



## Report of the Chief Planning Officer

### SOUTH AND WEST PLANS PANEL

Date: 6<sup>th</sup> July 2017

**Subject: 15/00297/FU – Extension to provide enclosed loading area to front elevation of materials recovery facility (no increase in annual throughput) and regularisation of as-built variations to the original planning permission for a materials recovery facility (10/03906/FU) at, St Bernard’s Mills, Gelderd Road, Gildersome, Morley**

APPLICANT	DATE VALID	TARGET DATE
Associated Waste Management LTD	30 <sup>th</sup> January 2015	1 <sup>st</sup> May 2015

**Electoral Wards Affected:**

**MORLEY NORTH**

Yes      Ward Members consulted (referred to in report)

**Specific Implications For:**

Equality and Diversity     

Community Cohesion     

Narrowing the Gap     

**RECOMMENDATION: GRANT PERMISSION subject to the conditions specified at Appendix 1.**

## 1.0 INTRODUCTION

- 1.1 This application seeks planning permission for an extension to the front elevation of an existing modern Materials Reclamation Facility (MRF) building. The application also seeks to retrospectively regularise variations between the drawings approved under permission reference no. 10/03906/FU and the development as built, as well as permission for the construction of additional development within the site.
- 1.2 The application site has a long and complicated planning and enforcement history which is outlined in detail below. In summary, permission was originally granted in 2008 for the wholesale redevelopment of a waste transfer site and amended in 2010. Works were commenced on site prior to the 2010 permission, although the development constructed on site broadly resembles the 2010 permission and thus it is likely that the authority would consider the 2010 to have been lawfully implemented. In support of this view planning conditions, including pre-

commencement planning conditions for elements of the site where construction had not commenced have been discharged.

- 1.3 The application under consideration therefore seeks retrospective permission for changes made during the construction process, incremental changes during the intervening years as well as new development. The redline plan includes the whole site area. The practical effect of a grant of planning permission would be to regularise the development that has taken place and to facilitate the use of the site as a materials waste facility. It is therefore considered that the current application would, if granted and implemented, essentially supersede the 2010 permission. As such all relevant conditions from the 2010 permission will be re-imposed (unless already discharged), as well as all necessary new conditions.
- 1.4 The application site has previously been considered by Plans Panel in 2014 (13/02604/FU) when an application for a two storey extension of the waste transfer building was discussed, deferred and the application subsequently withdrawn by the agents. The current application was also deferred from consideration at the last plans panel (16<sup>th</sup> June 2017) following a late representation from an objector's solicitor. This letter raised concerns about the summary of the Environment Agency's position, the proposed conditions and drew attention to the recent High Court case.
- 1.5 In the interests of providing clarity to members, neighbours and the site operators a full schedule of conditions is appended to this panel report.

## **2.0 PROPOSAL:**

- 2.1 The application has five distinct elements. The first is the new development, namely the proposed extension of the waste transfer building and new cycle and motorcycle storage. The extension is designed to enclose the loading of Refuse Derived Fuel (RDF) bales. These are currently bound within the main building and then stored within the lean-to structure to the southernmost section of the site. They are loaded onto vehicles for transport from the site from the door within the lean-to structure. The extension projects forward from the existing lean-to extension and comes beyond the main elevation by approximately 8.3m, is 35m in length and its flat roof will be 8.8m in height. Its colours will match the existing building. The new cycle/motorcycle shelters are located adjacent to the existing cycle shelter and will match the existing.
- 2.2 Unauthorised alterations have been made to the main waste transfer building. These are:
- the insertion of an additional vehicular access door to the east elevation;
  - the enclosure of the scrap bay and conveyor;
  - the siting of push walls to the rear of the building to form a new enclosed stocking bay;
  - the siting of an electrical transformer and screen fence to the rear of the building;
  - the siting of vents to the east elevation;
  - the installation of dust control units in the roof; and
  - the installation of odour control units.
- 2.3 Changes have also been made to the design of the office building. These are:
- the removal of a projecting first floor element;

- removal of the brise-soleil; and
- the enlargement of the entrance and staircase projection.

- 2.4 Other buildings have also been constructed on the site. A cabin has been erected adjacent to the traffic office which measures approximately 2.7m in width and 6.6m in length. An archive storage building is also located to the rear of the site, adjacent to Farnley Wood Beck. This measures approximately 7.5m in width and 6.0m in depth. A steam cleaner and fuel tanks have also been added to the site.
- 2.5 The layout of the site in respect of traffic management has also been altered. As approved raised kerbing should enclose the area around the lean-to extension at the southern end of the main building and extend out into the yard toward the weighbridges. This was to ensure clear separation between the loading activities around the building and the activities of the weighbridge; it would also discourage parking around the main access doors.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to an existing Materials Recycling Facility safeguarded under policy Waste 2 of the Natural Resources and Waste Local Plan (2013). The site is located to the northern side of Gelderd Road and within the Green Belt. The site lies to the west of Gildersome within gently undulating farmland. Farnley Wood Beck lies to the rear of the site and a public footpath runs along the west side of the site. There is a gradient within the area, with the land rising up from Holbeck and the Aire Valley in the east toward the A650 and M62 in the west.
- 3.2 The immediate area has rural character, however Gelderd Road is primarily dominated by light industrial estates and commercial uses. The Cottingley Springs traveller site and Jewish Cemetery lie a little to the east and there are two residential farms within close proximity. Rooms Farm lies to the south on the opposite side of Gelderd Road and is approximately 50m from the site entrance. Wood Farm is located to the east which is now primarily a container business. Further residential properties, 102 and 104 Gelderd Road lie east of the site, set down from the road level. Rooms Farm was granted planning permission in 2001 for the conversion of farm buildings to form two residential units.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 The site has a complex planning history, a summary of which is detailed in the applications noted below. In brief outline the site was originally a colliery which included a railway connection, sidings and station before the construction of a mill at some time during the late nineteenth century which processed shoddy material.
- 4.2 The summary of planning applications show that the site was still in use as some form of mill/industrial site in the mid twentieth century, likely operating in part as an unauthorised waste transfer station. This waste transfer use is then formalised from 1991-1996 and aerial photographs show that mill buildings and other structures are clearly present on the site in 1999, including the tarmac stack and extensive external storage. As noted within the report of the 1996 application there was a builders yard, a civil engineering contractors depot as well as a skip hire and waste transfer station within the site. The waste transfer station included the recycling of inert and demolition waste by crushing and screening. The planning conditions attached to the 1996 permission limited the use of part of the site to inert waste only, but was otherwise unrestricted; it also allowed external

storage. No conditions relating to hours of operation, the volume of waste that could be processed or enclosed storage were imposed.

4.3 The site was then comprehensively redeveloped. The planning permissions in 2008 and 2010 broadly gave consent for the current site layout, which commenced in 2011. As noted above the 2010 permission was not built in accordance with the approved plans, and other ad hoc and piecemeal development during the intervening years has created the current site layout and the series of retrospective applications.

4.4 Detailed Site History

H23/378/82/	Laying out of car park with fifteen car parking spaces to mill <b>Approved</b>
H23/78/89/	Full application to erect detached warehouse to mill with car parking and landscaping <b>Approved</b>
H23/213/91/	Use of part of mill as waste transfer station <b>Approved</b>
H23/415/91/	Use of vacant site for storage of tarmac scrapings <b>Approved</b>
23/238/94/FU	Renewal of permission to erect detached warehouse to mill with car parking and landscaping <b>Approved</b>
23/425/95/MIN	Certificate of lawful use for waste transfer station <b>Approved</b>
23/407/96/MIN	Continuation of use of part of mill as waste transfer station with covered transfer compound <b>Approved</b>
23/410/98/MIN	Variation of condition no 3 of application no 23/407/96/MIN (to extend period for completion of building) <b>Approved</b>
23/345/99/RE	Renewal of permission to erect detached warehouse to mill with car parking and landscaping <b>Approved</b>
08/05071/FU	Construction of new waste transfer building and two storey detached ancillary offices, landscaping scheme and formation of new access <b>Approved</b>
10/03906/FU	Re-design and re-location of proposed offices with associated amendments to proposed landscaping and site layout and addition of lean-to extension to approved waste transfer station <b>Approved</b>

