



26th March 2013

Agenda Item:

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

BROXTOWE DISTRICT REF. NO.: 5/12/00122/CCR

**PROPOSAL: RETENTION OF UTILITIES YARD, INCLUDING THE SITING OF
PORTACABIN OFFICES, VEHICLE PARKING, MATERIALS STORAGE
AND AUXILIARY INERT WASTE MATERIAL PROCESSING FOR A
TEMPORARY PERIOD OF FIVE YEARS.**

LOCATION: AWSWORTH PALLETS, GIN CLOSE WAY, KIMBERLEY

APPLICANT: T & K GALLAGHER LTD

Purpose of Report

1. To consider a planning application for the change of use of land and buildings to a utilities yard including associated buildings and storage areas for excavated inert waste materials at a site known as Awsworth Pallets, Gin Close Way, Awsworth.
2. The application site is within an area designated as 'Green Belt'. The development represents a 'departure' to local Green Belt policy although it is provided some support by National Planning Policy Framework Green Belt policy. The planning assessment demonstrates that the development would not result in any greater impacts to the open character of the Green Belt than previous authorised commercial and industrial uses on the site, and the development would not result in any significantly harmful impacts to the environment.
3. The recommendation is to grant planning permission, subject to planning conditions.

The Site and Surroundings

4. The application site is situated on the north-western side of the A6096 (Gin Close Way), immediately to the south of the roundabout junction serving 'IKEA' where it meets the A610 (See Plan 1). The site has a 66m road frontage along the A6096 and a maximum depth of 74m. The site is situated within the Nottinghamshire Green Belt.

5. The site is adjoined by a motor-home sales business on its south-western (side) boundary; the Gilt Brook stream with open land beyond on its western (rear) boundary; a public right of way and woodland on its north-eastern (side) boundary; and industrial land on the opposite side of the A6096. The site is comparatively remote from residential properties, the nearest properties being located approximately 300m to the south.
6. The application site, which is roughly rectangular, is hard-surfaced with a mixture of concrete and crushed stone. A steel clad workshop building is situated within the south-eastern corner of the site. The site is enclosed by 2.4m high metal palisade fencing coloured green to the front boundary and galvanised steel to the other boundaries.
7. The site has a varied planning history. It was first developed as part of the adjacent site in 1949 for the manufacture and open storage of concrete and concrete products. Since this time the site has been utilised for a variety of end uses including open storage & pallet storage/repairs. Planning permission was granted by Broxtowe Borough Council in 2009 for a mixed use of the site incorporating storage/sales & repair of pallets, sheds, fencing materials, portable buildings, building materials, caravans & camper vans. The current tenants of the site, T & K Gallagher Ltd, have occupied the site since late 2011.

Proposed Development

8. Temporary planning permission is sought to regularise the current use of the site by T&K Gallagher Limited as a utilities yard including the retention of modular building office accommodation for a period of five years. The facility provides an operating base for the company's fleet of vans and lorries including vehicle parking, storage for plant and machinery as well as office accommodation, as identified on Plan 2.
9. The buildings on the site comprise three portable units, two of which are stacked one on top of the other. These are located at the frontage of the site, adjacent to the vehicular access into the utilities yard. Each unit measures 9.7m long by 3m wide by 2.5m in height, therefore the stacked cabins have an overall height of 5m.
10. The operating yard would provide parking, storage and waste processing facilities for a utility maintenance company (road repair/maintenance works). During utility works, material is excavated from the ground and loaded onto grab wagons. This material would be brought to site for storage and processing using a trommel (rotating screen). Storage of incoming waste and screened products would be undertaken within designated storage areas located at the rear of the site. The process enables the company to recycle all excavated materials thus reducing the amount of material sent to landfill and reducing the use of virgin quarried stone.
11. Operating hours for the site are proposed to be 05:30 to 20:00 hrs seven days per week. These broad operating hours are due to the need to allow vehicles to leave the site early or because of contract obligations which require works to be

undertaken during quiet periods on the highway network (weekends and evenings). No processing of material would be undertaken outside of normal working hours (08:00 to 17:00 hrs Monday to Saturday).

12. The business would generate 15 visits by lorries (30 movements) per day. Other vehicles entering the site would be mainly staff and visitors comprising light vans and private cars which would enter and leave the site once per day. There is also provision on site for the storage of bicycles for staff who wish to cycle to work. Additionally, being situated on a main road, there are two bus stops 60m south of the site on Gin Close Way.
13. At the end of the temporary five year period of the planning permission being sought the applicants have requested that the use of the land reverts back to its authorised use of open storage with associated repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles. It is understood that this accords with the land owner's wishes.
14. During the course of processing the planning application the applicant has submitted a flood risk assessment to assess the effect that peak flood events associated with the overtopping of the Gilt Brook would have on the application site. The findings of the flood risk assessment are considered within the planning observations section of the report.

