

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

9 June 2014

Report of the Strategic Director - Economy, Transport and Environment

- 1 PROPOSED INSTALLATION OF FACILITY FOR THE RECEPTION, STORAGE AND TREATMENT OF WASTE FOR THE PURPOSE OF RECOVERY OF RAW MATERIALS AND ENERGY AT THE BRICKWORKS, CAMPBELL DRIVE, BARROW HILL, STAVELEY, CHESTERFIELD
APPLICANT: PHEONIX BRICK COMPANY LTD
CODE NO: CW2/0209/203**

2.9.14

Introductory Summary This proposal is for the erection of a building to house a waste recycling and treatment plant, and the installation of ancillary facilities at the Brickworks, Campbell Drive, Barrow Hill, Staveley. It was reported to Regulatory – Planning Committee on 7 December 2009 (Minute No. 127/09 refers) where it was resolved to grant planning permission subject to conditions and a legal agreement. Negotiations on the wording of the legal agreement have been protracted and the final version has been executed by all parties. Since 2009, however, several new national planning policy statements have been issued which are of relevance to the assessment of this proposal and it is necessary to reconsider it against those new material considerations.

The plant would treat up to 100,000 tonnes of commercial and industrial waste per annum by the application of steam, heat, pressure and mechanical agitation in two sealed autoclave vessels. The resultant sterilised fibre product would then be processed to recover metals, glass and plastics which would then be transported off site to reprocessors and/or manufacturers. The remaining cellulose rich material would also be transported off site, for use as a fuel at power stations or to produce bio-ethanol.

The 1.24 hectares site broadly comprises vacant industrial land. Following improvement works, access for Heavy Goods Vehicles (HGVs) generated by the

Public

proposed development would be via an existing access road to Staveley Lane. All traffic HGV traffic would be routed to and from the site via Staveley Lane and Hall Lane, following road widening works at various locations along the route and the implementation of measures designed to minimise the risk of accidents at the entrance from Staveley Lane.

I have assessed the proposals against the new aspects of the development plan and national planning policy statements, and taken account of the known changed circumstances at the application site. Having regard to all considerations I recommend that the previous resolution to grant planning permission be maintained subject to the recommended conditions and the completion of the Planning Obligation in the agreed form.

(1) **Purpose of the Report** To enable the Committee to make a fresh determination of this application in light of all new material considerations.

(2) **Information and Analysis**

Background Information

On 7 December 2009, the Regulatory – Planning Committee passed a resolution to grant planning permission for the application, subject to a set of conditions, and subject to the completion of a legal agreement. The report assessed the development as proposed at the time and with reference to those material considerations which were then apparent. During the period when the wording of the legal agreement was being settled between the Council and the legal representative of the applicant, further material considerations relating to this application became apparent which now requires that the resolution of the Committee needs to be reconsidered. The new material considerations, new aspects of the development plan, revised Government policy and different circumstances of the application site and function of the proposed development are described in the relevant sections of the report below.

A description of the application site and proposed development at the time, together with a summary of the conclusions of the accompanying Environmental Impact Assessment, the planning considerations, the Officer's Recommendation, including the terms of the legal agreement, and the suggested conditions can be seen in the report to Committee dated 7 December 2009 which is appended to this report at Appendix 1.

Changes to the Application Site

Since the previous Committee resolution, the Brickworks have closed and most of the buildings on the site have been demolished. The applicant states that the facility was no longer a viable operation as it was based on old technology, which

Public

was inefficient, and health and safety factors, in particular the dangerous condition of the chimney. The application, as submitted in 2009, stated that the low grade heat from the condenser in the proposed facility would be used to provide heating in the brickworks. This element of the proposal can no longer be achieved unless the brickworks are rebuilt. Since 2009, the applicant has gained planning permission for the construction of a new kiln at the site and now states that due to the presence of a good supply of clay from land adjacent, it is keeping options for the re-development of the site open at present. The applicant indicates that were the Brickworks to be re-established, the spare heat from the proposed waste facility could be useful for the drying of bricks.

Consultations and Publicity

No further consultations or publicity have been undertaken in advance of this report. The previous consultation responses and the responses to publicity are available in Appendix 1.

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. At the time the proposal was reported to the Committee in 2009, the development plan consisted of i) the East Midlands Regional Plan, 2009, ii) the Derby and Derbyshire Waste Local Plan, 2005, and iii) the Replacement Chesterfield Borough Local Plan. Other material considerations were listed as Planning Policy Statements and Planning Policy Guidance Notes. The most significant was Planning Policy Statement 10: Planning for Sustainable Waste Management, 2005 (PPS10).

Since 2009, the East Midlands Regional Plan has been revoked and the Replacement Chesterfield Borough Local Plan has been superseded by the Chesterfield Borough Council Local Plan: Core Strategy, July 2013. Most Planning Policy Statements and Policy Guidance Notes have been replaced by the National Planning Policy Framework March 2012, and the National Planning Practice Guidance 2014. The Waste Management Plan for England 2013 is also now a material consideration.

It is appropriate to reiterate the main conclusions of the previous report on which the resolution was made. In summary, the proposal was considered to accord with PPS10 as it would help to achieve the objective of sustainable waste management. As the proposed facility would help cater for the identified waste management needs of the area, it was considered that the presumption in favour of permission established in PPS10 should apply. The application site was located within an established employment area as defined in the Replacement

Public

Chesterfield Local Plan and therefore the presumption in favour of new employment generating development in Policy EMP7 of the Plan should apply.

The proposal was considered acceptable, subject to the recommended conditions, in terms of potential environmental impacts. In particular, it was concluded that the proposed facility would not give rise to unacceptable adverse impacts on air quality, including odour, from the emissions or that the traffic generated would not adversely affect highway function or safety in the Barrow Hill area subject to the proposed routeing arrangements. Accordingly, the proposal was considered to satisfy the requirements of the Derby and Derbyshire Waste Local Plan.

National Planning Policy Framework (NPPF)

The basic premise of this Policy statement is that if development is sustainable, it should go ahead without delay. It does not address waste management developments as such, as this issue was to be the subject of separate policy guidance, but it does apply generally to all forms of development.

The NPPF identifies that sustainable development has economic, social and environmental elements. The previous review of the proposal concluded that there were no environmental impacts that could not be made acceptable and the social issues were addressed by terms of the legal agreement. The proposal would have economic benefits. It would help to contribute to meeting the shortfall in the capacity of existing waste management facilities in the area. It would provide employment in an area that has suffered significant job losses in the last 30 years and would contribute to the energy needs of the country as a whole.

The application site is previously developed land and therefore, it accords with one of the 12 core planning principles set out in the NPPF.

National Planning Practice Guidance

The NPPG also does not address waste management development directly but it does set out the latest guidance on a range of environmental issues which should be taken into consideration in the assessment and determination of development proposals in general. I have reassessed the proposal against this current guidance but conclude that there is no reason, on environmental impact grounds, to reconsider the previous recommendation and resolution.

Chesterfield Borough Council Local Plan: Core Strategy 2011 – 2031

The Local Plan Core Strategy does not address waste management developments but it does reflect the over-arching policy of the NPPF by stating a presumption in favour of sustainable development (Policy CS3). The Local Plan Core Strategy maintains the allocation of the application site and surrounding

area as existing employment land where Policy CS13 promotes development which would deliver sustainable economic growth by supporting existing jobs and businesses, and delivering inward investment. The proposal would secure the replacement of some of those jobs lost with the closure of the Brickworks; it would involve the redevelopment of vacant industrial land and therefore accords with this Policy.

Waste Management Plan for England, December 2013

The Waste Management Plan for England provides an analysis of the current waste management situation in England and evaluates how it will support the implementation of the Waste Framework Directive. It acknowledges that national policy for waste is currently set out in PPS 10, which is being updated. It states that the Government supports efficient energy recovery from residual waste to deliver environmental benefits, reduce carbon impact and provide economic opportunities but the main policy statement of relevance to this proposal remains PPS10.

Department for Environment, Food and Rural Affairs (DEFRA) – Energy from waste – a guide to the debate, February 2014

This publication provides a starting point for discussions about the role of energy from waste in managing waste and is mostly concerned with energy from residual waste. The proposal would not receive residual waste but it does include a sorting/recycling element where some of the reusable material is removed prior to further treatment. The applicant states that only 17% of the total input of waste would require disposal. I am not able to confirm these figures but it does indicate that the proposed facility is based on the recommendation of this guidance.

The guidance states that residual waste usually consists of a mixture of different things, including oil like plastics and other fossil based carbons. It adds that the only element consisting of things that were recently grown and are biodegradable can be regarded as renewables so this proposal, based on mixed commercial and industrial wastes, is therefore a partially renewable energy facility.

The publication sets the position of energy recovery in the context of the waste hierarchy where it places this element of the proposal above disposal but lower than prevention, preparing for re-use and recycling. The proposal, however, does include some waste sorting and separation for re-use which improves its position in the hierarchy. It is clear that the sustainability credentials, specifically efficiency, of the proposal would be enhanced if there was an immediate use for the heat generated by the facility in addition to the general supply of electricity. The options available to the applicant indicate that this could be achieved in the future.

Conclusion

The previous assessment of the proposal and the Committee's resolution to grant planning permission was largely based on the compliance of the proposal with the policy and guidance of PPS10. Although there are now several additional national policy statements to take into account, PPS10 remains the main statement of waste policy of relevance to this proposal. The NPPF is not specific to waste management developments but it does seek to encourage the approval and fulfilment of sustainable developments. As this proposal was considered to accord with the relevant criteria for sustainable waste management, I consider that the NPPF adds to the support of PPS10 for the proposed development. This position is not changed by the content of the other new material considerations or the change in circumstances at the application site since 2009. I therefore recommend that planning permission be granted subject to the terms stated in the report.

(3) **Financial Considerations** The correct fee of £15,745 was received and no further fee is required for this report.

(4) **Legal Considerations** This is an application under Part III of the Town and Country Planning Act 1990, which falls to be determined by the County Council as Waste Planning Authority.