12/00916/FU	Retrospective application for two detached pre-fabricated buildings <b>Approved</b>
12/04580/FU	Variation of condition 1 of permission 10/03906/FU (approved plans and documents relating to retrospective changes to the site layout, waste transfer building, site offices and landscaping and the siting of a fenced electrical transformer to the rear of the waste transfer building) <b>Pending</b>
12/04394/FU	Retrospective application for steam clean unit and two fuel tanks <b>Pending</b>
13/00494/FU	Variation of condition 31 of approval 10/03906/FU to be changed so the restriction on loading of waste materials outside of the waste transfer <b>Pending</b>
13/04917/FU	Retrospective application for enclosure of existing external bay for storage of scrap metal including diversion and enclosure of conveyor (temporary) <b>Pending</b>

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Since operations commenced in 2011 the Local Planning Authority has been in negotiation and discussion with the site operators, as demonstrated by the series of retrospective and pending applications noted above. Local residents, in particular the residents of Rooms Farm opposite the site have raised concerns, and these have included contact with the Environment Agency.
- 5.2 Historically the site has been the subject of odour complaints, and the operator has admitted breaching environmental permit conditions relating to odour. As a result the Environment Agency has recently brought a successful prosecution relating to historic odour issues between June 2012 and October 2013. There has also been some concern from neighbours regarding maintenance works taking place outside the permitted hours and days of operation.
- 5.3 The Local Planning Authority has sought to work with the operator to resolve the odour issues, including requests to ensure that all tipping, sorting, baling and loading activities are enclosed and also that the doors of the waste building remain closed other than when vehicles are entering or exiting.
- 5.4 The pending applications, and the approved retrospective application, noted above are as a consequence of the site operator, Local Planning Authority and Environment Agency seeking to regularise the unauthorised development that has occurred at the site, and resolve the ongoing odour issues. In some instances the retrospective nature of the applications is a consequence of the operator acting promptly to try and resolve odour issues. The application currently under consideration seeks to amalgamate all the currently pending applications under a single permission, as well seeking approval for a front extension that will enclose the loading of baled materials.

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application was initially advertised in February 2015 by site notice and Neighbour Notification letter. The plans were also deposited in Morley library. Fourteen responses have been received with four of these from Rooms Farm which is situated directly opposite the site.
- 6.2 In January 2017 letters were sent to all those who had previously commented as well as all consultees seeking any revised comments. One further written response has been received reiterating previous concerns, and the case officer has spoken to the occupants of Rooms Farm and advised that any further comments or information should be submitted to the Local Planning Authority in writing. A letter has subsequently been received from the occupants of Rooms Lane providing a summary of their concerns.
- 6.3 Further correspondence from solicitors acting on behalf of the Rooms Lane objectors was received immediately prior to the 16<sup>th</sup> June plans panel. This correspondence highlighted that the most recent environment agency position was not accurately reported within the panel report, drew attention to the High Court order as evidence that the operation that the site causes a nuisance and also raised concerns in relation to conditions 7 and 8 within the attached schedule.
- 6.4 As the other currently pending applications seek permission for development included within this application it is considered appropriate to also take those comments and consultation responses into account. The summary offered below therefore includes all comments received in relation to all currently pending applications.
- 6.5 Councillor Bob Gettings has raised concern regarding development on a green field site and the breaches of planning control.
- 6.6 Gildersome Parish Council has raised concerns regarding odour.
- 6.7 The objections that have been received are centred upon three main issues:  
- whether the site is being operated in accordance with the approved scheme;  
- the impact of odour and traffic noise upon amenity; and  
- impact upon the Green Belt.
- 6.8 Concern has also been raised regarding visual amenity, public health and the Human Rights Act.

## **7.0 CONSULTATIONS RESPONSES:**

### 15/00297/FU

Coal Authority:	No objection subject to an informative
Highways:	No objection subject to the provision of shower and changing facilities
Air Quality:	No comment
Contaminated Land:	No objection subject to conditions
Flood Risk Management (FRM):	No objection
Environment Agency (EA):	No objection subject to submission of an updated odour management plan
Public Rights of Way (PROW):	No objection subject to footpath 24 Morley remaining unobstructed

Local Plans: No objection  
Environmental Health No objection

No response has been received from the Open Spaces Society, Landscape Officers, Yorkshire Water or Public Health Officers

13/04917/FU

Coal Authority No objection subject to an informative  
EA No objection subject to the solution being permanent  
Environmental Health No objection

13/00494/FU

PROW No objection  
EA Express concerns regarding noise  
Highways Express concern regarding the impact of external loading upon the general traffic management of the site

No response has been received from the Open Spaces Society or Environmental Health Officers

12/04394/FU

FRM No objection subject to appropriate pollution controls  
EA No objection subject to conditions and an informative  
Environmental Health No objection subject to conditions

12/04580/FU

FRM No objection  
Air Quality: No objection  
EA Express concerns relating to noise  
No objection subject to submission of an updated odour management plan  
Highways Request additional information

No response has been received from Design or Landscape Officers

**8.0 PLANNING POLICIES:**

8.1 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. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and any made Neighbourhood Development Plan.

Local Planning Policy

8.2 The following Core Strategy policies are relevant:

SP1 Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.

- P10 Seeks to ensure that new development is well designed and respect its context.
- P12: Seeks to ensure landscapes are maintained.
- T2: Seeks to ensure that new development does not harm highway safety.
- EN5: Managing Flood Risk.
- EN6: Strategic Waste Management.

The following Natural Resources and Waste Local Plan policies are also relevant:

- Waste 2 Existing waste management sites shown on the Policies Map are safeguarded for continued use during the plan period. Increases in capacity or other improvements at these sites will be acceptable provided that the requirements of WASTE 9 are demonstrated.
- Waste 9 seeks to ensure that waste management proposals resolve detailed planning considerations, including amenity.
- Water 2 Seeks to protect water quality.
- Water 7 Seeks to control surface water run-off.

The following saved UDP policies are also relevant:

- GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- BD5: Seeks to ensure new development protects amenity.
- N33: Development in the Green Belt
- N24: relates to development adjacent to the Green Belt and other key green infrastructure.
- N25: Seeks to ensure boundaries are well designed.
- LD1: Seeks to ensure positive landscape design

### National Planning Policy

- 8.3 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.5 The National Planning Policy for Waste (2014) sets out detailed waste planning policies, derived from the strategic Waste Management Plan for England. The NPPW identifies the need to appropriately consider waste management capacity and location through the creation of local plans and also identifies the main material issues that should be considered when determining applications, including odour, noise and dust.
- 8.6 The Planning Practice Guidance (PPG) provides comment on the application of policies within both the NPPF and the NPPW. The PPG also provides guidance in



relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects.

## **9.0 MAIN ISSUES**

- 1) Existing Permission/Lawful Use of the Site
- 2) Green Belt
- 3) Residential and General Amenity
- 4) Design and Character/Visual Amenity
- 5) Surface Coal and High Risk Area
- 6) Flood Risk/Water Management and Highways

## **10.0 APPRAISAL**

### Existing Permission/Lawful Use of the Site

- 10.1 Before beginning to assess the current application it is necessary to establish what permission the site currently benefits from and what planning conditions are in place. Non-compliance with the approved planning permission has been identified as a concern by neighbouring residents and businesses, and establishing what operations can lawfully be carried out will then allow the current application to be fully assessed against this back-stop position.
- 10.2 The site history clearly outlines a number of planning applications from the 1980's onward that established the site as a waste transfer station. The final application in 1996 did not impose restrictions on the type nor volume of waste, other than conditioning that non-inert waste must not be stored outside until external surfaces had been sealed.
- 10.3 The 2008 application sought permission for a waste transfer station and inert waste recycling centre. The officer report notes that the site would accept concrete, plastic, wood, cardboard, plaster, metals and green waste. The impact of the development upon the Green Belt was considered with significant weight given to the extant permission and the benefits derived from regulating the site through a new planning permission. The impact upon residential amenity from noise and dust was also assessed; no explicit reference was made to odour. The conditions imposed limited the hours and days of operation, required that vehicles entering and leaving the site be netted, and restricted the loading and unloading of materials outside the waste transfer building.
- 10.4 The 2010 application sought approval for amendments to the 2008 permission and the officer report notes that construction was underway at the site. This report relied heavily upon the 2008 approval. The approval broadly re-imposed the previous conditions and as before no conditions were imposed to limit the type nor volume of waste which could be accepted at the site, on the understanding like the 2008 application that the application did not include municipal waste.
- 10.5 When assessing the 2008 and 2010 applications it is understood that officers were reliant upon the site operators adhering to the content of a report known as the "Core Document" which is essentially a planning statement submitted with the 2010 application. Within this statement the agents outlined the intention to 'utilise the site as a waste transfer station/recycling centre...[accepting] concrete, plastic, wood, cardboard, plaster, metals and green waste'.