Consultations

15. **Broxtowe Borough Council:** *Raise no objections subject to controls being imposed to limit storage heights to a maximum height of 5m, limiting waste storage to inert waste only thus ensuring no adverse impacts from odour and the imposition of a lorry routeing agreement to restrict the movement of lorries through residential areas in Awsworth during the extended hours of the working day which are sought within the planning application.*
16. **Greasley Parish Council:** *No representations received.*
17. **Environment Agency:** *The Environment Agency originally raised an objection to the planning application on the basis that the site lies within Flood Zone 3a (high probability of flooding) and in the absence of a flood risk assessment to support the planning application, the flood risks resulting from the development were unknown. The applicant has subsequently prepared a flood risk assessment which identifies the extent of flooding across the planning application site associated with peak flood events resulting from the Giltbrook. This supplementary information has enabled the Environment Agency to conclude that the southern part of the site is at risk from flooding and therefore the Agency wish to see a planning condition imposed to restrict storage within the highest risk flooding areas of the site (areas with greater than 300mm of peak flood water) to ensure that site activities are resilient to flooding and that negative flood impacts to surrounding land does not result from the development. This has resulted in revised plans being submitted detailing the*

relocation of a lorry parking area within the site, moving it out of the area at risk from flooding.

18. **Severn Trent Water Limited:** *Raise no objection to the development.*
19. **NCC (Nature Conservation):** *The site comprises an area of hardstanding and therefore no direct ecological impacts are anticipated. It is requested that a planning condition be imposed requiring the retention of roadside verge planting.*
20. **NCC (Countryside Access):** *Greasley Parish Public Right of Way 58 passes along the outside of the north-eastern side of the site. Any development should not adversely affect this route.*
21. **NCC (Planning Policy):** *The application site lies within the Nottingham-Derby Green Belt and is located on an established industrial area. East Midlands Regional Plan Policy Three Cities SRS 2 states that the principle of the Nottingham-Derby Green Belt will be retained. The NPPF states that there is a general presumption against inappropriate development in the Green Belt, setting out categories of development which may be considered appropriate in the Green Belt. The current proposal is not included within the NPPF list and therefore must be considered as inappropriate development. Planning permission should only be granted for inappropriate development in the Green Belt if the applicant has demonstrated that there are material considerations which amount to very special circumstances which outweigh both the harm arising from the fact of inappropriateness and any other harm caused to the Green Belt by the development.*

The applicant has submitted information in support of the proposal which seeks to justify the need for the development in a Green Belt location. Having examined the information submitted with the planning application it is concluded that the proposed development would not cause any greater harm to the Green Belt than the existing use and that given that the site is surrounded by similar uses, the visual amenity of the Green Belt would not be detrimentally harmed. Therefore, provided that suitable planning conditions restricting the height and positioning of the proposed portable buildings and associated storage of materials are imposed on the grant of any planning permission strategic planning objections are not raised to the development.

22. **NCC (Landscape):** *Observe that the site lies within the Green Belt of Nottingham and whilst the proposed development does not strictly fit within the Green Belt policy guidance, the planned usage is not that dissimilar to previous activities, and as there will be no alteration to the extent of the working area, any net impact is not considered significant. The proposed development will all take place within the established site compound. The proposed portable buildings, while aesthetically unattractive, are practical for operational purposes, and are of a mass in proportion to other built structures in the locale. As the current permission allows the storage of materials to a height of 5m, the stacking of two portable buildings in the entire site, is regarded as not significant.*

While the local landscape character of the application area does have many of the characteristics typical of the Coalfield Farmlands Character Area, the area immediately surrounding site is more urban/industrial than the policy zone indicates. Within the site area itself there are no landscape characteristics and features that are especially typical of the wider landscape character area. Considering the above, the magnitude of change in the landscape character of the surrounding character area is assessed as insignificant, the development is self contained within an existing site which is of 'poor' landscape condition and 'low' landscape sensitivity and therefore the significance of landscape impact is negligible.

With regard to visual impacts, as the development does not propose the removal of any mature vegetation, it is assessed that the overall visual impact of the scheme will be minor adverse. The Landscape Team is therefore able to support the scheme.