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

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

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

(6) **Background Papers** File 2.9.14

Planning application (accompanied by an Environmental Statement) submitted by Phoenix Brick Company Ltd and registered as valid on 19 January 2009 and further letters and submissions dated 8 June, 9 June, 22 June, 10 July (two separate letters), 25 September and 21 October 2009 (including amended drawings and email dated 28 September 2009 in relation to the weighbridge office).

Consultation and publicity responses, various dates (see file).

Public

Letters from Phoenix Brick Company Ltd dated 21 March 2014.
Letters from Penta-B Ltd dated 3 and 29 April 2014.

(7) **OFFICER'S RECOMMENDATION** That, subject to the completion of the legal agreement appended to this report to secure the routing of Heavy Goods Vehicles, road widening and measures designed to minimise the risk of accidents at the entrance from Staveley Lane, the Committee maintains the resolution of 7 December 2009 that planning permission be **granted** subject to the following conditions:

Commencement

- 1) The development shall be commenced within three years of the date of this decision notice.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

- 2) The date of commencement shall be notified to the Waste Planning Authority within seven days of commencement.

Reason: For the avoidance of doubt and to enable the Waste Planning Authority to monitor the development in the interests of maintaining the amenity of the area.

Approved Development

- 3) No development (including the uses, operations and activities associated with the proposals hereby approved) shall be carried out other than in accordance with the details set out in the Application for Planning Permission and the Environmental Statement submitted by Phoenix Brick Company Ltd registered as valid on 19 January 2009 and the further letters dated 8 June, 9 June, 22 June, 10 July (two separate letters), 25 September and 21 October 2009, except as may be otherwise required by the conditions attached to this permission. The approved documents shall comprise of the following:

Drawing no. PMRF.PB.100C
Drawing no. PMRF.PB.101C
Drawing no. PMRF.PB.102B
Drawing no. PMRF.PB.103B
Drawing no. PMRF.PB.104A
Drawing no. PMRF.PB.105
Drawing no. PMRF.PB.106B
Drawing no. PMRF.PB.107

Public

Drawing no. PMRF.PB.108

Drawing no. PMRF.PB.110

Design and Access Statement December 2008

Environmental Statement December 2008

Appendix 1 Noise Assessment 27 November 2008

Appendix 2 Landscape and Visual Impact Assessment 7 November 2008

Appendix 3 Transport Assessment December 2008

Appendix 4 Arboricultural Report 17 November 2008

Supporting Statement December 2008

Reason: To enable the Waste Planning Authority to monitor the development in the interests of the amenity of the area.

- 4) No development shall be commenced until details of the:
- a) weighbridge and weighbridge office;
 - b) architectural design of the main building;
 - c) wheel cleaning facility;
 - d) gates and fencing at the entrance onto Staveley Lane;
 - e) above ground tanks;
 - f) bicycle store;
 - g) oil heaters; and
 - h) biofilter

have been submitted to and approved in writing by the Waste Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To control the development in the interests of the amenity of the area.

- 5) Following the construction and installation of the approved building and facilities, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no plant or machinery, buildings or structures shall be placed or erected on the site except as expressly authorised or required by this permission.

Reason: To enable the Waste Planning Authority to retain control over the development in the interests of the amenity of the area.

Noise and Vibration

- 6) No development shall take place until a revised noise assessment has been submitted to and approved in writing by the Waste Planning Authority. The revised noise assessment shall:
- i) be based on measurements of ambient noise conditions carried out over 24 hours during weekdays and at a weekend;
 - ii) assess the predicted impacts in relation to the guidance the National Planning Practice Guidance.
 - iii) include recommended day time (i.e. 0700 hours to 2300 hours) and night time (i.e. 2300 hours to 0700 hours) noise limits to apply at the noise sensitive receptor locations specified in the table (and as shown on Plan No. PMRF.NTS.1 in Appendix 1 of the Environmental Statement).

The development shall then be carried out in accordance with the approved details.

Reason: So as to provide for the control and monitoring of noise emissions from the development in the interests of local amenity.

- 7) No operations under this permission shall take place until a scheme for the monitoring and recording of noise levels, investigation and steps to be taken following any complaints due to noise being received by the applicant/operator, has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:
- i) the qualifications and experience of the personnel to be engaged in undertaking the monitoring and recording;
 - ii) the measures to be taken to prevent the recording of data in unsuitable weather conditions;
 - iii) the equipment to be used and arrangements for calibration; and
 - iv) the frequency of monitoring and reporting to the Waste Planning Authority.

The results of the monitoring and records of any complaints received by the applicant/operator shall be maintained and made available for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

The approved scheme shall be implemented following the construction and installation of the approved building and facilities and at all times when the building and facilities are in operation.

Public

Reason: So as to provide for the control and monitoring of noise emissions from the development in the interests of local amenity.

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

Reason: So as to provide for the control and monitoring of noise emissions from the development in the interests of local amenity.

- 9) Any reversing alarms used on vehicles and mobile plant on the site shall be fitted and maintained in accordance with the details which have previously been submitted to and approved in writing by the Waste Planning Authority.

Reason: So as to provide for the control and monitoring of noise emissions from the development in the interests of local amenity.

Air Quality

- 10) No development shall take place until a scheme based on the mitigation measures set out in Section 6 of the submitted Environmental Statement for the suppression and control of dust (including PM₁₀ particles) and exhaust emissions, and the monitoring and recording of dust levels and complaints received by the applicant/operator, due to dust, has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:
- i) the measures to be taken to suppress and control dust and the triggers for action up to and including the temporary suspension of operations which are to be adhered to throughout the life of the site;
 - ii) the qualifications and experience of the personnel to be engaged in undertaking the monitoring and recording;
 - iii) the equipment to be used to monitor dust levels and the arrangements for calibration;
 - iv) the number and location of monitoring points; and
 - v) the investigation and steps to be taken following complaints due to dust and the frequency of monitoring and reporting to the Waste Planning Authority.

The results of the monitoring and recording of any complaints received by the applicant/operator due to dust shall be maintained and made available

Public

for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

The approved scheme shall be implemented before the building and facilities are brought into use and at all times when the building and facilities are in operations.

Reason: So as to provide for the control and monitoring of dust emissions and odour arising from the development in the interests of local amenity.

- 11) No development shall take place until a scheme for the management of odour has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:
- i) details of the odour management and mitigation measures to be implemented;
 - ii) a qualitative assessment of baseline odour conditions;
 - iii) a quantitative assessment (using a suitable dispersion model) of predicted odour levels at surrounding sensitive receptors (including 4 Mitcham Court, 16 Campbell Drive, Dulwich Court, Campbell Cottages, the Barrow Hill Roundhouse Railway Centre, Staveley Rifle and Pistol Club and the Handleywood Golf Driving Range) or such alternative receptor locations as may be approved in writing by the Waste Planning Authority;
 - iv) an appropriate odour threshold below which there would be no reasonable cause for complaint due to odour by the occupiers or users of the properties/premises assessed in accordance with iii) above;
 - v) an assessment of the significance of the predicted odour impacts (having regard to the odour management and mitigation measures detailed in accordance with i) above) in relation to any predicted exceedences;
 - vi) the specification and implementation of such additional odour management and mitigation measures as may be necessary to ensure that there are no exceedences of the odour threshold at any time; and
 - vii) measures for the monitoring of the performance of the odour management and mitigation measures in relation to the odour threshold (as measured at the sensitive receptors included in the quantitative assessment carried out in accordance with iii) above.

The results of the monitoring and recording of any complaints received by the applicant/operator due to odour shall be maintained and made available for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

Public

The approved scheme shall be implemented before the building and facilities are brought into use and at all times when the building and facilities are in operations.

Reason: So as to provide for the control and monitoring of dust emissions and odour arising from the development in the interests of local amenity.

- 12) Records of any complaints received by the applicant/operator, due to matters other than dust and odour, shall be maintained and made available for inspection by the Waste Planning Authority at the site office during normal site opening hours.

Reason: So as to provide for the control and monitoring of dust emissions and odour arising from the development in the interests of local amenity.

- 13) No waste or processed materials shall be stored outside the approved building other than recycled glass, plastics and metals. Any such outside storage of recycled materials shall take place in sheeted containers only and within the areas designated for skip storage as shown on drawing number PMRF.PB.102B.

Reason: So as to provide for the control and monitoring of dust emissions and odour arising from the development in the interests of local amenity.

Biodiversity

- 14) No vegetation clearance works required in connection with the approved development shall take place during the bird nesting season (March to August inclusive) except in accordance with the supervision of a competent person approved by the Waste Planning Authority.

Reason: To ensure that the development does not disturb nesting birds.

- 15) No development shall take place until a survey for the presence of Great Crested Newts on the site has been undertaken, under the supervision of a suitably qualified ecologist, and the results have been submitted to the Waste Planning Authority. In the event that a Great Crested Newt is found, no works shall commence until such time as a scheme for the protection of the Great Crested Newts in and around the site has been submitted to and approved in writing by the Waste Planning Authority in liaison with Natural England. All steps required by the approved scheme shall be implemented in full.

Public

Reason: To provide protection to any Great Crested Newts present in and around the site.

Surface and Ground Water Protection

- 16) No operations approved under this permission shall be begun until a surface water drainage scheme for the site (including the site access road), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of how it is to be maintained and managed throughout the life of the development and shall subsequently be implemented as approved.

Reason: In the interests of preventing pollution and protecting the water environment.

- 17) No operations approved under this permission shall be begun until a scheme to install oil and petrol interceptors in the areas of car parking and traffic circulation has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented as approved before the building and facilities are brought into use.

Reason: In the interests of preventing pollution and protecting the water environment.

- 18) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges, and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land, or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be directed to discharge downwards into the bund.

Reason: In the interests of preventing pollution and protecting the water environment.

Other Environmental Protection

- 19) No Heavy Goods Vehicles (HGVs) (defined as a vehicle with a gross laden weight of 3.5 tonnes or more) shall enter or leave the site and no

Public

operations shall take place outside the building hereby approved except between the following hours:

Monday to Friday 0600 hours to 2000 hours.

Saturday 0600 hours to 1400 hours.

No HGVs shall enter or leave the site on Sundays, Bank or other national holidays.

Reason: In the interests of local amenity.

