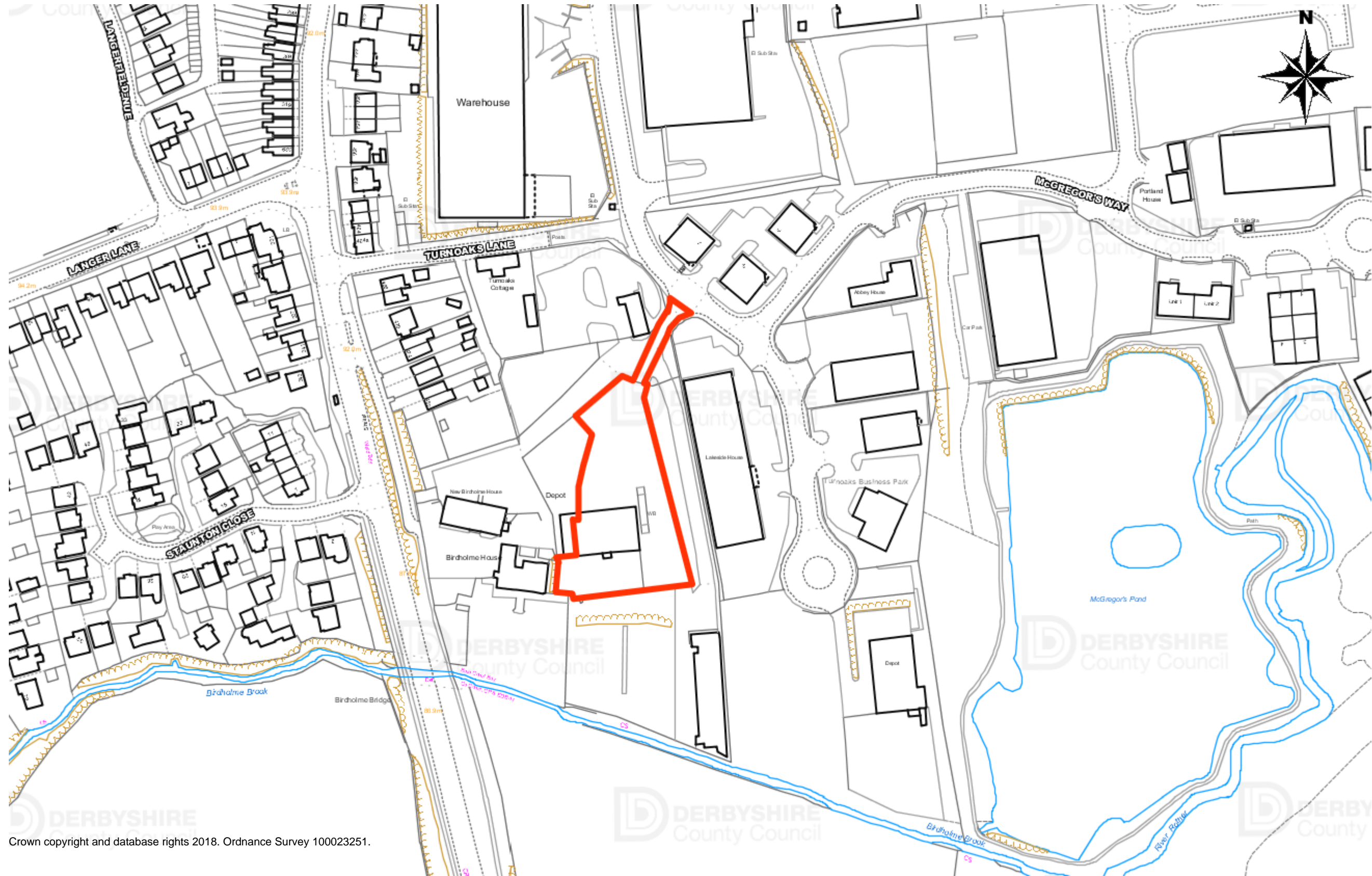
Reason: To prevent pollution to the water environment.

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

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

Mike Ashworth
Strategic Director – Economy, Transport and Environment

CW2/0118/80 - PPX Metal Management Ltd., Turnoaks Business Park, Chesterfield



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10-Jul-2018