23. **NCC (Reclamation):** *From the aspect of contaminated land management there would appear to be no significant additional impact either to human health or the wider environment from the site proposals.*
24. **NCC (Highways):** *The access point is as existing, which is sufficient to serve the proposed use. The car parking bays and lorry parking will need to be signed as part of a condition to ensure vehicles are parking within the appropriate location within the site. Otherwise the Highways Authority would have no further highway issues.*
25. **NCC (Noise Engineer):** *Concludes that the operational noise levels associated with this proposal would not give rise to adverse noise impacts at nearby noise sensitive receptors on the basis that the predicted operational noise levels are rated at 10dB to 19dB below the existing background noise level (in the main traffic noise on the surrounding road network). Such a situation is described in BS4142 as being "a positive indication that complaints are unlikely." Planning conditions are suggested to control the working hours and processing of material, the throughput of the site and the machinery used on the site.*
26. **Western Power Distribution:** *Any modifications to the site entrance have potential to compromise the cover over an 11,000v underground cable.*
27. No representations have been received from **National Grid (Gas)**.

Publicity

28. The application has been publicised in accordance with the County Council's Statement of Community Involvement by the posting of a site notice and the publication of a press notice in the Eastwood Advertiser on the basis that the development involves a departure to Green Belt Policy. The adjoining business, Oak Tree Motorhomes, has been consulted by letter. No representations have been received.
29. Councillor David Taylor has been notified of the planning application.

Observations

30. The development comprises a mixed use activity incorporating temporary office buildings, building material storage, overnight lorry parking and inert waste storage/processing facilities. The operation has an industrial/commercial character and therefore would be most appropriately located on industrial land. This conclusion is supported by Policy W9.1 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) which encourages the siting of waste transfer stations on industrial land.
31. The Broxtowe Local Plan (BLP) Proposals Map incorporates land use designations within the Broxtowe area. The proposals map identifies that the planning application site is located within the Green Belt and therefore is not identified for development. Broxtowe Local Plan (BLP) Policy E8 states that:
- ‘Planning permission will not be granted for development in the Green Belt except where it constitutes appropriate development. Appropriate development includes:*
- a. Buildings appropriate to agriculture and forestry;*
 - b. Essential facilities for outdoor sport and outdoor recreation;*
 - c. Essential facilities for cemeteries and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it;*
 - d. Limited extension, alteration or replacement of existing dwellings, provided that it does not result in disproportionate additions over and above the size of the original building;*
 - e. Limited infilling or redevelopment of major developed sites;*
 - f. Changes of use of agricultural and other buildings to employment and tourism uses which help to diversify the economy;*
 - g. Mineral working subject to high environmental standards and a high standard of restoration.*
32. The change of use of land to a utility yard is not identified as being ‘appropriate development’ within a Green Belt under the criteria listed within BLP Policy E8. The development must therefore be considered as ‘inappropriate’ in the context of BLP Green Belt policy.
33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations relevant to the determination of this planning application include Central Government policy set out within the National Planning Policy Framework (NPPF), the history of use of the planning application site and policy set out within Planning Policy Statement 10 (PPS10) Planning for Sustainable Waste Management.

34. The NPPF sets out national planning policy including Green Belt policy. The NPPF follows a similar approach to BLP Policy E8 in terms of identifying a list of land uses (paragraph 89) which are considered appropriate within the Green Belt. The NPPF list of appropriate development is generally similar to that contained within BLP Policy E8, but also includes within its definition of appropriate Green Belt development:

'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'.

35. The application site is previously developed (brownfield) land which has the benefit of planning permission for a mixed-use storage activity. The proposed utility yard would have similar characteristics to this permitted use and would not result in any greater impact to the openness of the Green Belt and the purposes of including land within it than the approved development. The development therefore can be considered as appropriate development within the Green Belt using the definition contained within NPPF paragraph 89, subject to it having acceptable impacts to the openness and there being no harm to the purposes of including land within the Green Belt.

36. In terms of impacts to the openness of the Green Belt, appropriate controls regarding storage locations and heights would ensure that the new use of the site does not have any greater impact on the openness of the Green Belt than the existing use. With regard to impacts to the purposes of including land within the Green Belt, these purposes are listed within paragraph 80 of the NPPF and include:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The development would not prejudice any of these purposes of including land within the Green Belt. It is therefore concluded that the development can be considered as 'appropriate development' within the Green Belt, when considered against NPPF criteria.