- 20) No development shall take place until a scheme for the protection and retention of existing trees as indicated on drawing number PMRF.PB.102B has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:

- i) a root protection area (RPA) for the trees referred to above within which there will be no a) soil stripping, b) storage of soils, overburden or other materials, c) other excavation and d) trafficking of vehicles or plant; and
- ii) the fencing to be provided before any other development takes place and maintained throughout the life of the development to define and protect the RPA.

The approved scheme shall be implemented before development commences on the adjoining parts of the site and shall be maintained at all times when the building and facilities are in operation.

Reason: To ensure the protection of trees to be retained as part of the development in the interests of local amenity.

- 21) No operations approved under this permission shall be begun until a scheme for the:

- i) augmentation and extension of the existing tree belt along the southern boundary of the land controlled by the applicant and alongside the site access road link to Staveley Lane, as shown on drawing number PMRF.PB.108A;
- ii) maintenance of new planting over an initial establishment period of three years;
- iii) management of the existing trees and new planting throughout the life of the development; and

Public

- iv) formation of screen bunds adjacent to Campbell Drive in accordance with details designed to reduce adverse visual effects relative to that shown on drawing number PMRF.PB.106B;

has been submitted to and approved in writing by the Waste Planning Authority.

The approved scheme and the planting scheme, shown on drawing number PMRF.PB.106B, shall both be implemented in the first available planting season following the date on which the building and facilities are brought into use and the maintenance of all new planting shall be carried out in accordance with the approved scheme.

Reason: To provide the appropriate landscaping and screening of the approved development in the interests of local amenity.

- 22) No development shall take place until details and samples of the external cladding and roofing materials have been submitted to and approved in writing by the Waste Planning Authority. The materials shall be non-reflective and finished in dark recessive colours.

Reason: To achieve a satisfactory form of development in the interests of local amenity.

- 23) All sheeted containers used to store recycled glass and plastics within the area designated for this purpose, as shown on drawing number PMRF.PB.102A, and the weighbridge office to be sited, as shown on drawing number PMRF.PB.102B, shall be painted and maintained in non-reflective dark recessive colours (details of which shall have been submitted to and approved in writing by the Waste Planning Authority) before they are brought into use.

Reason: To achieve a satisfactory form of development in the interests of local amenity.

Highways and Access

- 24) No vehicular access to the public highway shall be used by Heavy Goods Vehicles (HGVs) (defined as a vehicle with a gross laden weight of 3.5 tonnes or more) in connection with the development hereby approved other than the entrance from Staveley Lane, as shown on drawing number PMRF.PB.108A.

Public

Reason: To achieve a satisfactory form of development in the interests of highway safety.

- 25) No other development shall be carried out until the improvements to the entrance from Staveley Lane (specified in Appendix B of the Transport Assessment in the Environmental Statement) have been implemented in accordance with the approved details, including:
- i) signage, carriageway marking and surfacing works on Staveley Lane, together with exit visibility splays of a minimum 2.4 metres x 160 metres at the entrance;
 - ii) the widening of the site access road from Staveley Lane in accordance with the proposals described by letter dated 10 July 2009 and drawing number PMRF.PB.108A; and
 - iii) the surfacing of the site access road in a bound material over its full length between Staveley Lane and the weighbridge, as shown on drawing number PMRF.PB.108A.

Reason: To achieve a satisfactory form of development in the interests of highway safety.

- 26) The area in advance of the required visibility splays shall be maintained free of obstructions exceeding 1 metre in height relative to the adjacent carriageway channel level at all times when the building and facilities are in operation and the gates to be provided at the entrance from Staveley Lane shall be set back not less than 10 metres from the edge of the highway and shall open inwards only.

Reason: To achieve a satisfactory form of development in the interests of highway safety.

- 27) No development shall take place until exit visibility splays of a minimum 2.4 metres x 43 metres have been provided at the entrance from Campbell Drive. The area in advance of the required visibility splays shall be maintained free of obstructions exceeding 1 metre in height relative to the adjacent carriageway channel level at all times when the building and facilities are in operation.

Reason: To achieve a satisfactory form of development in the interests of highway safety.

- 28) Before any operations hereby approved are commenced, which involve the movement of material in bulk to or from the site, facilities shall be provided

Public

as agreed in writing with the Waste Planning Authority to prevent the deposition of mud or other debris on the public highway and, the agreed facilities shall, thereafter, be maintained throughout the life of the development whenever the said operations are carried out.

Reason: In the interests of highway safety and local amenity.

- 29) The approved facility shall not be brought into use until a Travel Plan has been submitted to and approved in writing by the Waste Planning Authority. The Travel Plan shall include:
- i) proposals and a timetable for the promotion and implementation of travel by sustainable modes;
 - ii) revised arrangements for the provision of on-site car parking; and
 - iii) arrangements for the annual reporting of progress in promoting sustainable transport measures during the five year period following the date on which the facility is brought into use.

The revised areas for car parking shall be designed, constructed and surfaced in accordance with the approved details and the car parking shall be maintained, available for the intended use at all times when the building and facilities are in operation.

The approved Travel Plan shall be implemented when the approved build and facilities are brought into use.

Reason: In order to achieve a satisfactory form of development, and assist in the development and promotion of sustainable transport arrangements to be implemented in carrying out the approved development.

- 30) No development shall take place until a scheme, designed to protect the safety of the users of the public footpath which crosses the site access road has been submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented from the date on which the development commences.

Reason: In the interests of the safety of users of the public footpath.

Other

- 31) No development shall take place until a scheme, designed to protect the safety of users of the site access road in relation to the adjacent firing range, has been submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be fully implemented prior

Public

to the date on which the site access road link to Staveley Lane is brought into use.

Reason: To provide satisfactory form of development in the interests of public safety.

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

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of the planning application in full compliance with the Article. The applicant has engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Policies

The principal planning policies relevant to this grant of planning permission are:

Derby and Derbyshire Waste Local Plan

Policy W1b: Need for the Development, Policy W2: Transport Principles, Policy W5: Identified Interests of Environmental Importance, Policy W6: Pollution and Related Nuisances, Policy W7: Landscape and Other Visual Impacts and Policy W8: Impact of the Transport of Waste.

Footnotes

- 1) In accordance with Section 278 of the Highways Act 1980, modification works within the public highway shall be made the subject of a legal agreement between the applicant and the County Council. Advice regarding the design, specification and procedures for undertaking these works may be obtained from the Strategic Director – Economy, Transport and Environment at County Hall, Matlock.
- 2) The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Public

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

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

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

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

- 3) Attention is drawn to the contents of the Environment Agency letter dated 18 June 2009.
- 4) Pursuant to Section 50 (Schedule 3) of the New Roads and Street Works Act 1991, before any works are commenced within the limits of public highway, at least six weeks prior notification should be given to the Strategic Director - Economy, Transport and Environment at County Hall, Matlock.
- 5) Great Crested Newts are protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 (the Habitats Regulations).

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Derbyshire County Council

Regulatory – Planning Committee

7 December 2009

Report of the Strategic Director – Environmental Services

- 1 Installation of a Facility for the Reception, Storage and Treatment of Waste for the Purpose of the Recovery of Raw Materials and Energy, The Brickworks, Campbell Drive, Barrow Hill, Staveley, Chesterfield**
Applicant: Phoenix Brick Company Ltd
Code No: CW2/0209/203

2.9.14

Introductory Summary The proposal is for the erection of a building to house a waste recycling and treatment plant, and the installation of ancillary facilities at The Brickworks, Campbell Drive, Barrow Hill, Staveley, Chesterfield.

The plant would treat up to 100,000 tonnes of commercial and industrial waste per annum (by the application of steam, heat, pressure and mechanical agitation) in two sealed autoclave vessels. The resultant sterilised fibre product would then be processed to recover metals, glass and plastics which would then be transported off site to reprocessors and/or manufacturers. The remaining cellulose rich material would also be transported off site, this time for use as a fuel at third party power stations.

The 1.24 hectares site broadly comprises vacant land adjacent to the brickworks which has recently been returned to production following a temporary closure due to market conditions. Following improvement works, access for the heavy goods vehicle (HGV) traffic generated by the proposed development would be via an existing site access road to Staveley Lane. All such HGV traffic would be routed to and from the site via Staveley Lane and Hall Lane, following road widening works at various locations along the route and the implementation of measures designed to minimise the risk of accidents at the entrance from Staveley Lane.

I have assessed the proposals in terms of the regional, county and local policies, national planning guidance and other material considerations, including the representations received from local residents and other interested parties. Having regard to all relevant considerations, I recommend that (providing a Planning Obligation is executed in a form that satisfactorily

covers requirements for HGV routeing, road widening and signage and the implementation of measures designed to minimise the risk of accidents at the entrance from Staveley Lane), planning permission be granted subject to the conditions set out in my recommendation.

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

(2) **Information and Analysis**

Background Information

It is understood that the Brickworks at Campbell Drive in Barrow Hill were first developed in 1929. The Brickworks has recently returned to production following a temporary closure due to market conditions.

In the recent past, the Brickworks has used landfill gas, produced at the nearby Hall Lane Landfill Site, as fuel in the manufacturing process. The applicant states that supplies of this alternative to natural gas can no longer be guaranteed (since the operator of Hall Lane Landfill Site now utilises the landfill gas for power generation at that site) and that this has increased production costs at the Brickworks significantly. As a result, the applicant is seeking other alternative sources of energy.

An earlier application for planning permission (reference number CW2/1003/136) for the "installation of waste treatment facility at Campbell Brickworks, Barrow Hill, Chesterfield" was withdrawn by the applicant on 19 January 2009.

Application Details

The proposal is for the erection of a building to house a waste recycling and treatment plant and the installation of ancillary facilities at The Brickworks, Campbell Drive, Barrow Hill approximately 2.5 kilometres east-north-east of Staveley in the Borough of Chesterfield.

The 1.24 hectares application site comprises seven separate parcels of land which, for the most part, comprises vacant land adjacent to a Brickworks.