- 10.6 The decision notice gives permission for a “materials reclamation facility” and no conditions were imposed specifying the waste types that could be processed. As such despite the intentions of the LPA and the belief that only inert and green waste would be processed at the facility, the authority issued an unrestricted permission in respect of the types of waste that can be processed at the facility. The site operator is therefore not in breach of the current planning permission in bringing in non-inert waste.
- 10.7 It is also noted that since the original permission was issued the Core Strategy as well as the Natural Resources and Waste Local Plan DPD have been adopted. Within the NRWLP the site is identified as a Safeguarded General Waste Site (location 96) and thus policy Waste 2 is applicable, as well as Policy EN6 (Strategic Waste Management) of the Core Strategy. These policies seeks to ensure that there is sufficient strategic capacity across the city to enable the city’s waste to be processed, recycled or sent to landfill. Policy Waste 2 therefore seeks to ensure that the identified waste sites are retained, takes a positive view on capacity improvements and discourages changes of use. This means that the continued use of the site as a waste transfer station carries significant material weight.

### Green Belt

- 10.8 The existing and proposed development is located within the Green Belt. As outlined within the National Planning Policy Framework (NPPF) the essential characteristics of Green Belt are their openness and their permanence. There is a presumption against development within the Green Belt except within certain circumstances. Inappropriate development is harmful to the Green Belt, and substantial weight should be given to this harm. Inappropriate development should not be approved except in very special circumstances, and “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 10.9 The main issues in relation to this application are therefore;
- (i) whether the proposal constitutes inappropriate development in the Green Belt as set out in the Development Plan and having regard to national policy framework set out in the NPPF, and;
  - (ii) if it is inappropriate development, whether the harm, by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### *Inappropriate Development*

- 10.10 Paragraph 89 of the NPPF outlines the circumstances in which development within the Green Belt might be considered not inappropriate and Policy N33 of the UDP largely accords with these exceptions. Within the listed exceptions is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. It is also possible to allow limited infilling or the partial or complete redevelopment of previously developed sites provided there is no greater impact upon the openness of the Green Belt and the purpose of including land within it.

- 10.11 As outlined above this application seeks to regularise a series of unauthorised developments and also grant permission for a new extension to the waste transfer building. Before moving on to assess the application against current Green Belt Policy it must be noted that many of the unauthorised changes are now immune from enforcement action. Any buildings or structures which have been present on the site for more than four years old cannot be enforced against. This means that the as-built offices and waste transfer building are immune, as are any of the changes to the approved site layout. Following further discussion with the agents it has been confirmed that the electrical transformer was also constructed at the same time as the waste transfer building, and thus is also immune.
- 10.12 The steam cleaner and fuel tanks were certainly on site in 2012 and were noted to be retrospective under the pending application 12/04394/FU and the stocking bay formed part of the retrospective planning application 13/02604/FU which was submitted in May 2013. As such these elements have also been on site for at least four years (and are therefore immune from enforcement), and the traffic office and archive store have already been approved under application 12/00916/FU. No further assessment of these buildings/structures is therefore necessary.
- 10.12 The enclosure of the scrap metal bay and conveyor belt was noted to be retrospective in October 2013 and there is no clear evidence to demonstrate exactly when this operation took place, although the agents suggest that it was present on site in March 2013 and have supplied a photograph noted to be taken on 19<sup>th</sup> March 2013. This photograph is not considered to be evidence which, on the balance of probabilities, is sufficiently precise or unambiguous to demonstrate that the enclosure of these elements was undertaken more than four years ago. It is therefore assumed that this aspect does require consent.
- 10.13 The enclosure of the scrap metal conveyor as well as the proposed cycle and motorcycle store are considered to be the limited infilling of an existing brownfield site. Under this exception development is not inappropriate provided there is no additional harm to the openness of, nor the purposes of including land within the Green Belt. As the development is within, or immediately adjacent to the approved operational area of the site it is considered there is no additional harm to the purposes of including land within the Green Belt.
- 10.14 Turning then to matter of openness. It is well established that openness is a simple matter of the absence of development, and thus any new structures or buildings within the Green Belt will harm openness. Whilst each of these structures are relatively minor, they do increase the quantum of development within the site and thus must be considered to cause to additional, albeit limited, harm to openness.
- 10.15 These aspects of the application are therefore inappropriate development and should not be approved unless very special circumstances, sufficient to outweigh this and any other harm can be demonstrated. The enclosure of the scrap metal conveyor and bay was undertaken as a measure to limit odour and will also help to limit the noise emitted by this external plant, and as such provides significant amenity benefits. In addition the proposed cycle and motorcycle stores provide secure parking for employee vehicles adjacent to the existing car park and help to encourage more sustainable modes of transport and reduce reliance upon private car usage. These matters are considered to cumulatively amount to very special circumstances which together clearly outweigh the harm to the Green Belt and any other harm.

- 10.17 The proposed addition to the waste building can clearly be considered against the exception allowing the limited extension of existing buildings, provided the additions are not disproportionate. The NPPF does not seek to quantify this concept, nor does the authority have any adopted policy relating to extensions to commercial structures within the Green Belt. The Householder Design Guide notes that the authority usually consider extensions of around 30% the volume of the original building to be acceptable. Although the HHDG is clearly not applicable in this situation, the thirty percent threshold is nonetheless a useful benchmark that the authority uses when making decisions on other extensions within the Green Belt.
- 10.18 The original building in this instance is the as-built waste building, which at over 100m in length, 42m in depth and rising to a height of approximately 13m to eaves has a conservatively estimated volume of 54 600m<sup>3</sup>. The extension will have a volume of around 2 556m<sup>3</sup>, which is approximately 5% of the original building. The extension is also single storey and remains a clearly subordinate structure, and it is thus accepted that the addition is not disproportionate to the size of the original building.
- 10.19 It is noted that concern has been raised by local residents regarding additional development within the Green Belt, noting that the existing development is substantially larger than the previous buildings on site and thus any further additions will be disproportionate. Whilst the development is larger than the previous buildings, the 2010 permission was for a wholesale redevelopment of the site, and this starts a new planning chapter. Therefore when considering whether the developments fall within the exceptions noted at paragraph 89 of the NPPF the starting point is the development constructed in 2010, not the previous development on the site. As such the extension is not inappropriate development as it satisfies the exception within paragraph 89 NPPF.

### *Conclusion*

- 10.20 The application is therefore considered to comply with national and local Green Belt Policy. The proposed extension to the waste transfer building is a not-disproportionate addition to an existing building and as such does not represent inappropriate development. The enclosure of the scrap metal bay, and the new motorcycle and cycle stores do cause additional harm to the openness of the Green Belt, however the benefits of odour / noise reduction and the promotion of sustainable travel are considered to cumulatively amount to very special circumstances which clearly outweigh the harm to the Green Belt, and any other harm caused by the inappropriate development.

### Residential and General Amenity

- 10.21 National and Local Planning Policy make it clear that development should protect the amenity of those living and working in proximity to new development. The National Planning Policy for Waste states at Appendix B that when determining planning applications waste planning authorities should consider a range of impacts, including air emissions and dust, odours, as well as noise, light and vibration. These are carried through to a local level within Core Strategy Policy P10, NRWLP policy Waste 9 and saved UDP policy GP5.
- 10.22 The development that exists on site is of clear concern to residents and businesses, both those immediately adjacent to the site and within the wider area. The main concerns centre on the noise impacts from vehicular traffic and the impact of odour from the waste materials. Dust, light pollution and the hours of

operation could also cause concern to neighbours and there have been complaints about site activity outside the permitted hours.

