

## Report of the Chief Planning Officer

### SOUTH AND WEST PLANS PANEL

**Date: 18<sup>th</sup> October 2018**

**Subject: 18/01111/FU** – Variation of conditions 1, 5, 6 and 18 of previous approval 11/01809/FU to amend the site layout and to extend the hours of operation to 0700 – 1900 (Monday-Friday) and 0800 – 1700 (Saturday) - **Whitehall Industrial Estate, New Farnley.**

APPLICANT	DATE VALID	TARGET DATE
B W Skip Hire Ltd	16.02.2018	22.05.2018

<p><b>Electoral Wards Affected:</b></p> <p><b>FARNLEY &amp; WORTLEY</b></p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px 10px; margin-right: 10px;">Yes</div> <p>Ward Members consulted (referred to in report)</p> </div>	<p><b>Specific Implications For:</b></p> <table> <tr> <td>Equality and Diversity</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Community Cohesion</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Narrowing the Gap</td> <td><input type="checkbox"/></td> </tr> </table>	Equality and Diversity	<input type="checkbox"/>	Community Cohesion	<input type="checkbox"/>	Narrowing the Gap	<input type="checkbox"/>
Equality and Diversity	<input type="checkbox"/>						
Community Cohesion	<input type="checkbox"/>						
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**RECOMMENDATION: GRANT PERMISSION subject to the following conditions:**

1. In accordance with approved plans.
2. Development to start within 3 years.
3. Provision and retention of cycle storage.
4. Installation and use of oil interceptor.
5. Installation and use of drainage scheme.
6. Installation and use of wheel-washing facilities.
7. Submission of an acoustic assessment report prior to any crushing taking place.
8. Management of pest control.
9. Submission and approval of scheme to repair existing waste storage building prior to permission being implemented.
10. Construction of site office.
11. Storage of any household, putrescible or malodorous waste to be contained in waste storage building only and held for no longer than 7 days.
12. Area to be used by vehicles to be laid out, drained, surfaced and sealed.
13. Operating hours – including ‘final hour’ restriction.
14. Operating hours - for any crushing and screening.

15. No-working on Sundays, Bank Holidays, Public Holidays, Christmas Day or Good Friday.
16. Restricting height of stockpiles.
17. No burning of waste materials.
18. No lighting fitment.
19. Liquid storage tanks to be located within a bund.
20. Open-top loaded wagons shall be sheeted or netted.
21. Unexpected contamination.
22. Importing soils.
23. Landscape Management.

## **1. INTRODUCTION**

- 1.1 Councillor Ann Blackburn for the Farnley and Wortley Ward has requested that this planning application be determined by the South and West Plans Panel. Her objection relates to the proposed amendment to the operating hours (and associated noise nuisance) and the increase in vehicle movements (and associated noise and dirt).
- 1.2 Given that this application relates to S73 of the Town and Country Planning Act, the only matters to be determined when considering the planning application is the acceptability of the new conditions being sought.
- 1.3 That said, in order to fully understand the context of this planning application it is considered useful for the current situation regarding the applicant's main waste management business located at 263 Whitehall Road, Lower Wortley to be explained. Members are advised that a separate planning application (ref. 18/04081/FU) at 263 Whitehall Road is currently pending consideration.
- 1.4 The BW Skip Hire Ltd (BWS) waste transfer and recycling facility at 263 Whitehall Road accepts both inert demolition and construction waste as well as general skip waste. Under the terms of the current Environmental Permit issued by the Environment Agency, BWS are permitted to manage (stockpile, sort and process) inert construction and demolition waste externally in the open air. However, it is the case that all general skip waste must be managed within a building for pollution prevention reasons.
- 1.5 Presently, the existing waste transfer building at 263 Whitehall Road is not large enough to fully accommodate all of the incoming general skip waste accepted at the site. The Environment Agency has noted that a proportion of the incoming general skip waste has been deposited in the open air, on the site's concrete apron, which is located outside of the waste transfer building. BWS has therefore submitted a planning application to the Council to extend the existing waste transfer building at 263 Whitehall Road (application ref. 18/04081/FU). BWS suggest that a larger building would provide accommodation of a sufficient size to enable general skip waste to be managed inside rather than outside.
- 1.6 The proposed building extension at 263 Whitehall Road, if approved, would occupy site areas currently used by BWS for the storage and processing of inert construction and demolition waste. The displacement of this waste stream to another part of the site at 263 Whitehall Road is not feasible given existing site and operational constraints. Notwithstanding this, BWS wish to separate the bulk of their inert waste recycling business from their general waste recycling business. Therefore, in order to deliver this, BWS are seeking planning permission to relocate the majority of their inert waste recycling business (i.e. inert demolition and construction waste) from 263 Whitehall