The parts of the application site which would accommodate the proposed building and main ancillary facilities is generally bounded by the Barrow Hill Roundhouse Railway Centre and associated sidings to the south, the premises of Staveley Rifle and Pistol Club to the north-west (formerly part of the closed Campbell Colliery), a restored landfill site and allotment gardens to the north and a disused playing field to the east – with the community of Barrow Hill beyond. A public footpath crosses the line of the site access road which links the Brickworks to Staveley Lane.

The nearest residential properties include those at Mitcham Court, Dulwich Court and Campbell Drive in Barrow Hill and at Campbell Cottages to the north-west of the site.

Up to 100,000 tonnes of commercial and industrial waste per annum would be unloaded from incoming HGVs within the 12,000m² enclosed reception area section of the proposed building. The applicant considers that the waste would be sourced from collection rounds and/or transfer stations within a 30 minute travel time to the site, ie parts of Derbyshire, Nottinghamshire and South Yorkshire.

The reception area would be fitted with dust suppression and odour masking mist spray systems. From here the waste would be loaded onto conveyors and fed to one of two sealed autoclave vessels. In the vessels the waste would be treated by the application of steam, heat (about 160°C), pressure (5 bar) and mechanical agitation. The autoclave vessels would be fitted with extraction hoods to enable any fugitive vapour emissions to be treated in an odour abatement system based on activated carbon filters. Steam from the autoclaves would be re-used as far as is practicable and any excess would be condensed. The low grade heat from the condenser would be used to provide heating in the Brickworks.

The resultant sterilised fibre product (about 72% of the waste input by weight) would be processed by mechanical, magnetic and manual methods to recover metals, glass and plastics - which would then be transported off site to reprocessors and/or manufacturers. The remaining cellulose rich material would also be transported off site, this time for use as a fuel at third party power stations.

Reject or residual waste materials separated during the course of the process (expected to be approximately 17% of input) would be transported to a suitably approved landfill site for disposal. The recycling and autoclave plant would operate 24 hours a day, 7 days a week. Any recyclates which cannot be loaded out directly, would be temporarily stored in sheeted containers located on a hard surfaced yard, immediately to the north of the proposed building.

The proposed building would have a footprint of 3,456m² in an 'L' shaped configuration with all vehicle door openings facing towards the north-west and north-east. The building would be a single span, steel portal frame construction with a central pitched roof with 14 metres high eaves (maximum) and a roof ridgeline of 16 metres (maximum). The applicant proposes that the external cladding and roof would be formed in pressed steel cladding finished to RAL9002 (Ivory). The 6 vehicle entrances would be fitted with 6 metres high roller shutter doors.

The main ancillary facilities would comprise a weighbridge and weighbridge office, a skip storage area, new fencing and gates at the entrance from Staveley Lane and parking spaces for staff and visitors. The landscaping proposals include measures to safeguard the existing trees and to carry out new tree planting; i) along the southern boundary, ii) to the north of the existing internal access road that links the Brickworks to Campbell Drive, iii) on new screen mounding to be created adjacent to the two proposed car parking areas at the entrance from Campbell Drive and iv) alongside the site access road link to Staveley Lane.

Following improvement works, access for HGV traffic generated by the proposed development would be via the site road link to Staveley Lane. Car and light vehicle traffic, meanwhile, would use the entrance from Campbell Drive, together with the existing HGV traffic transporting finished products from the neighbouring Brickworks.

In terms of the local public highway network, all HGV traffic generated by the proposed development, using the Staveley Lane entrance, would be routed via Staveley Lane and Hall Lane following; i) widening works and the erection of signs at various locations along the route and ii) the implementation of measures designed to minimise the risk of accidents at the Staveley Lane entrance.

An average of 120 HGV movements (i.e. 60 in and 60 out) is likely to be generated by the proposed development each working day. The maximum number of HGV movements is likely to be 200 per day (i.e. 100 in and 100 out). All such HGV movements would take place between the following hours:-

0600 - 2000 hours Monday to Friday;
0600 - 1400 hours on Saturdays.

The applicant company has also made clear that its intention is to submit a further application for planning permission as soon as practicable after the commissioning of the proposed facility (if the current application is approved), for the development of a "combined heat and power plant" at the Brickworks. This would be fuelled by the fibre produced from the proposed recycling and autoclave process.

In this context, the applicant considers that the proposed development offers the following benefits:-

- the recovery of 'biomass' from waste which can be used to generate 'green electricity' at third party facilities;
- the beneficial use of waste heat generated in the adjacent brick making process;

- the diversion of bio-degradable waste from landfill; and
- the provision of approximately 30 new jobs.

Environmental Statement

The application is accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended). The applicant considers that the proposed development would not give rise to significant adverse impacts in relation to landscape and visual, noise and vibration, traffic and transport, air quality, water resources, flood risk and drainage, land contamination and heritage.

The conclusions made by or on behalf of the applicant in the ES can be summarised as follows:-

Impact on Land

Landscape

The landscape impact assessment carried out on behalf of the applicant considers that the proposed development would be *"in keeping with the local industrial landscape character"* and assesses the effect on landscape character to be moderate/low to low/negligible, in the long – term.

Water Resources and Drainage

The qualitative assessment of water resources presented by the applicant considers the potential impacts on surface and groundwaters and the proposed mitigation measures (eg. bunding of fuel/oil stores, provision of spill equipment, cut off ditches and settlement lagoons, impermeable surfacing and implementation of a leak and spillage action plan). The applicant concludes that these measures would mean that *"there will be negligible impact of the proposal on surface waters or groundwater"*.

Flood Risk

The qualitative assessment of flood risk presented by the applicant simply notes that the proposed facility is 500 metres north of the River Rother and that the Environment Agency's indicative floodplain maps *"do not indicate the site to be at risk of flooding from sea or rivers without defences, nor the extent of extreme flood"*.

Land Contamination

The assessment of land contamination presented by the applicant states that *"historical OS maps from 1883 to 1938 shows no use of this land prior to the development of the brickworks that would lead to any assumption that there might be any land contamination issues that require more detailed investigation"*. The applicant further states that trial pitting at the site has

confirmed this conclusion and that testing of the existing fill to be removed, as part of the site construction works, would be undertaken to determine the appropriate means of disposal.

The applicant also notes that the adjacent restored landfill site is a potential source of contamination and understands that monitoring of this site shows that migration of landfill gas is not an issue.

Impact on People

Visual

The visual impact assessment carried out on behalf of the applicant notes that the area is *"undulating with localised woodland blocks which limit long distance views from ground level and limit the effects on visual amenity to receptors located further afield"*. While the assessment acknowledges that the occupiers of residential properties in Barrow Hill to the east of the site would experience a moderate adverse effect during the construction of the proposed facility, the adverse effect on the occupiers of residential properties in Barrow Hill (including those in the Barrow Hill Conservation Area) and Brimington is considered to be moderate and moderate/low respectively. The adverse effect on the visual amenity of the users of the Handleywood Golf Driving Range (off Whittington Road) is also considered to be low.

Noise

As part of a noise assessment carried out on behalf of the applicant, existing ambient noise levels were surveyed at 4 Mitcham Court and 16 Campbell Drive (to the east and south-east of the site in Barrow Hill) and at Campbell Cottages (to the north-west of the site and west of the railway). Predicted noise levels were also calculated for the residential properties at Dulwich Court.

Based on various assumptions about the plant and equipment to be used, the method and hours of operation and, such matters as the frequency of HGV movements, the assessment concludes that (on a "worst case senario") the noise generated by the proposed development will not exceed the existing ambient levels at the three locations surveyed and that the predicted levels would not exceed the relevant Integrated Pollution Prevent Control Sector Guidance published by the Environment Agency.

Air Quality

The qualitative assessment of air quality presented by the applicant considers dust emissions during the construction phase, fugitive emissions of dust and odour during the operational phase and emissions due to road traffic. In relation to the latter, the applicant expects that the traffic on the local highway network, generated by the development, will be largely offset by the reduction of traffic resulting from the closure of the Hall Lane Landfill Site.

After taking account of the proposed mitigation measures (eg. water and odour masking sprays, and an activated carbon filter odour abatement system) the applicant concludes that “the systems and equipment proposed will be capable of effectively controlling the potential fugitive dust and odour emissions” and that *“the potential for receptors to be adversely affected by the presence of any dusty or odorous substances emitted from the operations is likely to be negligible at the closest sensitive receptors to the boundary of the site”*.

Traffic and Transport

The transport assessment undertaken on behalf of the applicant considers the suitability of the existing highway network and access routes (in traffic terms) in accordance with the Department for Transport guidance published in 2007 and takes account of the traffic to be generated by the recent approved mineral extraction at Foxlow Tip off Hall Lane. The assessment also takes account of the off site road signage/widening, traffic routeing and improvements to the site entrance from Staveley Lane proposed by the applicant and concludes that:

- the proposed access to Staveley Lane and the route to be used by HGVs approaching and leaving the site (including the Hall Lane “shuffle signals”) “would operate efficiently with the proposed development and committed developments in place”;
- adherence to the proposed routeing arrangement would mean that there is no need for additional measures regarding road safety; and
- if planning permission is granted, the submission of a Travel Plan could be required to secure sustainable transport policy objectives.

Impact on Cultural Heritage

Listed Buildings

Although the Grade II Listed Building status of the Barrow Hill Engine Shed is not expressly referred to, the “heritage statement” (and the landscape and visual impact assessment) included in the ES considers the impact of the proposed development on the setting of the Engine Shed in terms of i) the measures incorporated in the proposals for the retention of the existing intervening trees and ii) the screening of vehicle movements afforded by the position of the proposed building.

Conservation Area

Assessment of potential impact on the setting of the Barrow Hill Conservation Area is presented as part of the assessment of visual impact on residential properties in Barrow Hill included in the ES (see Landscape and Visual sections above).

Alternatives

The consideration of alternatives presented in the ES is confined to a discussion of the different waste treatment technologies which could generate the energy source required at the adjacent brickworks.