37. In circumstances where NPPF policy is not consistent with local plan policy, paragraph 215 of the NPPF states that due weight should be given to the policies of existing plans according to their degree of consistency with the NPPF. Since the BLP is not entirely consistent with the NPPF in terms of its definition of appropriate development, the NPPF definition is material within the determination of this planning application. It is therefore concluded that the redevelopment of this particular previously used, mixed use storage site in connection with a utilities yard is not inappropriate development in the context of national Green Belt policy.

38. PPS10 paragraphs 20 & 21 provide support for the development of waste treatment facilities which support the reuse and recycling of waste within industrial locations, particularly previously developed or redundant industrial sites, such as the current development, subject to there being acceptable environmental and transport impacts. Support is also provided for the development through BLP Policy EM3 which permits the re-development of existing employment sites, subject to acceptable environmental impacts.
39. It is therefore concluded that whilst the development is a 'departure' development in the context of BLP Green Belt policy, material considerations including NPPF Green Belt policy, the brownfield character of the site and support provided through PPS10 argue in favour of the development on this site subject to there being no unacceptable environmental impacts.
40. DCLG Circular 02/2009 identifies those circumstances where it is necessary to refer Green Belt departure planning applications to the Secretary of State. Since the planning application is for comparatively minor development within the Green Belt which does not trigger the thresholds for referral set out within paragraph 4 of this Circular, there is not a requirement to refer this application to the Secretary of State as a departure.

Visual Impact

41. WLP Policy W3.3 seeks to minimise the visual impact of waste management facilities by siting them in locations which minimise impacts to adjacent land, providing appropriate screening and minimising building and storage heights.
42. The facility would be developed on a predominantly hard surfaced site which has historically been used for a variety of open storage purposes. The layout ensures that the buildings are located at the front of the site. These buildings are of a functional design but nevertheless are considered to be visually acceptable in the context of the industrial/commercial character of surrounding properties. Open storage areas would be located at the rear of the site and therefore benefit from the existing screening along the rear and side (north) boundaries of the site. Overall it is considered that the development would have a similar visual appearance to the previous authorised use of the site and thus the development would not result in significant adverse visual impacts.
43. Planning conditions are recommended to ensure that the site operations are carried out in accordance with the submitted plans thereby ensuring the open storage areas are contained at the rear of the site. External storage heights are recommended to be limited to 5m in height thus ensuring these activities do not become visually intrusive and providing consistency with the previous planning conditions imposed on the site. Subject to these planning conditions, the development satisfies the requirements of WLP Policy W3.3.

Surfacing and Drainage

44. WLP Policy W3.5 states that planning permission should not be granted for waste management facilities where there is an unacceptable risk of pollution to ground or surface water or where there is potential to affect the integrity or function of a floodplain. WLP Policy W3.6 sets out a number of conditions which can be imposed to minimise potential pollution including using impermeable areas for waste receipt/processing areas with appropriate drainage systems and controlling oil storage.
45. The site benefits from hardstanding and impermeable surfacing which the applicant proposes to retain. Drainage from the site discharges to the existing surface and foul water drainage systems. Subject to a condition to limit the waste inputs to the site to construction/demolition wastes the development would not give rise to any unacceptable risks of pollution to ground or surface water thereby ensuring compliance with WLP Policies W3.5 and W3.6.
46. WLP Policy W3.13 seeks to ensure that flooding impacts are not exacerbated by waste development. To inform the assessment of the planning application, a flood risk assessment has been prepared which considers the effect and extent of peak flood events resulting from the Gilt Brook overtopping its river bank. The flood assessment demonstrates that during such peak events flood water would encroach onto the planning application site, with a maximum flood water depth of up to 600mm along the southern boundary of the site and proportionally lower flood water levels extending into approximately half of the site from the southern boundary. The views of the Environment Agency have been sought in respect of the flood risk impacts of the development. The Agency are satisfied that the development would not result in additional impacts during periods of flooding subject to the lorry parking along the southern boundary of the site being re-located into the centre of the site outside the area at greatest risk from flooding and that no material storage is undertaken within these areas. Revised plans have been submitted to show these alterations which could appropriately be controlled through the use of a planning condition to ensure compliance with WLP Policy W3.13.

Ground Contamination

47. The historical commercial/industrial uses of the site would indicate that the ground underlying the application site potentially contains a level of contamination from such uses. However, since the proposed development does not involve any redevelopment works which would intrude into this underlying ground, any existing ground contamination would not be mobilised by the development.
48. The proposed use of the site for the recycling of inert materials is considered to have a low pollution risk and, subject to satisfactory controls relating to flooding, drainage and dust suppression, would not generate any significant increased risk to ground contamination.