Road to another site at Ashfield Way on Whitehall Industrial Estate, New Farnley. This is the basis of the current planning application under consideration.

- 1.7 The site at Ashfield Way – the application site - is a safeguarded waste management site in the Leeds adopted development plan. The application site already benefits from planning permission for use as a waste transfer station (ref. 11/01809/FU) and operated under that permission for a number of years. The site has now been acquired by BWS, who wish to carry out waste transfer operations in a manner different to that permitted. The planning application under consideration seeks to vary four of the planning conditions attached to extant permission ref. 11/01809/FU. These relate to the site layout, landscaping, a landscape management plan and the operating hours.

## **2. PROPOSAL**

The planning application proposes to vary the following conditions attached to planning permission ref. 11/01809/FU:

### *Condition 1 – Approved Plans*

- 2.1 BWS propose to amend the existing site layout by re-arranging the location of stockpiles and re-siting the vehicle parking area, the office and the weighbridge. The overall general site layout would not change, with the processing activity (loading, crushing and screening) still taking place at the rear of the site. The proposed plans show a revised site layout to take account of the changes proposed. It is therefore proposed to amend the approved plans list relating to the site.

### *Condition 5 and 6 – approved landscaping and landscape maintenance*

- 2.2 The approved soft landscaping area to the site's frontage would be retained. However, BWS propose to construct a 1 metre high perimeter bund along the rear boundary of the site. This is shown on the proposed site layout plan and a revised landscape management plan is also proposed. It is therefore proposed that these changes are incorporated into the approved plans list.

### *Condition 18 – approved operating hours*

- 2.3 BWS propose to amend the operating hours. The approved operating hours are currently 8am to 4pm (Monday-Friday) and 9am to 3pm (Saturdays). The proposal is to operate from 7am to 7pm (Monday-Friday) and 8am to 5pm (Saturday). There would continue to be no site operations on Sundays, Public Holidays, Christmas Day and Good Friday. It is therefore proposed that these changes are reflected in an amended condition.
- 2.4 Despite the proposed changes, the purpose of the site operations would largely mirror what is already permitted by planning permission ref. 11/01809/FU. The site operator would import inert construction and demolition waste onto the site to be screened and sorted into stockpiles using a trommel screen (i.e. a mechanical screening machine). BWS has no immediate plans to carry out crushing of material on the site, but want the option to do so in the future. BWS anticipate that a trommel screen, crushing plant, 2 no. 360 excavators, a telescopic handler and a loading shovel will be based at the site. Any waste deemed as 'contamination' within inert loads (e.g. wood, plastic etc.) would be quarantined in the waste storage building pending removal off site. BWS intend to re-clad and repair the waste sorting building as part of this planning application.

## **3. SITE AND SURROUNDINGS**

- 3.1 The application site forms a vacant brownfield land and an existing safeguarded waste management site on the established Whitehall Industrial Estate. Other commercial and industrial uses are located on the industrial estate, including other waste management uses. The frontage is formed by Ashfield Way, from where access is gained. The rear of the site faces woodland on rising ground. Access into and egress out of the Whitehall Industrial Estate is taken from Whitehall Road East. Cobden Primary School lies approximately 200m north-east of the proposed site (out of sight) and residential areas lie approximately 250m away to the north, east and west of the proposed site.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1 An unauthorised waste transfer station operated on the site prior to December 2011. The terms of approval in two retrospective planning permissions were not complied with. Legal notices were issued, a planning appeal took place, which was dismissed, and the then-operator was prosecuted by the Environment Agency in 2008.