Further Information

By letters dated 8, 9 and 22 June 2009, two letters both dated 10 July 2009, a further letter dated 25 September 2009, an e-mail dated 28 September 2009 and a letter dated 21 October 2009, the applicant has submitted further information:

- in relation to planning policy considerations;
- to confirm that *"the possibility of developing a CHP facility at the site is no more than one of a number of possibilities being considered at this time"*;
- concerning historical uses at the site and measures to manage any contaminated land encountered during construction work;
- measures to remedy encroachment onto land controlled by Staveley Rifle and Pistol Club; fly-tipping alongside the site access road from Staveley Lane and the stockpiling of materials adjacent to trees along the southern site boundary;
- in relation to the initial consultation responses received from the Highways Authority, the Environment Agency and the County Council's Landscape Architect and the report considered by Chesterfield Borough Council's Planning Committee at its meeting on 13 July 2009;
- in relation to issues raised by a neighbouring resident concerning landownership;
- concerning the proposed autoclave technology; and
- demonstrating that the proposed weighbridge office and skip storage area would be re-sited outside the Green Belt and proposing additional planting along i) the common boundary with the Barrow Hill Roundhouse Railway Centre and ii) the site access road link to Staveley Lane.

The letter dated 10 July 2009, included a plan showing amendments to the application boundary and further improvements to the site access road from Staveley Lane and the letter dated 21 October 2009, included amendments to a number of the submitted plans arising from the matters summarised at the final bullet point above.

Consultations

Local Member

Councillor David Stone (local Member) objects to the proposal on the following grounds:-

- "i) *This application goes against Policy W10 that reflects the structure plan's statement in its Waste Management Policy 3, that the cumulative impact of waste developments may be unacceptable. Barrow Hill has had years of disturbance from the Hall Lane tip. It already has an application in place which will last for over twenty years, for the removal of clay. This application is a step too far for the people of Barrow Hill.*
- ii) *DCC has not got an adopted Waste Core Strategy Development Plan Document in place to identify suitable locations.*
- iii) *In its present form it has too much impact on a Grade II listed building next to it.*
- iv) *I understand that the application has failed to consider the impact on ecology".*

Chesterfield Borough Council

Chesterfield Borough Council's Planning Committee considered the application at its meeting on 13 July 2009 and resolved to object on the following grounds:-

- Until Derbyshire County Council has an adopted waste Core Strategy Development Plan Document (DPD) in place, which identifies a need for energy recovery plants to recycle waste in Derbyshire, and an adopted waste Site Allocations DPD, which identifies suitable locations, this application is premature and does not accord with the waste hierarchy nor the Government's Waste Strategy.
- The application fails to consider the impact of the proposal on the setting of a Grade II Listed Building contrary to Policy EVR 33 of the Replacement Chesterfield Borough Local Plan. It is considered that, by virtue of its design with ivory colour scheme, the proposal will have detrimental impacts on the setting of the Barrow Hill Conservation Area and the visual amenity of the site and its surroundings contrary to policies EVR 30, and EMP 8 of the Replacement Chesterfield Borough Local Plan.

In his letter advising of the Committee's decision, the Borough Council's Group Leader – Development Management drew attention to a comment (made at the Committee meeting) alleging that Great Crested Newts may exist at the site. As ecology was scoped out of the ES that accompanies the application, the Group Leader considers that *"it cannot be concluded that the ecological value of the site has been properly considered"*.

The advice of the Borough Council's Environmental Services Officer to the Committee was that, in addition to planning permission, a separate Environmental Permit would need to be issued by the Environment Agency before the proposed facility could be brought into operation and that this

Permit would include conditions designed to ensure that the facility did not create detrimental impacts on human health or the environment. The Officer concluded that *"emissions from the operation of the plant would be fully controlled by the Environmental Permit"*.

Staveley Town Council

The Town Council objects to the application in a letter dated 21 April 2009. The objections may be summarised as follows:-

- it is understood that brick manufacturing is currently not taking place and, therefore, that the stated number of existing employees (34) may be incorrect;
- the decline in gas supplies from Hall Lane Landfill Site may be more to do with commercial considerations, rather than availability;
- the effect that increasing pre-treatment of waste may have on the amount of landfill gas being produced at landfill sites is not relevant to Hall Lane Landfill Site as this is now closed and undergoing restoration;
- the need to transport the biomass fuel that would be produced to third party facilities elsewhere means that the proposal is not sustainable in transportation terms;
- there are many uncertainties surrounding the suggestion that a future application would be submitted for the development of a Combined Heat and Power (CHP) plant at the site and the function this would serve in relation to the Brickworks in particular;
- the surrounding road system is not suitable to accommodate the HGV traffic that would be generated by the proposed development. The existing level of HGV traffic through Barrow Hill is already unacceptable;
- the measures proposed to control adverse effects on the amenity of local residents are unlikely to prove effective, based on the experience of the standards achieved at the Hall Lane Landfill Site;
- the waste management needs of the area are now met by Erin Landfill Site which operates without disturbance to local residents. The proposed development would delay the completion of Erin.

On the basis of these comments, the Town Council objects to the application.

Derbyshire County Council, Highways Network Management

No objections subject to access improvements being carried out before the operation of the facility commences, the provision of car-parking, and a Travel Plan being agreed.

Environment Agency

In its initial response, the Environment Agency requested that any approval be granted subject to conditions designed to address drainage from the site, prevent pollution, manage the risks associated with the potential historic contamination of the site and odour control. The Agency also considered that

"the main cause for concern in relation to this proposal is the potential odour issues associated with processes of this type" and recommended that a full odour assessment should be undertaken prior to the start of the activity to form a baseline for detailed odour impact assessment.

Following discussion, the Agency has commented further, noting that:-

- i) investigative works are not required in relation to land contamination issues;
- ii) sealed drainage of the outside skip storage areas will be required under the Environmental Permit;
- iii) its recommendation that odour be addressed at the planning stage (notwithstanding the parallel controls that would apply under the Environmental Permit) still apply; and
- iv) the conditions it now requires to be attached to any planning approval should be limited to surface water drainage and pollution control matters, in order to avoid duplication of control.

Government Office for the East Midlands

No response received.

Publicity

The application has been advertised in the press and by site notices. Observations on the current application were requested by 9 July 2009.

Letters of Objection

Eight letters of objection (six from Barrow Hill residents, one from a local business and one from the Staveley Rifle and Pistol Club) have been received.

The Barrow Hill residents object to the proposed development as it is considered likely to give rise to problems of dust, odour, HGV traffic on inadequate roads, noise and the continuation of the types of adverse effects experienced by local residents when the two nearby landfill sites were operating. Barrow Hill is a small community with young children and older people, it has had enough of being Derbyshire's dumping ground. There is also concern that property prices and sales would be adversely affected.

One of the residents also questions the need for the proposed development and considers that it would exacerbate problems of localised flooding, that it will pose a risk of public health problems and devalue nearby properties. Another resident queries the land ownership information submitted with the application and considers that the proposed development would have an adverse effect on the Barrow Hill Engine Shed as a visitor attraction.

Staveley Rifle and Pistol Club points out that a section of the existing/proposed site access road from Staveley Lane encroaches on land under the Club's control, and that works carried out by the applicant have compromised safety by reducing the effectiveness of the "stop banks" constructed at the eastern end of the rifle range and also requests that a secure fence be erected along the common boundary.

The representations referred to above, are addressed in the 'Planning Considerations' section below.

Finally, the application was discussed at a meeting of the Borough Council's Barrow Hill and Whittington Community Forum, where the main concerns identified were the suitability of the local road network and the arrangements for the routing of HGVs.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined having due regard to the development plan unless other material considerations indicate otherwise. The development plan in this case constitutes i) the East Midlands Regional Plan (2009) (RSS8), the East Midlands Regional Work Strategy (2009) ii) the Derby and Derbyshire Waste Local Plan (2005) (WLP) and iii) the Replacement Chesterfield Borough Local Plan (2006) (RCBLP). Other material considerations include national and local policy and guidance which is set out in Planning Policy Statements (PPSs), Planning Policy Guidance notes (PPGs) and the emerging local development plan documents.

The principal policies and guidance against which this application must be considered are those in Planning Policy Statement 10 : Planning for Sustainable Waste Management (2005) (PPS10), those parts of the development plan which specifically relates to the development of new waste recycling and treatment facilities, and the uses allocated for the site, together with other policies and guidance in the development plan which serve to provide a framework for the assessment of impacts.

Foremost are the policies and guidance set out in paragraphs 23 and 24 of PPS 10, EMRP Policy 38, EMRWS Policy RWS1.8, WLP Policy W1b and RCBLP Policy EMP7. As the proposed improvements to the site road and access on to Staveley Lane and the weighbridge lie within the Green Belt, WLP Policy W3c (and the equivalent policies found at RCBLP Policy EVR1 and in PPG2) is also of particular relevance.

At paragraphs 23 and 24 of PPS 10 Waste Planning authorities are advised that:-

"23 *In the interim period before the Development Plan is updated to reflect the policies in this PPS, planning authorities should ensure proposals are consistent with the policies in this PPS and avoid placing requirements on applicants that are inconsistent.*

24 *Planning applications for sites that have not been identified, or are not located in an area identified, in a Development Plan document as suitable for new or enhanced waste management facilities should be considered favourably when consistent with:*

- (i) the policies in this PPS, including the criteria set out in paragraph 21;*
- (ii) the Waste Planning Authority's core strategy".*

WLP policies W1b: Need for the Development and W3c Other Developments in Green Belts meanwhile state that:

"W1b 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.

Waste development catering primarily for the needs of other areas will be permitted only if:-

- the development would satisfy a need which could not realistically be met closer to the source of the waste; and*
- the development would contribute to an integrated system of waste management."*

"W3c Other forms of waste development in Green Belts will not be permitted unless:

- the development would take place on a site identified in the Development Plan as a "major developed site" and would be in accordance with the provisions of the development plan for the development of that site; or*
- the development would provide small-scale, essential facilities for the maintenance or improvement of waste management facilities, would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it."*

Finally, CBLP Policy EMP7: Development in Existing Business and Industrial Areas states that:-

"EMP7 Within the established employment areas, as shown on the Proposals Map, planning permission will be granted for employment development subject to the criteria listed in Policy EMP8.

In assessing such proposals outside the B1, B2 and B8 Use Classes, regard will be had to the employment generating potential of the alternative use.....