Highway Issues

49. WLP Policy W3.14 states that planning permission will not be granted for waste management facilities where vehicle movements cannot be satisfactorily accommodated on the highway network or where such movements cause unacceptable disturbance to local communities.
50. The site is served by the A6096 which has direct access to the A610 and M1. The development generates a comparatively low 30 two way movements of 7.5 tonne lorries as well as associated car/light van movements. These vehicles can satisfactorily be accommodated on the surrounding road network. Broxtowe Borough Council have recommended that restrictions be imposed on lorry movements through Awsworth during the extended morning/evening operating hours to ensure that residential amenity is not adversely affected. Such controls are not considered to be necessary since the development generates comparatively low vehicle movements which would be routed along an 'A' category road. The supporting noise assessment demonstrates that the passage of these vehicles would not generate significant nuisance to residential properties adjoining these roads. It is therefore concluded that the vehicles generated by the development would not generate unacceptable disturbance to local communities and therefore the requirements of WLP Policy W3.14 are satisfied.
51. Access into the site is obtained directly from the A6096. This junction is of a satisfactory construction with adequate visibility to serve the anticipated vehicle movements associated with the development. Off-street car parking is provided within the site. Planning conditions are suggested to require the erection of signage to demark the parking areas and to ensure the parking facilities remain available for off-street car parking at all times during the operation of the site.
52. WLP Policy W3.11 encourages the hard surfacing of haul roads within waste management facilities to minimise the potential for mud and other deleterious material contaminating the highway network. The site is hard-surfaced and, subject to regular sweeping, mud should satisfactorily be controlled from trafficking onto the public highway. The proposals would not impact upon the adjacent public right of way.

Noise

53. WLP Policy W3.9 seeks to ensure that when planning permission is granted for waste management facilities conditions should be imposed to reduce potential noise impacts. Such conditions may include the enclosure of noise generating facilities, stand-off distances between operations and noise sensitive locations, restrictions over operating hours, using alternatives to reversing beepers and setting maximum operational noise levels.
54. The site is bordered by commercial/industrial properties and busy roads and is not therefore in close proximity to residential properties or other sensitive noise receptors. A noise impact assessment has been undertaken in line with guidance provided in BS4142 'Method for rating industrial noise affecting mixed residential and industrial areas' to assess the significance of noise impact to residential properties. The noise assessment concludes noise emissions at these residential properties are unlikely to generate complaint, subject to the site

being operated in accordance with the submitted proposals including controls over working hours to restrict vehicle movements to between 5:30am to 8:00pm with tighter controls on recycling activities of 8.00am to 5.00pm on weekdays and 8.00am to 1.00pm on Saturdays. Controls are also recommended to limit the throughput and the type of recycling plant operated on the site to a loading shovel, screen and crusher in accordance with the details considered within the noise assessment. Subject to these controls the development satisfies the requirements of WLP Policy W3.9.

Dust

55. The recycling operations involving the crushing/screening of inert waste have potential to generate dust emissions. WLP Policy W3.10 identifies that dust emissions from waste processing facilities can be managed and reduced by implementing appropriate dust mitigation practices. Measures include the siting of facilities remote from sensitive receptors, the enclosure of dust generating operations within buildings and enclosed areas and the use of water to dampen down stockpiles.
56. The site is not in close proximity to potentially dust sensitive residential properties. Notwithstanding this fact measures to minimise dust emissions are considered necessary to ensure that dust emissions do not adversely affect surrounding business premises. The main potential source of dust arises from the operation of the crusher/screen. This machine would be regulated through an Environmental Permit issued through the Environment Agency which would control the level of noise and dust emissions from the plant. To supplement this control a planning condition is suggested to require the damping of processing and storage operations to minimise dust emissions. Processed materials are specified to be stored within three-sided storage bays, offering protection from windblow and planning conditions are therefore recommended to limit processed storage to these storage bays. These conditions are in accordance with the WLP Policy W3.8.

Odour

57. WLP Policy W3.7 seeks to minimise odour emissions from waste management facilities by imposing controls over the types of waste received at waste management sites, enclosure of waste reception and storage areas, sheeting of lorries and contingency measures such as odour masking agents or removal of malodorous material.
58. The facility would manage construction/demolition wastes which are generally inert and therefore have low potential odour risk. Subject to a planning condition restricting the types of waste received to these categories potential odour releases should be limited to an acceptable level.
59. To ensure that incoming waste loads do not contain inappropriate non-conforming waste that potentially could be odorous a planning condition is suggested requiring the operator to inspect all incoming loads and remove any non-conforming materials from the incoming waste immediately upon receipt,

that these materials are stored within a sealed skip/container and that the non-conforming materials are removed from site within 72 hours.