11/01809/FU – Waste transfer station – Approved 22.12.2011

07/02716/FU – Variation of condition 1, 2 and 17 of application No. 24/449/01/MIN, approved drawings, completion time and carrying out of landscaping – Refused 09.01.2008

ENF/1095/05/MIN – Breach of Condition Notice served in relation to a failure to install approved access to specification and failure to provide wheel cleaning equipment

24/449/01/MIN – Detached sorting building and detached vehicle maintenance building to waste transfer station – Approved 06.02.2003

ENF/474/99/MIN – Enforcement action relating to the unauthorised tipping of waste materials on land

24/95/99/MIN – Detached waste transfer station with detached workshop – Approved 02.05.2000

*Other operators on the estate*

13/01471/FU – Change of use from trailer hire and servicing depot to car and van hire depot – Approved 17.06.2013

07/04828/FU – Variation of condition 2 of permission reference 24/325/92/FU (reduction to approved site area boundary) – Approved 09.10.2007

24/295/00/MIN – Change of use of warehouse to waste transfer station and recycling centre – Approved 14.12.2000

#### **5. HISTORY OF NEGOTIATIONS**

- 5.1 Under the extant 2011 planning permission, a waste transfer station is approved to operate between the hours of 8am - 4pm (Monday-Friday) and 9am - 3pm (Saturday). These hours allow for all aspects of waste transfer operations, including the ability to crush and screen material. The current applicant had initially sought to extend the operating hours to 7am - 7pm (Monday-Friday) and 8am - 5pm (Saturday), with no restriction on crushing and screening.

- 5.2 The Council's Environmental Health department do not object to the applicant's proposed operating hours but several objections on this issue have been received from local residents and ward members. Most objections relate to the potential for noise and the associated perceived harm to general amenity and the living conditions of occupants of nearby property. For the avoidance of doubt, an acoustic assessment report has not been submitted by the applicant. At the request of Councillor Ann Blackburn, officers have negotiated at length with BWS to secure an application which restricts certain operations to certain hours within the overall proposed hours applied for.

#### *Crushing and Screening Operations*

- 5.3 Screening and crushing operations are considered to form the noisiest aspects of the proposed development. As such, officers have successfully negotiated with the applicant to secure an application which restricts screening and crushing operations as follows - 8am to 5pm (Monday-Friday) and 9am to 2pm (Saturday) and, not at any other time. It should be noted that these hours are not significantly different from the current permitted hours for crushing and screening. This recommended restriction includes an extra hour on a weekday (4pm – 5pm) and the loss of an hour on a Saturday (finishing at 2pm instead of 3pm).

#### *The Final Hour*

- 5.4 BWS has also agreed to further restrict the use of the site in the final hour of the proposed working day. Therefore, between the hours of 6pm and 7pm (Mon-Fri) and 4pm and 5pm (Sat), no waste management operation other than associated vehicle access/egress and the unloading of skips from those vehicles will take place. For the avoidance of doubt, BWS has confirmed that skips would not be emptied during this final hour.

#### *Legal Agreement Considerations*

- 5.5 Given BWS' intention to relocate the inert demolition and construction waste operations from their existing facility at 263 Whitehall Road to Ashfield Way, officers requested BWS to consider entering into a Unilateral Undertaking to voluntarily agree to limit operations relating to the processing of inert waste at 263 Whitehall Road. In effect, this would ensure that all inert waste processing would take place at Ashfield Way rather than at Whitehall Road, or both sites.
- 5.6 BWS consider the use of a legal agreement in this way to be inappropriate and are not in a position to accept such a proposition. They contend that, operationally, it is essential that their business retains the ability to store and bulk-up some inert waste material at Whitehall Road since it is inevitable that limited volumes of inert waste will still be received at Whitehall Road within mixed skip loads. However, BWS has identified that this material would be transferred to other sites for further processing.
- 5.7 Officers consider that it would be unreasonable to require this as part of granting permission for this application given that some or all mixed waste skips collected from business and residents and then delivered to Whitehall Road will contain full loads or fractions of inert construction/demolition waste. Officers therefore agree with the applicant that use of a legal agreement in this particular instance would not be appropriate.