- 10.23 Before moving on to assess the impact of the facility upon amenity it should be noted that a draft High Court judgement, issued on 31<sup>st</sup> May 2017, is of relevance to this matter. This judgement/Order directs that the facility to cease to accept all scheduled deliveries of black-bag and putrescible trade waste by the end of the year.
- 10.24 When considering the issue of the facility upon amenity it should also be noted that paragraph 122 of the NPPF makes it clear that the local planning authority should focus on whether a development is an acceptable use of the land, and the impact of that use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes.

#### *Odour*

- 10.25 The main cause of concern for neighbours is the issue of odour. Because the authority did not consider the site would accept municipal waste the odour impacts of such material were not explicitly assessed during consideration of either the 2008 nor 2010 application. The condition imposed on the 2010 application requiring “details of the treatment of emissions to atmosphere” has been discharged and commits to the use of an odour suppression when required. However, it is clear from the details submitted that this is not a robust management system to control odour arising from the daily acceptance of municipal waste but was a measure intended to safeguard amenity in the event of an unscheduled issue. Because the authority has issued an unrestricted permission it is not currently in position to be able to easily enforce any scheme/plan limiting odour emissions from the site.
- 10.26 Letters received from local residents and businesses suggest that the proximity of residential dwellings make it inappropriate for the site to process municipal waste. The most recent correspondence from the objector’s solicitors again highlights the history of odour control issues and concludes that the use of the site for putrescent waste processing cannot be considered acceptable. However, whilst it is accepted that the operation of the facility has been shown to cause harm to the occupants of Rooms Farm, it cannot automatically be concluded that the land use is unacceptable. Nor is the matter actually before Members in considering this current planning application. It must be remembered that the site has a lawful planning permission which does not restrict waste types, and it is not possible under this application to fundamentally revisit that decision.
- 10.27 It is however considered to be helpful to provide some commentary on the way in which waste applications are generally assessed, and the roles of the Local Planning Authority and the Environment Agency in making such an assessment. All waste operators are regulated by an environmental permit, under the Environmental Permitting (England and Wales) Regulations 2010. The role of the environmental permit, (regulated by the Environment Agency) is to provide the required level of protection for the environment from the operation of the waste facility. The permit aims to prevent pollution through the use of measures to prohibit or limit the release of substances (including odour and noise) to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. Planning and permitting decisions are therefore separate but closely linked regimes. In essence, planning permission determines if the development is an

acceptable use of the land whereas permitting determines if an operation can be managed on an ongoing basis to prevent or minimise pollution. It is not for a Local Planning Authority to focus on controlling pollution where it can be controlled by the Environment Agency. However, in assessing whether land should be used for a waste management facility the authority must be satisfied that the amenity impacts can be adequately mitigated. In reaching a view as to whether a waste use can be accepted on a site it is important to ensure that the Environment Agency's consultation response is taken into account.

- 10.28 The proximity of sensitive uses to a waste transfer station does not automatically suggest planning permission for such a facility should be refused, or that the facility cannot accept certain types of waste. Permission for any form of development can only be denied where there are clear and demonstrably harmful impacts that cannot be mitigated through conditions and/or planning obligations. Had the authority assessed the 2008 and 2010 applications in the knowledge that municipal waste would be accepted then the Local Planning Authority would have required the submission of details that identified the likely causes of odour and outlined proposed mitigation measures. In assessing the details and effectiveness of any odour mitigation measures the advice of the Environment Agency as well as the authority's Environmental Health team would have been sought. If these bodies were satisfied that appropriate mitigation measures could be put in place, the application would likely have been approved with conditions. Only in the event appropriate mitigation measures were not possible would the application have been refused. It is also worth noting that planning permission cannot be refused because a development results in a change to the status quo or has some impact upon its immediate environment. Most forms of development will result in a change to their surroundings and some of these impacts may be detrimental. The process of assessing a planning application requires that these impacts are quantified and then qualitatively assessed against any identified public benefits of the proposal.
- 10.29 In reaching a view as to whether the use of the site at St Bernard's Mill was acceptable the comments of the Environment Agency and the Authority's Environmental Health team are therefore key considerations. As outlined within the summary of consultation responses within Section 7 above the Environment Agency have been consulted on each application. The consultations responses in 2012 identify concerns in relation to noise and odour but note that these issues are likely resolvable, in part through the submission of updated management and mitigation measures. The comments of the Environment Agency on each application reflect the ongoing changes to the site, and additional mitigation measures that have been implemented. The most up to date consultation response from the Environment Agency (January 2017) confirms that they have no objection to the current application under consideration. As identified within the recent submission from the objector's solicitors the consultation also notes that an updated odour management plan has been requested. It is understood that this is due to offsite odour having been detected in 2016 at a level likely to cause pollution. The applicant has submitted a revised Odour Management Plan to the Environment Agency but this has not yet been agreed, and this matter is currently being held in abeyance following the High Court order as additional changes may be required following restrictions on the materials that can be accepted by the facility.
- 10.30 Whilst it is unfortunate that an updated Odour Management Plan is not yet available due in part to the recent court case, this should not prevent Members from being able to adequately consider the application. As noted above, when considering waste management facilities the role of the local planning authority is to

be satisfied that the use of the land is acceptable, and that the impacts of this use can be adequately mitigated. The Planning Authority cannot seek to duplicate the role of regulatory agencies and must assume that these bodies will function appropriately. The site has a lawfully implemented planning permission and the Environment Agency has granted a permit for the site to operate (including the processing of municipal and putrescent waste). In seeking revisions to the Odour Management Plan the Environment Agency remain content that the recent odour issues can be adequately addressed through a revised document. The Local Planning Authority must therefore accept this view and also trust that the regulatory aspect of the Environment Agency's role will function adequately.

- 10.31 The management of odour within and around waste processing facilities is always an ongoing process. The level of odour emitted by any waste facility will be affected by the type of waste that is being processed, climactic conditions such as temperature, wind speed and wind direction, as well as operational decisions such as the volume of waste accepted on any given day or unforeseen circumstances such as machinery breakdown. The conditions proposed to the permission set out within Appendix 1 acknowledge that odour management is likely to be an ongoing process. Condition 7 requires the operator to retain all odour control measures within the current odour management plan, and also requires that any future revisions to the odour management plan agreed with the Environment Agency are submitted to the local planning authority, agreed in writing and subsequently implemented. This then means that as and when new odour management plans are submitted to the Environment Agency (for example when a new operator takes over the site and potentially commences acceptance of black bin bag waste) the Local Planning Authority has a degree of oversight and control in respect of measure required to mitigate any associated odours. At present the Local Planning Authority has no such oversight or control and thus approving the current application can only provide some benefit to the odour control issues.
- 10.32 Turning then from a more general consideration of odour management matters to the issues which are before Members. These are the previous changes which have been made to the site and the proposed new extension. The majority of the changes to the waste transfer building have been in response to the identified odour control issues. These include the installation of odour control units within the waste building, the installation of fast action doors and air curtains, use of odour suppression systems as well as the enclosure of the external conveyor. These alterations can only be of benefit to the ongoing management of odour from the site.
- 10.33 There has also been an additional door inserted into the main elevation of the waste building (door 1) and this has been identified as a specific issue for objectors, with concerns exacerbated by the fact that for a period of time doors were being left open when tipping operations were occurring within the building. Although the impact of this door will be assessed, it should be noted that the door was inserted when the waste building was constructed in 2010 and thus is now immune from enforcement action in any event.
- 10.34 It is clear that the more openings there are within the building the greater the opportunity for odour emissions. However, following the initial issues the main openings within the building have now been fitted with fast action doors that shut once the vehicle is inside, as well as air curtains and odour suppression mechanisms. This additional door is set toward the northern end of the building and thus is set further away from the nearest residential properties (Rooms Farm and 102/104 Gelderd Road) than the approved doors. Environmental Health

Officers do not raise concern regarding this door, and following initial concerns raised in 2010 the Environment Agency (consultation response to application 12/04580/FU) are content that the odour control mechanisms in relation to the additional door are acceptable. As such it is considered that this one additional door will not cause significant detriment to the amenity of nearby residents and the general environment.