Ecology

60. The site is not designated as having any nature conservation interest and is generally hard surfaced containing no vegetation and therefore of no ecological value. Therefore significant ecological impacts are not predicted as a result of the development.
61. The vegetation surrounding the site, which potentially has some limited ecological interest, is not within the ownership of the applicant and therefore it is inappropriate to impose any planning conditions requiring its retention/management.

Other Options Considered

62. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

63. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

64. None arising.

Equalities Implications

65. None arising.

Crime and Disorder Implications

66. The development would be located within an established industrial site which benefits from perimeter security fencing. The facility would manage comparatively low value wastes. Higher value materials would be stored within the existing storage building at the site.

Human Rights Implications

67. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered. In this case, the development has scope to introduce some minor impacts in terms of noise, dust and traffic but these considerations need to be balanced against the wider benefits of providing sustainable waste management facilities and the ability to control such impacts through planning conditions.

Implications for Sustainability and the Environment

68. The development would provide a local facility for the collection, recycling and recovery of waste, resulting in a net reduction in the use of virgin materials, therefore achieving waste management in accordance with the objectives of the waste hierarchy.

Conclusions and Statement of Reasons for the Decision

69. The application is for the temporary five year use of land for a mixed commercial storage/waste processing operation. The development has been considered against the relevant policies of the Broxtowe Local Plan (BLP) and the Nottinghamshire and Nottingham Waste Local Plan (WLP).
70. The BLP Proposals Map identifies that the site is situated within the Green Belt. BLP Policy E8 sets out the categories of development considered appropriate to the Green Belt which identifies that the proposal is inappropriate development within the Green Belt when considered against the criteria of this policy.
71. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations relevant to the determination of this planning application include:
- a. The previous use of the planning application site for a mixed storage use;
 - b. Central Government policy set out within the National Planning Policy Framework (NPPF) which states that the redevelopment of brownfield sites within the Green Belt can be considered as appropriate development;
 - c. Support provided within Planning Policy Statement 10 (PPS10) Planning for Sustainable Waste Management in terms of locating waste facilities on brownfield sites;
 - d. WLP Policy W9.1 which encourages the siting of waste transfer stations on industrial land;
 - e. BLP Policy EM3 which supports the re-development of existing employment sites.

These material considerations argue in favour of permitting the development within a Green Belt location, subject to acceptable environmental impacts, despite the development being considered as inappropriate in the context of BLP Policy E8.

72. The environmental effects of the development have been assessed against the environmental protection policies contained within Chapter 3 of the WLP and relevant Government guidance. Subject to the use of appropriate planning conditions, significant adverse impacts would not result. In reaching this conclusion consideration has been given to WLP Policy W3.3 relating to visual impact where it has been shown that the development would not significantly change the visual appearance of the site from the use that is currently authorised; Policy W3.5 and W3.6 where it has been shown that site drainage is satisfactorily thus ensuring that any pollution is adequately controlled; controls relating to the types of waste received at the site would ensure that odour impacts are controlled thus ensuring compliance with Policy W3.7; controls over the activities undertaken on the site including restrictions over the operating hours would ensure that noise emissions are controlled thereby ensuring compliance with Policy W3.9; an appropriate dust management strategy would be put in place to ensure compliance with Policy W3.10; the use of hard surfacing on the site would avoid mud and other detritus entering the highway thus ensuring compliance with Policy W3.11; the revised site layout ensures that activities are not undertaken within the highest flood risk parts of the site thus ensuring compliance with Policy W3.13; and traffic generated by the site is comparatively low thus ensuring compliance with Policy W3.14 relating to road traffic. The County Council therefore concludes that any potential harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

Statement of Positive and Proactive Engagement

73. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

74. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

75. Planning and Licensing Committee has authority to approve the recommendation set out in this report (NAB 07.03.13)

Comments of the Service Director - Finance

Text to be entered here

[Initials and date here in square brackets]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division(s) and Member(s) Affected

Beauvale Electoral Division : Cllr David Taylor

Report Author/Case Officer

Mike Hankin

0115 9696511

For any enquiries about this report, please contact the report author.

RECOMMENDED PLANNING CONDITIONS

Scope of Planning Permission

1. The development hereby permitted is for the retention of a utilities yard including the siting of portable offices, vehicle parking, materials storage and auxiliary inert waste material processing for a temporary five year period expiring on 31st March 2018. At the end of this five year temporary period the use shall cease and the portable office building shall be removed from the site. The site shall thereafter be returned to a condition suitable for its previous use (see informative note 1).