## **6. PUBLIC/LOCAL RESPONSE**

- 6.1 The planning application was advertised by a major site notice. Notices were posted in the locality on 7<sup>th</sup> March 2018 and in the Yorkshire Evening Post on 4<sup>th</sup> April 2018.

6.2 10 letter of representation have been received from members of the public objecting to the proposal for the following reasons:

- Noise impact in connection to longer operating hours;
- High levels of dust;
- Vehicles depositing dirt and debris onto the public highway; and
- Highway safety at the junction of Ashfield Way and Whitehall Road.

6.3 Of the 10 objection letters, 2 objections are from Councillors Ann and David Blackburn (Farnley and Wortley Ward). Their principle concerns relate to the perceived impact on general amenity and the living conditions of occupiers of nearby property from noise nuisance and the perceived impact on amenity and safety arising from depositions and/or accumulations of dirt/debris on the public highway. The Councillors are aware of the negotiations undertaken by officers, including the operational restrictions secured at paras. 5.3 - 5.4 and the limitations set in 5.5 - 5.7 of this report.

6.4 Councillor Gibson initially expressed concern regarding the potential for noise nuisance. He has since offered his support to the planning application provided that the restriction on crushing and screening operations (as identified in para. 5.3) is imposed on any grant of planning permission.

## **7. CONSULTATIONS RESPONSES**

### **7.1 Statutory**

Environment Agency	No objection
Coal Authority	No objection
Highways	No objection
Yorkshire Water	No comments

### **7.2 Non-statutory**

Environmental Health	No objection
Ecology team	No objection
Contaminated Land	No objection subject to conditions and directions
Landscape team	No comments.

## **8. PLANNING POLICIES**

### **Local**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. Section 73 of the Town and Country Planning Act provides that LPA's can determine applications to develop land without compliance with conditions previously attached to a permission. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

8.2 The policy guidance in Annex 1 to the revised National Planning Policy Framework (NPPF) is that due weight should be given to the relevant policies in existing plans according to their degree of consistency with the revised NPPF. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised Framework. Due weight should be given to them, according to their degree of consistency with the revised Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). All policies outlined below are considered to align with the revised NPPF and National Planning Policy for Waste (NPPW).

8.3 The adopted Leeds development plan consists of:

Leeds Core Strategy (Adopted 2014, Reviewed 2016)  
Leeds Natural Resources and Waste Local Plan (Adopted 2013/15)  
Saved policies of the Leeds Unitary Development Plan (Reviewed 2006)  
Aire Valley Leeds Area Action Plan (Adopted 2017).

8.4 The following development plan policies, supplementary development documents and national guidance as outlined below are considered to be relevant to this application.

#### Core Strategy 2014

Spatial Policy 1:	Location of development
Spatial Policy 9:	Provision for offices, industry and warehouse employment land and premises;
Policy EC3:	Safeguarding existing employment land and industrial areas;
Policy P10:	Good design.

#### Unitary Development Plan Review 2006 Saved Policies

Policy GP5:	Refers to detailed planning considerations and loss of amenity.
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#### Natural Resources and Waste Local Plan 2013/15

Waste 1:	Self-sufficiency for future waste management in Leeds
Waste 2:	Safeguarding existing waste management capacity
Waste 3:	A city wide network of waste management sites and facilities;
Waste 4:	Waste management facilities – permanent uses;
Waste 5:	Waste uses within existing industrial areas;
Waste 9:	Waste management facilities - potential issues and impacts;
Water 1:	Water efficiency;
Water 4:	Development in flood risk areas;
Water 6:	Flood Risk Assessments;
Water 7:	Surface water run-off;
Land 1:	Contaminated Land; and,
Land 2:	Development and Trees.