- 10.35 The last remaining operational issue relating to odour on site is the fact that RDF bales are loaded onto vehicles outside the waste building. This is in contravention of condition 31 of the 2010 approval which prevents the unloading, loading or storage of waste materials (other than aggregates) outside the waste transfer building. This loading operation does have the ability to create odour, both from the baled material and also because the loading room door is opened frequently and successively during loading operations. The site operator has sought the removal of condition 31 by way of a separate application (13/00494/FU) and this remains a pending decision. The applicants have been advised that officers are not minded to support that application due to the potential impact upon amenity. Instead the extension which is proposed as part of this application is to house the loading activities associated with the RDF bales which will ensure that all operations are enclosed within the waste building. This is considered to have a beneficial impact upon the amenity of nearby neighbours by ensuring that any odour from the bales remains enclosed, and also that the external doors of the waste building are only opened twice during loading activities; once to admit the vehicle and then to allow it to exit the structure. Environmental Health officers have been consulted and are content with the proposed extension and its impact upon odour control. The Environment Agency raise no objection to the current application and recommended condition 7 allows for the submission of revised odour control mechanisms in perpetuity.
- 10.36 Before finally leaving the issue of odour it is necessary to consider whether an additional condition reflecting the recent High Court order is required. As previously noted the order directs that the current operator cease to accept black bag and putrescible trade waste by the end of the year, but does not bind any future operator. In seeking to apply planning conditions the Local Authority must be satisfied that they pass the tests outlined within the PPG, namely that the conditions are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. The main issues to consider here are whether such a condition is necessary and reasonable in all other respects.
- 10.37 Whilst there is clearly an ongoing odour management issue which has an effect upon the residential amenity of Rooms Farm regard must be had to the fact that the applicant is not operating in breach of their current planning permission in respect of odour management. It would not therefore be reasonable under the current planning application (which seeks permission for operational development) to revisit the 2010 application and retrospectively impose conditions which restrict or limit the lawful use of the site. It is also difficult to suggest that such a restrictive condition is necessary when the Environment Agency have no objection to the current application. In any event, the Environment Agency do require an updated odour management plan, and condition 7 recommended within Appendix 1 allows for this and any subsequent revisions to that document to be submitted to and approved by the LPA. The effect of this condition is to allow the Local Planning Authority to continue to impose odour control measures in the event that a new operator takes possession of the site and recommences the acceptance of black-bag and putrescible waste which the current operator is restricted from doing (as a



result of the Court Order). As such, whilst it is not considered that a further condition seeking to restrict black bag and putrescent trade waste in perpetuity is demonstrably necessary, nor reasonable in all other respects. Any potential recommencement of such an operation would trigger the requirement for an updated odour management plan which would need to be approved by both the Environment Agency and the LPA (by virtue of condition 7) and the LPA is therefore satisfied that associated odour impacts will be adequately mitigated as a result of the appropriate requirements within the odour management plan. So, for the reasons explained above, whilst the LPA do not consider that it can restrict the acceptance of black bag and putrescent trade waste, there should be no detrimental impact to residents if this occurs as condition 7 as well as the Environment Agency regime will assess any impacts and seek to control them through mitigation measures required in the Odour Management Plan.

### *Noise*

- 10.38 Concern has also been raised in relation to the noise generated from traffic movements associated with the site. This includes the movement of HGV's/HCV's along Gelderd Road as well as the noise of reversing vehicles and general traffic movements within the site.
- 10.39 The approved 2010 application does not include any restriction on the number, frequency nor type of vehicle entering the site, nor are there any restrictions on Gelderd Road about the type of vehicle that may use the highway. It was acknowledged in the 2010 application that the creation of a bespoke waste transfer station would generate additional traffic movements, but subject to highway improvements (namely the provision of a right turn lane) this was considered to be acceptable in highway safety terms. Gelderd Road is a busy A road between Leeds and Huddersfield. Industrial estates and commercial operations are present to the east of the site and also to the west as the road approaches the A650 roundabout. Shopping and general leisure uses in the form of Junction 27 retail park lie just beyond the A650 roundabout, and the M62 and M621 are accessed at junction 27. The town of Morley and the village of Gildersome are also located close to the site.
- 10.40 Therefore, although the site is in the Green Belt it is perhaps best described as part of the urban fringe of Leeds. Gelderd Road is a busy highway, carrying residential and commercial traffic from the local area, as well as traffic onto the wider regional and national road infrastructure. It is therefore difficult to state with any certainty that the noise generated by commercial traffic to the application site would be identifiable and perceptible above the generally high background traffic noise within the area. Furthermore this application does not seek to increase the capacity of the site to process waste, and thus there should not be an increase in traffic movements.
- 10.41 Turning then to the noise generated by the movement of vehicles within the site. The conditions imposed upon the 2010 application and the details submitted to discharge these conditions do not allow the effective regulation of noise from the reversing of vehicles and the movement of forklifts etc within the site. The approved site plan on the 2010 application does show that vehicles will enter the site in forward gear, drive into the waste transfer building, unload and then exit in forward gear through a second door. This circular route would not require vehicles to reverse into the waste transfer building and would therefore eliminate the noise impacts of reversing vehicles. Furthermore although the plan showing this route forms part of the approved plans schedule, there are no specific conditions stating

that vehicles may only enter and exit the waste building in a forward motion. Nor were any concerns raised by highways or environmental health officers that would justify the imposition of a condition. As such the authority is limited in the action it can take to reduce the noise generated from reversing vehicles within the site. The Environment Agency responses to applications 13/00459 and 12/04580/FU do raise concerns regarding noise, and suggest that the company should consider mitigation measures. The submitted Site Working Plan and Noise Management Plan both outline measures to reduce and mitigate noise, and it is suggested that these documents are conditioned. Given that the authority is limited in the enforcement measures it can take this is an improvement on the current situation.

- 10.42 The noise and activity generated by the external loading of the RDF bales is in contravention of the approved planning permission, and as with odour the enclosure of these activities within the proposed extension will be of benefit and will reduce the impact?. The loading activities take place to the south of the site, and thus are in relatively close proximity to Rooms Farm as well as 102 and 104 Gelderd Road. The extension will mean that noise from the operation of the external door, the movement of forklifts and any noise from the bales being loaded onto the waiting vehicle will be significantly reduced. The new external door will also face to the north, and thus away from the nearest residential properties, which will again help to limit any impact from these operations. The construction of the proposed extension will have an impact upon noise levels from the site, both from the construction activities and also due to the need to relocate the loading activities during this process. The submission of a construction management plan is recommended as a condition to ensure that construction activities do not have an unreasonable impact.
- 10.43 As such it is considered that the application currently under consideration is acceptable in terms of noise pollution. The authority is unable to limit traffic noise from the wider road network, and the proposed extension will adequately limit noise emission from loading activities. As such the application is acceptable in this regard.

#### *Hours of Operation*

- 10.44 Complaints have been received from neighbours relating to activity at the site outside the permitted operating hours of 0730 and 1830 Monday to Friday and 0800 and 1300 on Saturday, with no operations at all on Sundays, Bank Holidays, Public Holidays, Christmas Day or Good Friday. Discussions with the operator have established that the activity that led to the complaint related to the maintenance of machinery.
- 10.45 The imposed conditions limit "operations" at the site, and it is unclear whether this term can include maintenance work. Legal advice has been sought from Counsel and in summary this advice states that if daily cleaning is an intrinsic part of the operation of the site, then this should only occur within the permitted operating hours. However, intermittent and emergency maintenance operations such as the replacement of carbon filters, or the replacement of damaged belts, the repair of machinery etc lies outside the normal 'operation' of the site and thus is not caught by the condition. This activity is therefore unrestricted. It is also noted that the intention of the condition is to protect residential amenity, and thus even if regular maintenance took place outside permitted operational hours, enforcement action against the condition would only be reasonable if the activity caused demonstrable harm to residential amenity. Work to replace carbon filters or to repair damaged

machinery is unlikely to cause a perceptible impact upon residential amenity and thus it is possible that rigidly enforcing the condition would be unreasonable.

- 10.46 Further clarification has been sought from the applicants in relation to their maintenance regime and it is understood that there is daily cleaning of all machinery after the processing of waste has ceased. A schedule has been provided of the maintenance activities and it is understood that this is carried out by four employees who work from 9.30pm to 6am. It is clearly important that the machinery is regularly cleaned as this will also help to reduce the odour emitted by the site, and this work is currently undertaken without evidence of harm to the amenity of neighbours. In order to provide clarity for both the site operator and neighbours it is therefore proposed to word conditions relating to permitted working hours/days to specify that no activities related to the waste transfer operations can occur outside of the permitted hours. A further condition relating to scheduled maintenance operations is also recommended. As such, subject to revised conditions the application is considered acceptable in this regard.