Reason: *To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990 and in recognition of the applicant's request that the planning permission only be granted for a temporary duration so as to maintain the development rights permitted by Broxtowe Planning Permission reference 09/00601/FUL.*

2. Unless otherwise required pursuant to conditions of this permission, the development shall be carried out in accordance with the submitted application and supporting information, as amended, and the following plans and documents:
 - a. Planning application forms received by the Waste Planning Authority (WPA) on 14th December 2011.
 - b. Design and access statement received by the WPA on 14th December 2011.
 - c. Supporting information for a planning application statement received by the WPA on 14th December 2011.
 - d. Noise impact assessment received by the WPA on 23rd February 2012.
 - e. Flood risk assessment received by the WPA on 17th April 2012.
 - f. Site Location Plan received by the WPA on 14th July 2011.
 - g. Drawing: Nottingham Site Plan for Gallagher received by the WPA on 6th March 2013.
 - h. BWB Letter dated 6th February 2013 (flooding assessment) and supporting Drawing No. NTW/2095/W05 Rev. P1: 100 year (+20%) modelled flood depths on proposed layout for Gin Close Way, received by the WPA on 6th March 2012.

Reason: *For the avoidance of doubt as to the development that is permitted.*

Controls relating to permitted waste

3. Only inert waste shall be imported onto the site. The operator shall inspect all incoming loads upon delivery to the site to ensure that only inert waste is received at the site. Any non-compliant loads including putrescible or potentially odorous wastes contained within incoming loads shall be removed from the waste immediately upon receipt and placed into a sealed airtight storage container/skip for storage. This waste shall thereafter be removed from the site within 72 hours of its delivery.

Reason: To minimise potential odour emissions in compliance with Nottinghamshire and Nottingham Waste Local Plan Policy W3.7.

4. Waste materials shall only be stored within the appropriately designated bays as identified on Drawing: Proposed new Morrisons (MRS) North Depot and GRS Recycling Site, Junction 26 M1, Nottinghamshire received by the WPA on 29th March 2012.

Reason: In the interest of visual amenity and to ensure compliance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.

Capacity of Site

5. The maximum amount of waste material accepted at the site shall not exceed 60,000 tonnes per annum. A written record shall be kept by the site operator of the amounts of waste accepted and it shall be made available to the WPA within 7 days of a written request from the WPA.

Reason: To ensure impacts arising from the operation of the site do not cause unacceptable disturbance to local communities in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.

6. There shall be a maximum of 15 visits by lorries (30 movements) each day. Written records shall be maintained of all lorry movements including the time of day such movements take place and registration number. Copies of the lorry movement records shall be made available to the WPA within 7 days of a written request being made by the WPA.

Reason: To limit lorry movements in line with the application as assessed and in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.

Operating Hours

7. Except in emergencies to maintain safety at the site (which shall be notified to the WPA within 48 hours of their occurrence), the site shall only be operated in accordance with the time periods specified below.

Operation	Working Hours
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Vehicle movements in connection with the delivery of waste including associated loading & unloading.	05:30 to 20:00 seven days a week. Not at all on Bank & Public Holidays.
Operation of screen, crusher and loader in connection with waste processing.	08:00 to 17:00 Monday to Saturday and not at all on Sundays or Bank & Public Holidays.

Reason: To minimise potential noise disturbances from the operation of the site and to ensure compliance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

Noise

8. Only plant and machinery which is listed within paragraph 3 of the Noise Impact Assessment report received by the WPA on the 23rd February 2012 comprising a Powerscreen 1400, Powerscreen Metrotrak Crusher and JCB 460 Loader shall be operated within the site, unless the details of any new plant/machinery are first agreed in writing by the WPA. Any request to operate additional machinery shall incorporate details of the sound power output of the machinery to be operated.

Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

9. Measures shall be used to ensure that noise generated within the site is kept to a minimum. Such measures shall include the fitting and use of effective silencers to plant and machinery in accordance with the manufacturers' specifications and recommendations and the regular servicing of plant and machinery.

Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

10. All reversing warning devices used on mobile plant under the control of the operator shall comprise white noise (broadband) alarms.

Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

11. Noise levels from site operations shall not exceed a daytime noise criterion of 5dB(A) above the existing background noise level after the addition of the 5dB(A) penalty to reflect tonal, discrete or impact noise (as advised in BS4142 :1997) at any residential property. In the event that a complaint is received

regarding noise arising from the development hereby permitted which the WPA considers may be justified the operator shall, within 1 month of a request of the WPA, undertake and submit to the WPA for its written approval a BS4142 : 1997 noise survey to assess whether noise arising from the development exceeds the daytime noise criterion of 5dB(A) above the existing background noise level after the addition of the 5dB(A) penalty to reflect tonal, discrete or impact noise as advised in BS4142 :1997. The monitored noise levels are to be "free-field" carried out at a height of 1.2m to 1.5m above ground level and presented as a Laeq1hour, value. In the event that the noise survey indicates that the levels are in excess of 5dB(A) above background (as corrected by the 5dB(A) penalty to reflect tonal, discrete or impact noise as advised in BS4142 :1997), the submitted survey shall include further measures to mitigate the noise impact so as to ensure compliance with the noise criterion. Any mitigation measures agreed in writing by the WPA shall thereafter be implemented throughout the operational life of the site.

Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

Dust

12. Dust emissions shall be kept to a minimum and contained within the site. The operator shall take the following actions to ensure that dust emissions are minimised:
 - a. The use as appropriate of a dust suppression system throughout all working areas, particularly during periods when processed timber is being deposited and loaded. A suitable and sufficient water supply shall be provided to the site at all times to enable the suppression of dust by water spray;
 - b. The use as appropriate of water bowsers and/or spray systems to dampen the access roads, vehicle circulation and manoeuvring areas;
 - c. The regular sweeping of haul roads;
 - d. The temporary cessation of waste processing during periods of extreme dry and windy weather.

In the event that dust emissions are not contained within the site the operator shall, within two weeks of a written request of the WPA, prepare and submit a mitigation strategy to remedy the nuisance. The mitigation strategy shall thereafter be implemented as approved in writing by the WPA and the mitigation measures maintained throughout the operational life of the site.

Reason: To minimise disturbance from dust in accordance with Policy W3.8 and Policy W3.10 of the Nottinghamshire Waste Local Plan.

Storage Heights

13. The maximum storage height of waste materials stored on the site shall be 5m.

Reason: In the interest of visual amenity and to ensure compliance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.

Car Parking

14. The car parking area identified with yellow shading on Drawing: 'Proposed new Morrisons (MRS) North Depot and GRS Recycling Site, Junction 26 M1, Nottinghamshire' received by the WPA on 29th March 2012 shall be kept free of all obstructions and only be used for its designated purpose.

Reason: To ensure satisfactory off-street car parking in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.

Oil Storage

15. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity of all storage containers. All filling points, vents and sight glasses must be located within the bund. There must be no drain through the bund floor or wall.

Reason: To protect ground and surface water from pollution in accordance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.

Flooding

16. Within the areas of greatest risk from flooding from the Gilt Brook (defined as those areas which would experience flood water depths greater than 300mm and shaded either blue or pink on Drawing No. NTW/2095/W05 Rev.P1: 100 year (+20%) modelled flood depths on proposed layout received by the WPA on 6th March 2013), there shall be no external storage of materials or any vehicular parking. The 'grab wagon' parking shall be sited within the centre of the site as detailed on the site plan received by the WPA on 6th March 2013.

Reason: To ensure that site activities are resilient to flooding impacts and do not result in adverse flooding impacts to surrounding land in accordance with Policy W3.13 of the Nottinghamshire and Nottingham Waste Local Plan.

Early Cessation of Temporary Operations

17. In the event that the use of the site as a utilities yard should cease for a period in excess of three months then, within one week of a written request from the WPA, the site shall be cleared of the portable buildings, all stored waste and recycled materials. The site shall thereafter be returned to a condition suitable for its previous use (see informative note 1).

Reason: To ensure satisfactory restoration of the site in accordance with Policy W4.1 of the Nottinghamshire and Nottingham Waste Local Plan.

Note to Applicant.

1. For the avoidance of doubt the use of the land prior to the grant of this planning permission is that granted on 15th October 2009, reference 09/00601/FUL, being open storage with associated auxiliary repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles with on-site storage to a maximum height of 5m together with the erection of an associated 2.4m high boundary security fence.
2. The Environment Agency advise:
 - a. Standard rules permit SR2010No12 requires that if the site is located outside Source Protection Zones 1 or 2 all permitted waste shall be stored on hardstanding or on an impermeable surface with a sealed drainage system. The site has an impermeable surface but there is uncertainty as to where surface water drains to. In order to ensure compliance with the above permit condition this needs to be clarified.
 - b. A permit is required from the Agency under the terms of the Environmental Permitting Regulations 2010 for the proposed sewage discharge to a soakaway from the septic tank. Details of how to apply for a permit are available from the Environment Agency website.