Planning permission will only be granted for the redevelopment of existing employment sites for other alternative uses, provided that the following criteria are met:

- (a) (in the case of sites near to residential areas) a satisfactory living environment for residents can be created and adequate supporting community facilities provided or there is a high level of accessibility to existing facilities;*
- (b) the proposal would not prejudice the development potential of other land identified for employment use by adversely affecting market image or physical layout;*
- (c) the proposal would not lead to a qualitative or quantitative deficiency in the supply of employment land;*
- (d) the proposal would not unduly inhibit existing or future business activity in the area through incompatible environmental or operational demands."*

The other relevant policies that I have taken into account are RSS Policy 38, WLP policies W2, W4, W5, W6, W7, W8, W9 and W10 and CBLP policies EVR1, EVR 23, EVR 30, EVR 33, EMP8, POS4 and TRS13.

Assessment of the Proposal

The proposals are now considered in terms of each of the key policies identified above, namely paragraphs 23 and 24 of PPS 10, WLP Policies W1b and W3c and RCBLP Policy EMP7.

Government policy set out in paragraphs 23 and 24 of PPS 10 applies in this case, since the development plan has not been fully updated to reflect the policies in PPS 10 and the proposed site is not one which has been identified in a development plan document as being suitable for new waste management facilities. In these circumstances, Waste Planning Authorities are advised, inter alia, to consider proposals for new waste management facilities favourably when they are consistent with the policies in PPS 10 (including the criteria set out in paragraph 21) and the Waste Planning Authority's core strategy.

The Authority's core strategy is some way from adoption but it is considered that the proposed development would help to achieve the objective of more sustainable waste management, as set out in the policies of PPS 10, and the criteria set out at paragraph 21 of that statement.

It is therefore concluded that:

- the presumption in favour of permission, established at paragraph 24 of PPS 10, should apply in this case; and
- there is no basis for refusal on the grounds of prematurity, as recommended by the Borough Council.

As the proposed facility would help to cater for the needs of the local area and the East Midlands Regional Plan (at Figure 4 on page 83) identifies a requirement for nearly 1.5M tonnes per annum of additional waste treatment capacity to be developed in Derbyshire and Derby City by 2020, I consider that there is no clear reason why the presumption in favour of permission, established in WLP Policy W1b, would not apply in this case.

In terms of WLP Policy W3c, planning permission for waste management development in the Green Belt (other than landfill and changes of use) should be refused, unless one of two specified exceptions are met. In this case, the elements of the proposals which fall within the Green Belt are limited to improvements to the existing site access road and its junction with Staveley Lane and the installation of a weighbridge at a level coincident with the existing ground level.

These elements of the development are considered to be "*small scale, essential facilities*" which would "*preserve the openness of the Green Belt and would not conflict with the purposes of including land within it*". They are regarded as acceptable facilities in terms of the second exception in WLP Policy W3c, and therefore the general presumption against the grant of planning permission for waste development which includes green belt land should not apply in this case.

Finally, the proposed facility is located within an established employment area as shown on the Replacement Chesterfield Borough Local Plan (2006) Proposals Map. As such I conclude that the presumption in favour of planning permission for employment development established in RCBLP Policy EMP 7 should apply, providing that:

- the criteria listed in RCBLP Policy EMP8 are met; and
- (if the proposed use falls outside B2 and B8 Use Classes - a matter which has been the subject of recent case law), it would have a suitable "*employment generating potential*".

In my assessment, the proposed development meets the second of these provisos since the applicant estimates that it would create approximately 30 new full time jobs and the first proviso is capable of being met by the attachment of suitable conditions.

In considering whether or not the proposal is acceptable in environmental terms, I have considered the factors relating to environmental impact, including those set out below.

Environmental Impacts

The impacts I consider to be particularly relevant in this case are as follows:

Landscape and Visual

I generally concur with the landscape impact assessment carried out on behalf of the applicant, insofar as it assesses both the sensitivity of the site/locality and the overall impact on the landscape fabric to be "low".

In terms of the visual impact assessment carried out on behalf of the applicant, I consider that the four viewpoints selected (Barrow Hill, Whittington Road, New Brimington and Middlecroft) appropriately represent the main sensitive receptors and accept that, in the long term following appropriate mitigation, the significance of the visual impact will be "low to negligible" from distant viewpoints and "moderate to low" from properties in Barrow Hill.

I therefore (after paying regard to the objections raised by the Borough Council and others) conclude that if planning conditions are attached to require such matters as i) the retention and protection of existing trees, ii) appropriate new planting/management and earth bunding, iii) use of appropriate non-reflective external building cladding materials finished to dark recessive colours (especially on the roof), iv) limitations on the extent, height and colour of the waste containers to be stored outside the building and v) the type and colour of perimeter fencing, the proposed development can be made acceptable in landscape and visual terms.

Noise

I note that the noise assessment carried out on behalf of the applicant includes measurements of ambient noise conditions at the location of three residential properties and that the current levels range between 43.6 and 60.3 dB $L_{Aeq,1h}$ during the day (i.e. between 0700 hours and 2300 hours) and between 42.3 and 53.3 dB $L_{Aeq,1h}$ during the night (i.e. between 2300 hours and 0700 hours). I further note that the noise levels predicted when the proposed development is in operation fall either within or below the range of current ambient noise levels measured on this basis.

Although the results of the assessment appear to confirm that the noise levels which would be generated by the proposed development are acceptable, I have reservations arising from i) the fact that the measurement of ambient noise levels took place over two weekdays only and ii) the use of the

Environment Agency's IPPC Sector Guidance to gauge the acceptability of the predicted noise levels – rather than the guidance in Planning Policy Guidance Note 24 "Planning and Noise" (PPG 24) and BS4142.

In view of these reservations, I consider that any approval should be made the subject of a condition requiring, inter alia, the submission of a revised noise assessment and adherence to noise limits based on the guidance in PPG 24 and BS4142.

Turning to the advice provided by the Borough Council's Environmental Services Officer, I note that she considers that emissions from the proposed facility would be fully controlled by the terms of the IPPC Environmental Permit that would need to be issued by the Environment Agency before it could be brought into operation and that, accordingly, she makes no recommendations as to the grant of planning permission or any conditions to be attached.

While I recognise that the Government's advice (included in PPS 10 and PPS 23) is broadly to avoid duplication through the planning and permitting regimes, the control of noise is generally accepted as a matter of particular relevance to land-use planning and decisions on individual planning applications (as evidenced by the Government's advice to Planning Authorities in PPG 24 and Mineral Policy Statement (MPS 2) Annex 2). Accordingly, if permission were to be granted, I would recommend that appropriate conditions be imposed requiring the monitoring and recording of noise generated from the development.

Air Quality

I note that a local Air Quality Management Area (AQMA) has been defined along the principal north/south and west/east road corridors in the Borough and that the air quality assessment carried out by the applicant considers that the proposed development will have no direct impact on the AQMA. I further note that the assessment acknowledges the potential for dust and odour to be generated.

The Borough Council's Environmental Services Officer has provided the same advice in relation to both air quality and noise issues. The Environment Agency meanwhile considers (as reported earlier) that *"the main concern in relation to this proposal is the potential odour issues associated with processes of this type"* and recommends that a baseline survey and odour impact assessment be undertaken before the proposed facility is brought into operation.

I concur with the advice of the Environment Agency in relation to this matter and (given the importance it attaches and the objections raised by the

Borough Council and others), consider that any permission should be granted subject to a condition designed to prevent the facility being brought into operation until i) an appropriate odour threshold has been established and ii) details of the steps that would be taken to ensure that this threshold is not exceeded throughout the life of the facility, are both approved. I further consider it appropriate that any permission be made the subject of a condition designed to prevent problems due to dust.

Traffic and Highways

From the Highway Authority's perspective, whilst I appreciate the concerns raised by the Town Council and others concerning the impact of HGV traffic on the local highway network, I consider that the suggested routeing arrangement is acceptable, subject to the widening of Hall Lane to 6.3 metres (excluding the sections in the vicinity of dwellings and Breck Lane crossroads - where "road narrows" signs should be erected).

In relation to the proposed use of the entrance from Staveley Lane, I initially held concerns about the restricted forward visibility afforded to drivers approaching from the west and the measures proposed by the applicant in order to minimise the risks of accidents (erection of a vehicle activated warning sign and anti-skid surfacing) and about the proposed improvement of the site access road and its junction with Staveley Lane in particular.

In response to these concerns, the applicant submitted amended details (on 10 July 2009) which included the further widening of the site access road - in order to minimise the risk of HGVs queuing on the public highway.

In the light of these amendments (and upon closer consideration of the speed readings taken of traffic on Staveley Lane in 2008), I consider that the proposed use of the site entrance from Staveley Lane can be made acceptable by the securing of measures (including anti-skid surfacing and carriageway markings).

Accordingly, my overall conclusion is that the traffic and highway issues raised by the proposed development can be made acceptable through the execution of a Planning Obligation and the attachment of conditions to any planning approval.

Cultural Heritage

In relation to the Borough Council's objections based on the adverse effect on the setting of the nearby Barrow Hill Engine Shed (a Grade II Listed Building) and the Barrow Hill Conservation Area, I note that the Borough Council's Group Leader Development Management (in his report to the Planning Committee meeting on 13 July 2009) stated that the effect on the setting of

the Conservation Area “could be minimised by colouring the building green or darker to help it blend with its surroundings, as the ivory structure would appear prominent in this location”. As the Listed Building “is closer to the application site than the Conservation Area the Borough Council was concerned that the development could adversely affect the Listed Building in terms of visual impacts, pollution and odour”.

In relation to the first of these matters, I have established that the applicant is willing to accept a condition requiring the proposed building to be finished in non-reflective dark recessive colours. I also note i) the measures proposed to retain and protect the existing tree screen and carry out additional tree planting between the proposed building and the Barrow Hill Engine Shed and ii) that the RCBLP (Policy EMP7) establishes that the principle of employment development is acceptable at this site.

In relation to the second matter I am satisfied that, having regard to the advice received from the Environment Agency and the additional planting proposed by the applicant in amendments to the application, other adverse effects on the Listed Building can be adequately controlled.