#### *Other Amenity Issues*

- 10.47 The site also has the potential to cause dust and particulate pollution. Conditions imposed the 2010 permission required the submission of a dust management plan which was subsequently submitted and discharged. The condition also requires the cessation of operations should dust be perceptible beyond the site boundary. The replication of this condition, reworded in such a way that the approved dust management plan can be enforced will be sufficient to protect against the impact of dust. Air Quality officers have reviewed the current application and have not raised any concerns in relation to air quality, nor recommended conditions. As such the application is acceptable in these regards.
- 10.48 Footpath 49 Morley abuts the site to the west, and the site has the potential to impact upon the amenity of any footpath users. The landscape scheme approved and implemented as part of the 2010 permission included a significant soil bund adjacent to the footpath to limit views of the commercial operation, and also limit the transmission of noise and vibration etc. This bund has been implemented and provides the appropriate mitigation. As such subject to the footpath remaining unobstructed Public Rights of Way Officers offer no objection to the application.

#### *Conclusion*

- 10.48 The current operation of the site does result in impacts that cause some degree of harm to residential amenity, particularly in relation to odour and noise. Negotiated improvements in the operation of the site have given rise to some benefits in relation to odour nuisance. The application under consideration in effect regularises and facilitates the current operations on site to continue, allows the authority to condition odour control mechanisms that do not form part of the existing permission, and through the construction of the extension ensure that no external loading or unloading will take place. This application therefore allows the authority to secure benefits that are considered to improve the situation for nearby neighbours. Whilst it may be that this will not fully resolve the concerns of neighbours, it is considered that a reasonable balance is achieved in allowing this important facility to continue to operate and protecting the amenities of neighbours.

#### Design and Character/Visual Amenity

- 10.50 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Core Strategy Policy P10, Waste 9 of the NRWLP DPD and saved Unitary Development Plan Policy GP5 all seek to ensure that new development is of high quality and protects visual amenity.
- 10.51 The main difference between the 2010 permission and the current submission relates to the changes to the office building. As approved this structure included a brise-soleil, a projecting first floor office and a smaller entrance way and staircase. The loss of the brise-soleil and first floor projection have undoubtedly weakened the design of the office, resulting in a more utilitarian structure without visual interest and more limited articulation. The enlarged staircase also results in a weaker design, as a more lightweight, delicate structure has been replaced with a more bulky and blocky addition. However, this said, the office building sits immediately adjacent to the large waste transfer building, and within a site that is dominated by the movement of commercial vehicles. Although located within the Green Belt and within an immediate context of green fields, the site is located on a busy A-road with other large commercial, leisure, residential and industrial areas nearby, and is best classed as part of the wider urban fringe. Within this wider context, and read against the large industrial waste transfer building, the more utilitarian design of the office does not cause significant visual harm.
- 10.52 The proposed extension is also considered to be acceptable in design terms. This is a minor, subservient extension to the large waste transfer building which will match the existing materials and colour. As such it will adequately blend with the existing buildings and will not cause visual harm. The other minor changes to the building are also acceptable. The inclusion of odour control units, the addition of the electricity transformer, stocking bay and other minor ancillary structures across the site do not have a harmful impact upon the character of the site. As such the applications are acceptable in this regard.

#### Surface Coal and Development High Risk Areas

- 10.53 Policy Minerals 3 notes that all developments within the Surface Coal Mineral Safeguarding Area shown on the policies map must demonstrate that the opportunity to recover coal has been considered. As noted by the Coal Authority coal deposits were extracted from beneath the existing waste transfer station floor slab prior to the original construction and additional coal deposits are not exposed nor extraction possible. The opportunity for coal recovery is therefore low, as are the chances of sterilising any resource.
- 10.54 Part of the wider application site does fall within the Coal Mining Development High Risk Area, relating to the previous colliery use. However this does not affect the area of the proposed extension, and thus the potential for previous coal workings to impact upon the general ground stability of the site, is low and the application is thus acceptable in this regard.

#### Drainage and Highways

- 10.55 Consultation responses have been received from Highways and Drainage officers. Drainage officers were initially concerned regarding the potential for significant additional surface water discharge, however having established that the only significant element of new development relates to the waste transfer building

extension this is no longer a concern. As such the application is acceptable in this regard.

- 10.56 Highway Officers are also content with the application. Initial consultation responses requested the submission of a travel plan (secured by condition) and also the provision of shower and changing facilities on site. The most recent consultation response (February 2017) has concluded that a travel plan is not required and plans have been amended to show the requested shower/change facilities. As such the application is acceptable in this regard.

### Representations

- 10.57 All material considerations raised through representations have been discussed above. Conditions and measures to mitigate these concerns are being recommended where possible, although it is acknowledged that the concerns relating to odour cannot be entirely resolved.
- 10.58 Concern has been raised relating to public health and the impact of the odour emissions. Whilst public health is a general material planning consideration, specific harmful impacts of any development are regulated by separate legislation and regimes. It is generally accepted that when considering planning applications a Local Planning Authority must assume that these regimes will operate effectively and not seek to duplicate the regulatory functions of other public bodies. As noted within section 7 of the NPPW waste planning authorities should assess applications against the criteria set out in appendix B of the NPPW and the advice of the relevant health bodies. The criteria within appendix B include matters such as noise, odour and emissions to atmosphere, all of which are assessed above using comments from the appropriate bodies.
- 10.59 Article 8 of the European Convention on Human Rights has also been referenced. This relates to the right to privacy and a family life, with the objector questioning whether the authority has adequately considered the rights of near neighbours.
- 10.60 It is well established that the grant, or denial, of planning permission does not breach the European Convention on Human Rights. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed.
- 10.61 The concerns highlighted within the objection letters received appear to relate to the 2008 and 2010 permissions, and no comment can be offered on the historic assessment of these previous applications. The above report outlines the permitted, lawful use of the site, identifies the site as part of the strategic waste management of the city, has regard to the needs of the operator and the amenity of neighbours. It then reaches a series of balanced conclusions on the relevant material planning considerations, and as such this report adequately discharges the duty of the LPA under the EHCR.

## **11.0 CONCLUSION**

11.1 The application is therefore considered to be acceptable. The retrospective changes to the site and buildings as well as the new cycle/motorcycle stores are inappropriate development within the Green Belt however the benefits of odour / noise reduction and the promotion of sustainable travel are considered to cumulatively amount to very special circumstances which clearly outweigh the harm to the Green Belt, and any other harm caused by the inappropriate development. The new extension is not inappropriate development in the Green Belt and the development will also not cause harm to visual amenity, highway safety nor flood risk. Although this application will not resolve all the concerns of neighbours in relation to amenity, the benefits offered by the approval will reduce some of the impacts and thus on balance the application is not harmful in this regard. Furthermore, by imposing condition 7 the LPA is satisfied it has control over any future acceptance at the site in respect of black bin bags and putrescible trade waste (or any other new type of waste). As such the application is compliant with the relevant planning policies and guidance when read as a whole and approval is recommended subject to the conditions listed in Appendix 1.

**Background Papers:**

Application files

15/00297/FU

Certificate of ownership: Certificate A signed by the agent

## Appendix 1 – Conditions Schedule

- 1) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in the Plans Schedule.

For the avoidance of doubt and in the interests of proper planning.

- 2) Construction of the extension to the existing waste transfer building hereby approved must be commenced within 12 months of the grant of planning permission and the extension brought into use no later than 24 months after the grant of planning permission.

In the interests of residential amenity.

- 3) All other new development hereby permitted, not referenced in condition 2, shall be begun before the expiration of three years from the date of this permission.

Imposed pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4) Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include (but is not limited to) a traffic management plan, contractors' parking, hours of working, and measures to limit noise, dust, vibration and emissions. Works shall then be undertaken in accordance with the agreed details.

In the interests of residential amenity.

- 5) The external walling and roofing materials of the extension hereby approved shall match those of the existing waste transfer building.

In the interests of visual amenity.

- 6) The proposed new covered cycle store and motorcycle store shall match the design and details of the existing cycle shelter.

In the interests of visual amenity.

- 7) All proposed odour control measures outlined in the Odour Management Plan reviewed 1/06/2016 (or any subsequent document or scheme seeking to control odour from the site) shall be adhered to for the lifetime of the development. These measures include but are not limited to:

- active and effective monitoring of waste types and climactic conditions;
- effective waste delivery, handing and rotation, including strict adherence to identified maximum storage times;
- retention of the activated carbon abatement system;
- retention of fast shutter doors and air curtains;
- use of odour suppression systems;
- regular and effective cleaning and maintenance of machinery and all odour control mechanisms;
- ongoing odour monitoring and reporting.

In the event that a revision to the approved odour management plan (or any subsequent document or scheme seeking to control odour from the site) is agreed with the Environment Agency (or other statutory regulatory body), the revised document(s) shall be submitted to and approved in writing by the Local Planning Authority within one month of agreement with the Environment Agency. Any new odour control measures required by a revised odour management plan shall be installed and implemented within one month of Local Planning Authority's written agreement to the odour Management Plan.

In the interests of residential and general amenity.

- 8) The extension hereby approved shall not be brought into use until all odour control measures outlined within the Odour Management Plan reviewed 1/06/2016 (or any subsequent document or scheme seeking to control odour from the site) have been installed and implemented within the extension. These shall include, but are not limited to:
- installation of an activated carbon abatement system; and
  - installation of fast shutter doors and air curtains.

The extended building shall then be operated in accordance with the approved Odour Management Plan reviewed 1/06/2016 (or any subsequent document or scheme seeking to control odour from the site).

In the interests of residential and general amenity.

- 9) The dust mitigation strategy outlined in the written statement dated May 2011, the Dust Assessment dated July 2008, Dust Action Plan dated June 2009, and Addendum to Dust Action Plan dated March 2011, as well the Dust Monitoring Locations shown on Plan 37 approved under applications 11/01173/COND and 11/02399/COND, and the details within the submitted Dust Statement dated May 2013 shall remain applicable for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of residential and general amenity.

- 10) The noise mitigation strategy outlined in the written statement dated May 2011, the Procedure to Minimise Noise from Vehicles and Machinery dated March 2011 and Addendum to Noise Assessment dated November 2010 approved under applications 11/01173/COND and 11/02399/COND, as well as details in the submitted Noise Management Plan dated 9th August 2013 remain applicable and shall be implemented and adhered to for the duration of the site operation unless otherwise agreed in writing by the Local Planning Authority.

In the interests of residential and general amenity.

- 11) The external conveyor belt and four external storage bays shall remain enclosed for the lifetime of the development, unless otherwise approved in writing by the Local Planning Authority.

In the interests of residential and general amenity.

- 12) The site shall only be operated in accordance with the details outlined in sections 2.0, 3.0, 4.0 and 5.0 of the submitted Site Working Plan (SOP-013 Rev 2 - dated 12th January 2015) (or any subsequent document or scheme providing for the overall



management and working of the site) unless otherwise agreed in writing by the Local Planning Authority.

In the interests of residential and general amenity.

- 13) No lighting fitment shall be installed on the site in such a way that the source of light is directly visible from nearby residential properties or is a hazard to users of adjoining or nearby highways.

In the interests of highway safety and residential and general amenity.

- 14) Other than recycled aggregates, there shall be no unloading, loading or storage of waste materials outside of the waste transfer building.

In the interests of residential and general amenity.

- 15) There shall be no activities related to the waste management operations of the site other than between the hours of 0730 and 1830 Monday to Friday and between 0800 and 1300 on Saturday. There shall be no activity related to the waste management operations of the site on Sundays, Bank Holidays, Public Holidays, Christmas Day or Good Friday. In the interests of clarify the waste management operations of the site include, but are not limited to:

- receipt, processing and onward distribution of waste and other materials;
- regular daily, weekly and monthly maintenance outlined within the approved Maintenance Programme document;
- use of the steam cleaner unit;

In the interests of residential amenity.

- 16) Scheduled maintenance operations (as specified within the Weekly Cleaning Schedule Rev4 document) shall only be undertaken between the hours of 2130 and 0600 Monday to Friday and 2130 to 2359 on Saturday. There shall be no activity related to regular, scheduled maintenance on Sundays, Bank Holidays, Public Holidays, Christmas Day or Good Friday.

In the interests of residential amenity.

- 17) No waste material shall be burnt within the boundary of the site.

In the interests of residential and general amenity.

- 18) Stockpiling of materials shall occur only within the area identified on plan 10 D and shall not exceed the stated maximum height of 4.0m. This condition must be read in conjunction with condition 14 restricting the external storage, loading and unloading of materials to recycled aggregates only.

In the interests of visual amenity.

- 19) All open-top loaded wagons arriving at and leaving the site shall be sheeted or netted.

In the interests of highway safety and residential and general amenity.

- 20) The measures to prevent mud and dirt being tracked out of the site onto the public Highway outlined in the written statement dated May 2011, the Procedure to Minimise

Noise from Vehicles and Machinery dated March 2011 and Addendum to Noise Assessment dated November 2010 approved under application 11/02399/COND shall remain applicable for the duration of the development.

In the interests of residential and general amenity and highway safety.

- 21) All landscaping works shall be retained and maintained in accordance with the details shown on plan 15 C, agreed and discharged under applications 11/01173/COND and 11/02399/COND.

In the interests of visual amenity and the Green Belt.

- 22) The walls, fences or other permanent boundary treatments outlined on plans 10 D and 15 C, and agreed and discharged under application 11/1173/COND shall be retained and not altered or removed without the written consent of the Local Planning Authority.

In the interests of visual amenity and the Green Belt.

- 23) The oil interceptor(s) shown on plan 19 C and agreed and discharged under application 11/1173/COND shall be retained and maintained in a satisfactory condition.

In the interests of pollution prevention and water quality.

- 24) All measures to control surface water discharge shown on plans 19 C, 29 A and 10005 Surface Water Network and agreed and discharged under application 11/01173/COND shall be retained and maintained in a satisfactory condition.

In the interests of Flood Risk Management.

- 25) Surface water discharges from the site to the Farnley Beck watercourse shall be subject to balancing of flows to 'Greenfield' rates of run off (i.e. 5 l/s/ha).

To ensure compliance with the Council's sustainable development design guide and Minimum Development Control Standards for Flood Risk.

- 26) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

In the interests of pollution prevention and water quality.

- 27) Within three months of the date of this permission full details of all secondary containment measures for the two fuel tanks hereby approved, including measures to prevent contamination of the watercourse shall be submitted to and approved in writing by the Local Planning Authority. The agreed secondary containment measures shall then be installed and completed within three months of the date of this written agreement.

In the interests of pollution prevention and water quality.

- 28) Any liquid storage tanks should be located within a bund with a capacity of not less than 110% of the largest tank or largest combined volume of connected tanks.

To ensure that there are no discharges to the public sewerage system which may injure the sewer, interfere with free flow or prejudicially affect the treatment and disposal of its contents.

- 29) No building or other obstruction shall be located over or within 3 metres either side of the centre lines of the water mains which cross the site, unless otherwise agreed in writing by the Local Planning Authority.