Overall, I consider that the effects on cultural heritage assets can be minimised to an acceptable degree by the imposition of conditions relating to the external finish of the building and the retention/protection and enhancement of the existing tree screen and that there is no basis for refusal on these grounds.

Biodiversity

In response to the concerns raised by the Borough Council about the possible risk of adverse effects on Great Crested Newts and related matters, I have conducted my own investigations into the value of the site (and its surroundings) in biodiversity terms. As a result, I am satisfied that the proposed development is unlikely to give rise to adverse effects in relation to protected species (including Great Crested Newts) and other ecological considerations, providing that any permission is made subject to a condition requiring measures to protect breeding birds, and a condition requiring measures to protect Great Crested Newts.

Other Issues

In relation to the queries raised by a Barrow Hill resident concerning the accuracy of the landownership information submitted by the applicant and the concerns about encroachment and safety raised by Staveley Rifle and Pistol Club, I can confirm that I am satisfied that the submitted information (in relation to ownership and notices served) is correct and note that the applicant

company has given assurances that it will take steps to rectify its encroachment onto land controlled by the Club.

In relation to the concerns about safety risk to users of the site access road, I am satisfied that this is a matter which can be appropriately dealt with by a condition attached to any planning approval.

Conclusions

In the light of the assessments above, and following consideration of the comments made and objections raised by the Borough and Town Councils, Staveley Rifle and Pistol Club, a local business and three Barrow Hill residents, I consider that the proposed development accords with the development plan and that the impacts on the environment likely to result from the proposed development can be made acceptable by the attachment of planning conditions and the execution of a Planning Obligation.

In particular, I conclude that the proposed development complies with policies and guidance relating to encouragement of more sustainable forms of waste management and that it has merit for this reason.

In the light of these conclusions I consider that (providing that a Planning Obligation is entered into which will enable the Authority to secure the routing of HGVs, road widening and signage and measures designed to minimise the risk of accidents at the entrance from Staveley Lane), planning permission should be granted subject to the recommended conditions.

There are, in my view, no material considerations which indicate otherwise.

(3) Financial Considerations The correct fee of £15,745 has been received.

(4) Legal and Human Rights 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 Recommendation.

(5) Environmental, Health and Transport Considerations As contained in the report.

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality of opportunity; and human resources and property considerations.

(6) Background Papers File 2.9.14.

Application (accompanied by an Environmental Statement) submitted by Phoenix Brick Company Limited and registered as valid on 19 January 2009 and the further letters and submissions dated 8 June, 9 June, 22 June, 10 July (two separate letters), 25 September and 21 October 2009 (including amended drawings) and e-mail dated 28 September 2009 in relation to the weighbridge office.

Letter from Chesterfield Borough Council (Group Leader – Development Management) dated 14 July 2009.

Letters from the Environment Agency dated 28 April and 18 June 2009 .

Letter from Staveley Town Council dated 21 April 2009.

Letters from two Barrow Hill residents one dated 8 April 2009 and the other undated and received on 30 June 2009.

Planning application comment form completed by a Barrow Hill resident.

Letter from Staveley Rifle and Pistol Club dated 13 March 2009.

Memorandum from Highways Area (Development Control North) dated 30 July 2009.

(7) Officer Recommendation That, providing a suitable Planning Obligation is executed which will enable the Authority to secure the routeing of Heavy Goods Vehicles, road widening and signage and measures designed to minimise the risk of accidents at the entrance from Staveley Lane, the Committee **grant planning permission** subject to the following conditions:

Commencement and Duration

- 1) The development hereby approved shall be begun not later than three years from the date of this planning permission.

Approved Development

- 2) No development (including the uses, operations and activities associated with the proposals hereby approved) shall be carried out other than in accordance with the details set out in the Application for Planning Permission and the Environmental Statement submitted by Phoenix Brick Company Limited registered as valid on 19 January 2009 and the further letters dated 8 June, 9 June, 22 June, 10 July (two separate letters), 25 September and 21 October 2009 (including amended drawings) and an e-mail dated 28 September 2009, except as may be otherwise required by the conditions attached to this permission.
- 3) No development shall take place until details of the:

- a) weighbridge and weighbridge office;
- b) architectural design of the main building;
- c) wheel cleaning facility;
- d) gates and fencing at the entrance onto Staveley Lane;
- e) above ground tanks;
- f) substation;
- g) bicycle store;
- h) oil heaters; and
- i) biofilter,

have been submitted to and approved in writing by the Waste Planning Authority.

The development shall then only be carried out in accordance with the details as approved.

- 4) From the date on which the development commences (seven days prior notice of which shall be given in writing to the Waste Planning Authority) under this permission, a copy of this permission (including all documents hereby approved and any other document subsequently approved in accordance with any condition of this permission) shall be kept available for inspection at the developer's Campbell Drive Brickworks site offices during the prescribed working hours.
- 5) Following the construction and installation of the approved building and facilities and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no plant or machinery, buildings or structures shall be placed or erected on the site except as expressly authorised or required by this permission.

Noise and Vibration

- 6) No development shall take place until a revised noise assessment has been submitted to and approved in writing by the Waste Planning Authority. The revised noise assessment shall:
 - i) be based on measurements of ambient noise conditions carried out over 24 hours during weekdays and at a weekend;
 - ii) assess the predicted impacts in relation to the guidance in PPG24 and BS4142 and;
 - iii) include recommended day time (i.e. 0700 hours to 2300 hours) and night time (i.e. 2300 hours to 0700 hours) noise limits to

apply at the noise sensitive receptor locations specified in the table (and as shown on Plan No. PMRF.NTS.1 in Appendix 1 of the Environmental Statement).

The development shall then only be carried out in accordance with the scheme as approved.

- 7) No operations under this permission shall take place until a scheme for the monitoring and recording of noise levels, investigation and steps to be taken following any complaints due to noise being received by the developer has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:
- i) the qualifications and experience of the personnel to be engaged in undertaking the monitoring and recording;
 - ii) the measures to be taken to prevent the recording of data in unsuitable weather conditions;
 - iii) the equipment to be used and arrangements for calibration; and
 - iv) the frequency of monitoring and reporting to the Waste Planning Authority.

The results of the monitoring and records of any complaints received by the developer due to noise shall be maintained and made available for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

The approved scheme shall be implemented following the construction and installation of the approved building and facilities and at all times when the building and facilities are in operation.

- 8) Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles and mobile plant and machinery used on the site. Such vehicles and mobile plant shall not normally be operated with covers open or removed.
- 9) Any reversing alarms used on vehicles and mobile plant on the site shall be fitted and maintained in accordance with details which have previously been submitted to and approved in writing by the Waste Planning Authority.

Air Quality

- 10) No development shall take place until a scheme based on the mitigation measures set out in section 6 of the submitted Environmental Statement for the suppression and control of dust (including PM₁₀ particles) and exhaust emissions and the monitoring and recording of dust levels and

complaints received by the developer due to dust has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:

- (a) the measures to be taken to suppress and control dust and the triggers for action up to and including the temporary suspension of operations which are to be adhered to throughout the life of the site;
- (b) the qualifications and experience of the personnel to be engaged in undertaking the monitoring and recording;
- (c) the equipment to be used to monitor dust levels and the arrangements for calibration;
- (d) the number and location of monitoring points;
- (e) the investigation and steps to be taken following complaints due to dust and the frequency of monitoring and reporting to the Waste Planning Authority.

The results of the monitoring and records of any complaints received by the developer due to dust shall be maintained and made available for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

The approved scheme shall be implemented before the building and facilities are brought into use and at all times when the building and facilities are in operation.

- 11) No development shall take place until a scheme for the management of odour has been submitted to and approved in writing by the Waste Planning Authority.

The scheme shall include:

- a) details of the odour management and mitigation measures to be implemented;
- b) a qualitative assessment of baseline odour conditions;
- c) a quantitative assessment (using a suitable dispersion model) of predicted odour levels at surrounding sensitive receptors (including 4 Mitcham Court, 16 Campbell Drive, Dulwich Court, Campbell Cottages, the Barrow Hill Roundhouse railway centre, Staveley Rifle and Pistol Club and the Handleywood Golf Driving Range) or such alternative receptor locations as may be subsequently approved in writing by the Waste Planning Authority;
- d) an appropriate odour threshold below which there would be no reasonable cause for complaint due to odour by the occupiers or

- users of the properties/premises assessed in accordance with c) above;
- e) an assessment of the significance of the predicted odour impacts (having regard to the odour management and mitigation measures detailed in accordance with a) above) in relation to any predicted exceedances of the odour threshold proposed under d) above;
 - f) the specification and implementation of such additional odour management and mitigation measures as may be necessary to ensure that there are no exceedances of the odour threshold at any time; and
 - g) measures for monitoring of the performance of the odour management and mitigation measures in relation to the odour threshold (as measured at the sensitive receptors included in the quantitative assessment carried out in accordance with c) above).

The results of the monitoring and records of any complaints received by the developer due to odour shall be maintained and made available for inspection by the Waste Planning Authority between reporting intervals at the site office during normal site opening hours.

The approved scheme shall be implemented before the building and facilities are brought into use and at all times when the building and facilities are in operation.

- 12) Records of any complaints received by the developer due to matters other than dust and odour shall be maintained and made available for inspection by the Waste Planning Authority at the site office during normal site opening hours.
- 13) No waste or processed materials shall be stored outside the approved building other than recycled glass, plastics and metals. Any such outside storage of recycled materials shall take place in sheeted containers only and within the area designated for skip storage as shown on drawing number PMRF.PB.102 (RevB).

Biodiversity

- 14) (i) No vegetation clearance works required in connection with the development approved under this permission shall take place during the bird nesting season (March to August inclusive) except under the guidance (and in accordance with the recommendations) of a suitably qualified ecologist.
- (ii) Prior to the commencement of development, a survey for the presence of Great Crested Newts on the site shall be carried out under

the supervision of a suitably qualified ecologist and the results of the survey shall be submitted to the Waste Planning Authority. In the event that an Great Crested Newt is revealed by the survey or found on the site during the construction of the development under this permission, all works shall cease immediately and shall not resume until such time as a plan for the protection of Great Crested Newts in and around the site has been submitted to and approved in writing by the Waste Planning Authority (following consultation with Natural England). All steps required by such a plan shall be implemented to the satisfaction of the Waste Planning Authority.

Surface and Ground Water Protection

- 15) No operations under this permission shall be begun until a surface water drainage scheme for the site (including the site access road), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of how it is to be maintained and managed throughout the life of the development and shall subsequently be implemented in accordance with the approved details before the building and facilities are brought into use.
- 16) No operations under this permission shall be begun until a scheme to install oil and petrol interceptors in the areas of car parking and traffic circulation has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented as approved before the building and facilities are brought into use and shall be maintained at all times when the building and facilities are in operation.
- 17) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank/vessel plus 10%. If there are multiple tanks/vessels, the compound shall be at least equivalent to the capacity of the largest tank/vessel or the combined capacity of interconnected tanks/vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must 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/vessel overflow pipe outlets shall be detailed to discharge downwards into the bund.

Other Environmental Protection

- 18) No Heavy Goods Vehicles (HGVs) (defined as a vehicle with a gross laden weight of 3.5 tonnes or more) shall enter or leave the site and no operations shall take place outside the building hereby approved except between the following times:

0600 - 2000 hours	Mondays to Fridays
0600 - 1400 hours	Saturdays.

No HGVs shall enter or leave the site on Sundays, Bank Holidays or national holidays.

- 19) No development shall take place until a scheme for the protection and retention of existing trees as indicated on drawing number PMRF.PB.102 (RevB) has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall specify:

- a) a root protection area ('RPA') for the trees referred to above within which there will be no (i) soil stripping, (ii) storage of soils, overburden or other materials, (iii) other excavation and (iv) trafficking of vehicles or plant; and
- b) the fencing to be provided before any other development takes place and maintained throughout the life of the development to define and protect the RPA.

The approved scheme shall be implemented before development commences on the adjoining parts of the site and shall be maintained at all times when the building and facilities are in operation.

- 20) No operations under this permission shall be begun until a scheme for the:
- i) augmentation and extension of the existing tree belt along the southern boundary of the land controlled by the applicant and alongside the site access road link to Staveley Lane - as shown on drawing number PMRF.PB.108 (RevA);
 - ii) maintenance of new planting over an initial establishment period of three years;
 - iii) management of the existing trees and new planting throughout the life of the development and;
 - iv) formation of screen bunds adjacent to Campbell Drive in accordance with details designed to reduce adverse visual effects relative to that shown on drawing number PMRF.PB.106 (RevB), has been submitted to and approved in writing by the Waste Planning Authority.

The approved scheme and the planting scheme shown on drawing number PMRF.PB.106 (RevB) shall both be implemented in the first available planting season following the date on which the building and facilities are brought into use and the maintenance of all new planting shall be carried out in accordance with the approved scheme.

- 21) No development shall take place until details and samples of the external cladding and roofing materials have been submitted to and approved in writing by the Waste Planning Authority. The materials shall be non-reflective and finished in dark recessive colours.

The building shall not be brought into use until it is finished in accordance with the approved scheme.

- 22) All sheeted containers used to store recycled glass and plastics within the area designated for this purpose as shown on drawing number PMRF.PB.102 (RevA) and the weighbridge office to be sited as shown on drawing number PMRF.PB.102 (RevB) shall be painted and maintained in non-reflective dark recessive colours (details of which shall have been submitted to and approved in writing by the Waste Planning Authority) before they are brought into use.

Highways and Access

- 23) No vehicular access to the public highway shall be used by Heavy Goods Vehicles (HGVs) (defined as a vehicle with a gross laden weight of 3.5 tonnes or more) in connection with the development hereby approved other than the entrance from Staveley Lane as shown on drawing number PMRF.PB.108 (RevA).
- 24) The improvements to the entrance from Staveley Lane (specified in Appendix B of the Transport Assessment in the Environmental Assessment) and including:
- i) signage, carriageway marking and surfacing works on Staveley Lane, together with exit visibility splays of a minimum 2.4 metres x 160 metres at the entrance;
 - ii) the widening of the site access road from Staveley Lane in accordance with the proposals described by letter dated 10 July 2009 and drawing number PMRF.PB.108 (RevA); and
 - iii) the surfacing of the site access road in a bound material over its full length between Staveley Lane and the weighbridge as shown on drawing number PMRF.PB.108 (RevA),

shall all be carried out in accordance with the submitted details before any further development of the waste facility takes place.

- 25) The area in advance of the required visibility splays shall be maintained free of obstructions exceeding 1 metre in height relative to the adjacent carriageway channel level at all times when the building and facilities are in operation and the gates to be provided at the entrance from Staveley Lane shall be set back not less than 10 metres from the edge of the highway and shall open inwards only.
- 26) No development shall take place until exit visibility splays of a minimum 2.4 metres x 43 metres have been provided at the entrance from Campbell Drive. The area in advance of the required visibility splays shall be maintained free of obstructions exceeding 1 metre in height relative to the adjacent carriageway channel level at all times when the building and facilities are in operation.
- 27) Before any operations hereby approved are commenced, which involve the movement of material in bulk to or from the site, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of mud or other debris on the public highway and, the agreed facilities shall, thereafter, be maintained throughout the life of the development whenever the said operations are carried out.
- 28) The approved facility shall not be brought into use until a Travel Plan has been submitted to and approved in writing by the Waste Planning Authority. The Travel Plan shall include:
- a) proposals and a timetable for the promotion and implementation of travel by sustainable modes;
 - b) revised arrangements for the provision of on-site car parking; and
 - c) arrangements for the annual reporting of progress in promoting sustainable transport measures during the five year period following the date on which the facility is brought into use.

The revised areas for car parking shall be designed, constructed and surfaced in accordance with the approved details and the car parking shall be maintained available for the intended use at all times when the building and facilities are in operation.

The approved Travel Plan shall be implemented when the approved building and facilities are brought into use.

- 29) No development shall take place until a scheme, designed to protect the safety of the users of the public footpath which crosses the site access road, has been submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented from the date on which development commences.

Other

- 30) No development shall take place until a scheme, designed to protect the safety of the users of the site access road in relation to the adjacent firing range, has been submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be fully implemented prior to the date on which the site access road link to Staveley Lane is brought into use.

Advisory Notes

The developer's attention is drawn to the advisory notes included in:-

- a) The Environment Agency's letter dated 18 June 2009;
- b) pursuant to Section 50 (Schedule 3) of the New Roads and Street Works Act 1991, before any excavation works are commenced within the limits of the public highway, at least six weeks prior notification should be given to the Strategic Director – Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Street Works Section); and
- c) the other notes contained in the County Council's (Highways Area Development Control North) memorandum dated 30 July 2009;

and is invited to note that Great Crested Newts are protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 (the Habitats Regulations).

Reasons for Conditions

Commencement and Duration

- 1) The condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990.

Approved Development

- 2) For the avoidance of doubt.
- 3) To achieve a satisfactory development in the interests of local amenity.
- 4) To assist in the satisfactory operation and monitoring of the approved development.
- 5) To ensure that the Mineral and Waste Planning Authority can retain satisfactory control of the development in the interests of local amenity.

- 6 - 9) So as to provide for the control and monitoring of noise emissions from the development in the interests of local amenity.
- 10-13) So as to provide for the control and monitoring of dust emissions and odour arising from the development in the interests of local amenity.
- 14 (i) To ensure that the development does not disturb birds during the nesting season.
- (ii) To provide precautionary protection regarding Great Crested Newts.
- 15-17) In the interests of preventing pollution and protecting the water environment.
- 18) In the interests of local amenity.
- 19) To ensure the protection of trees to be retained as part of the development in the interests of local amenity.
- 20) To provide the appropriate landscaping and screening of the approved development in the interests of local amenity.
- 21 & 22) To achieve a satisfactory form of development in the interests of local amenity.
- 23-26) To achieve a satisfactory form of development in the interests of highway safety.
- 27) In the interests of highway safety and local amenity.
- 28) In order to provide a satisfactory form of development and assist in the development and promotion of sustainable transport arrangements to be implemented in carrying out the approved development.
- 29) In the interests of the safety of users of the public footpath.
- 30) To provide a satisfactory form of development in the interests of public safety.

Reasons for Approval

The planning application has been determined in accordance with the development plan as is required by Section 38(6) of the Planning and Compulsory Purchase Act 2004. The development accords with the relevant

development plan policies, which are listed below. There are no other material considerations which indicate that the application should be determined otherwise than in accordance with the development plan.

Policies

The principal planning policies relevant to this grant of planning permission are:-

Regional Spatial Strategy for the East Midlands (RSS8) – Policy 4: Promoting Better Design.

East Midlands Regional Waste Strategy. Policy RWS 1.8 – encourages the development of advanced recovery technologies as part of an integrated approach to Waste Management.

East Midlands Regional Plan (2009) Policy 38 seeks to encourage, where appropriate, expansion of existing waste management facilities together with the development of larger facilities on previously used land.

Derby and Derbyshire Waste Local Plan (2005) Policy 1b Need for the Development and Policy W6: Pollution and Related Nuisances. The development would help cater for the needs of the local area (Policy W1b) and would not result in material harm to people or communities in the vicinity of the site (Policy W6).

Footnote

1) In accordance with Section 278 of the Highways Act 1980, modification works within the public highway shall be made the subject of a legal agreement between the applicant and the County Council. Advice regarding the design, specification and procedures for undertaking these works may be obtained from the Strategic Director – Environmental Services at County Hall, Matlock.



— LEGEND —



P.B.C Controlled Land



Planning Boundary



Existing Access Road

PHOENIX BRICK
PROPOSED MATERIALS RECYCLING FACILITY

LOCATION PLAN

PLAN No. PMRF.PB.100

REV B

SCALE 1:5000

04/01/08



PHOENIX BRICK
COMPANY LIMITED

Capstone House, Prospect Park
Dunston Way, Dunston Road
Chesterfield, Derbyshire S41 9RD
Tel: 01246 455900