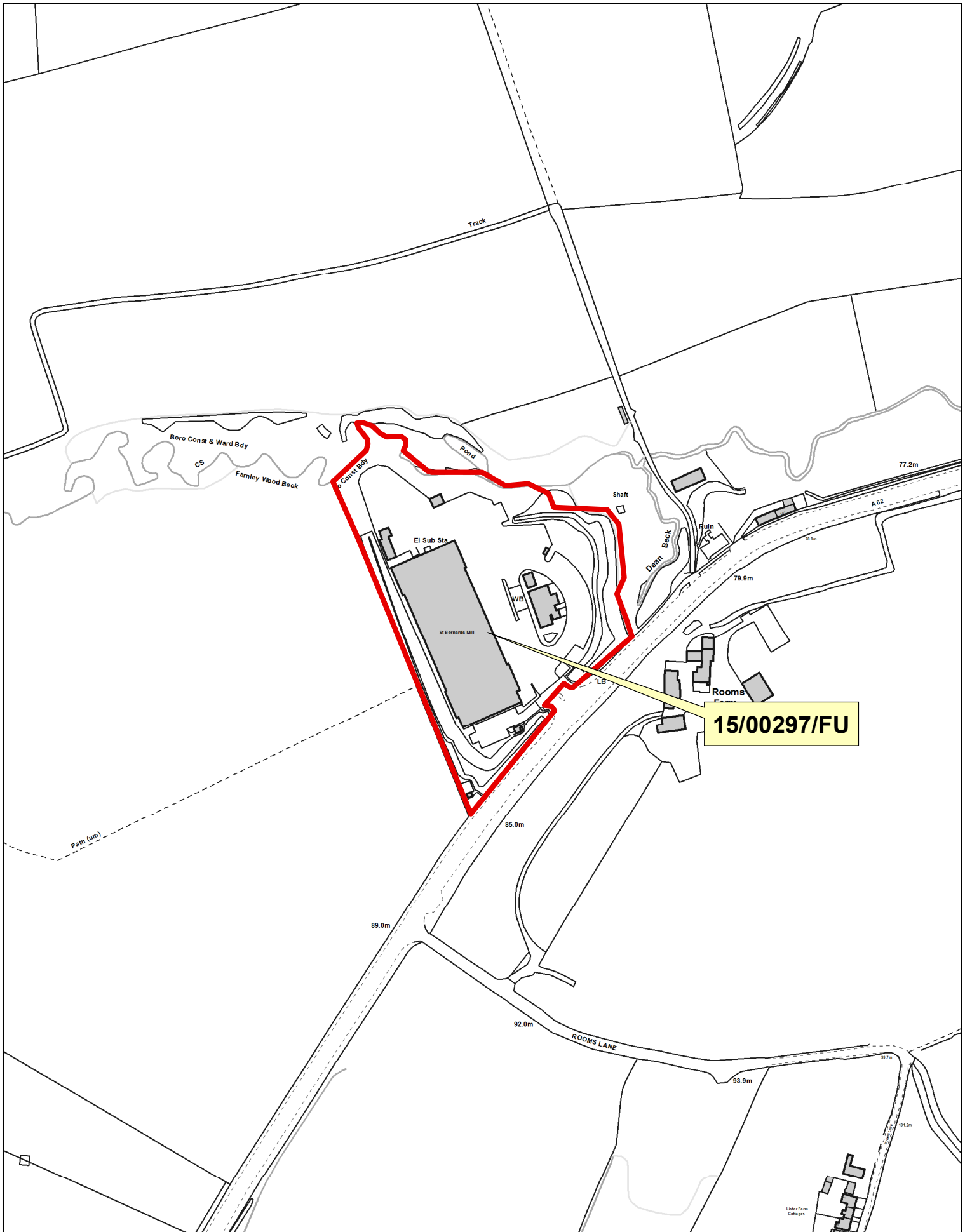
In order to allow sufficient access for maintenance and repair work at all times.

- 30) The local planning authority shall be notified in writing immediately where unexpected significant contamination is encountered during any development works and operations in the affected part of the site shall cease.

Where remediation of unexpected significant contamination is considered by the Local Planning Authority to be necessary, a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the recommencement of development on the affected part of the site. The Remediation Statement shall include a programme for all remediation works and for the provision of verification information.

Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all necessary verification information has been approved in writing by the Local Planning Authority.

To enable the local planning authority to ensure that unexpected contamination at the site will be addressed appropriately and that the development will be suitable for use.



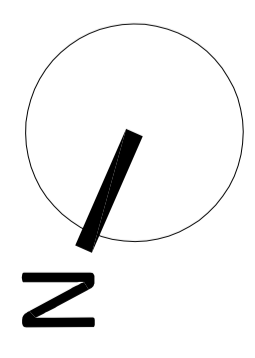
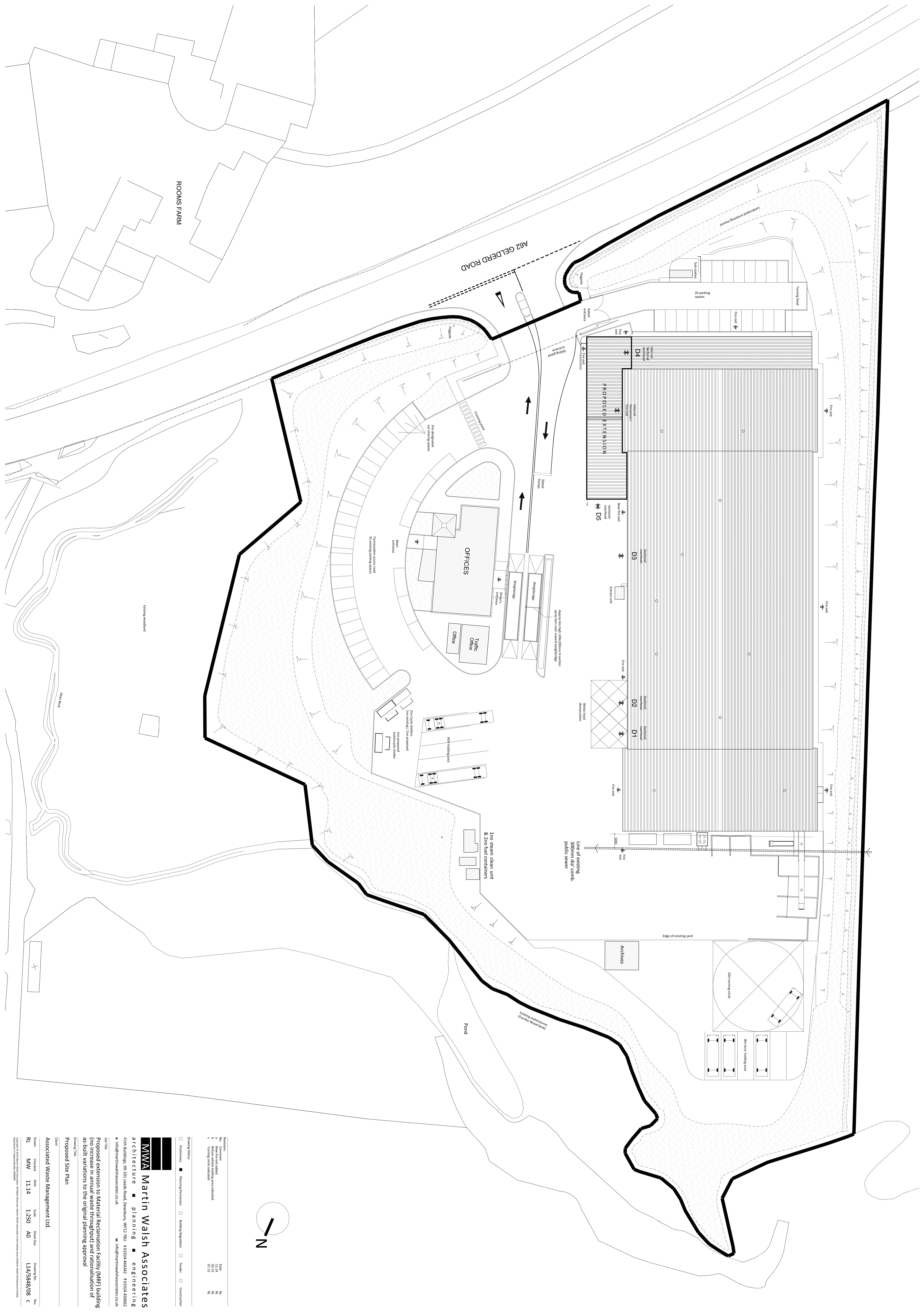
# SOUTH AND WEST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/3000





Revisions:	Drawn:	Checked:	Date:	By:
1. Confirm final	AWM	AWM	01.15	AWM
2. Refine waste building was included	AWM	AWM	01.15	AWM
3. Refine waste building was included	AWM	AWM	01.15	AWM
4. Turning crane included	AWM	AWM	07.15	AWM

- Contract Status:
- Preliminary
  - Planning Permission
  - Building Regulation
  - Tender
  - Construction

**MWA** Martin Walsh Associates  
 architecture ■ planning ■ engineering

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Job Title: **Proposed extension to Material Reclamation Facility (MRF) building (no increase in annual waste throughput) and rationalisation of as-built variations to the original planning approval**

Drawing Title: **Proposed Site Plan**

Client: **Associated Waste Management Ltd.**

Drawn	Checked	Date	Scale	Sheet Size	Drawing No.	Rev.
AWM	AWM	11.14	1:250	A0	L14/5848/08	C

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