#### National Policies

NPPF (2018):	Presumption in favor of sustainable development.
NPPW (2014):	Determination of planning applications, waste hierarchy (Appendix A) and Locational Criteria (Appendix B).

## **9. MAIN ISSUES**

- 1) Principle of the development
- 2) Visual Impact
- 3) Highways
- 4) General Amenity
- 5) Use of Planning Conditions
- 6) Representations

## **10. APPRAISAL**

### Principle of Development

- 10.1 The principle of the development on the application site has already been established by the extant planning permission (ref. 11/01809/FU). The purpose of this assessment is therefore not to reopen the merits of the extant permission but instead, consider the acceptability of the conditions that are proposed for amendment. It is worth noting, however, for ease of reference, that the application site is a safeguarded aggregate recycling site under policy Waste 2 of the adopted development plan. It is therefore safeguarded for its intended purpose for the duration of the plan period, until 2026. It is also worth noting that, under policy Waste 5, the proposed site is located within an identified preferred location for waste management uses.

### Visual Impact relating to the proposed amendments

- 10.2 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 improving the character and quality of an area and the way it functions, should not be accepted”. Policy P10 of the Core Strategy seeks to ensure that new development is of high quality and is appropriate to its context. Furthermore, Policy Waste 9 of the NRWLP states that applications for waste management purposes must demonstrate that the visual impact of a proposed development has been addressed in a manner so as to make them acceptable to the Council.
- 10.3 It is considered that the proposed amendments to the site layout would not result in any visual impact above that already approved by the extant planning permission. In the interests of visual amenity and pollution prevention, it is considered necessary for the external appearance of the existing building on the site to be improved so that it is fully contained and visually enhanced. It is therefore recommended that a new condition be imposed on any planning permission (condition 9) to ensure that a scheme is submitted to demonstrate how this can be achieved.

### Highways Impact relating to the proposed amendments

- 10.4 Core Strategy policy T2 and saved UDP policy GP5 note that development proposals must resolve detailed planning considerations and should seek to maximise highway safety; this principle is also noted within policy Waste 9 of the NRWLP.
- 10.5 The applicant estimates that there would be approximately 30 to 40 loads arriving at the proposed site per day. Numbers would vary depending upon season and movements would comprise a mixture of skip wagons and larger bulk carriers. The number and type of vehicle movements is not considered to be dissimilar from the previous site user (another waste management business) and the situation on the industrial estate and access onto the public highway has not altered. A wheelwash facility is in place on site but is currently situated beneath an old trommel, which remains



on the proposed site. Once the old trommel has been removed by the applicant, the wheelwash will be retained on site for use in cleaning the wheels of skip wagons and other HGV's. As such it is unlikely that mud and debris will be dragged or deposited onto Ashfield Way and/or the public highway (Whitehall Road East). The concerns of members of the public and Members have been taken into account, however, it is not considered that the current proposal to amend planning conditions would result in a greater highway impact than already approved. The Council's Highways team have raised no objections to the proposals.

#### General Amenity Impact relating to the proposed amendments

- 10.6 Development should seek to prevent problems of environmental intrusion and protect general and residential amenity. This is also identified and required within Appendix B of the NPPW, policy P10 of the Core Strategy, policy Waste 9 of the NRWLP and saved policies GP5 and BD6 of the UDP.
- 10.7 There is scope for noise, mud, dust and odour to be generated by this type of operation. Whilst it is recognised that an Environmental Permit would be required for the site, that would seek to restrict the likelihood of pollution incidents, it is also necessary to ensure that in planning terms, the proposed use of the site – as proposed to be amended - is designed to minimise the potential for such environmental impacts upon sensitive receptors.

#### *Noise*

- 10.8 The extant planning permission (ref. 11/01809/FU) allows waste management operations to take place between the hours of 8am - 4pm (Monday to Friday) and 9am - 3pm (Saturday). The applicant is seeking to extend the hours to 7am - 7pm (Monday to Friday) and 8am - 5pm (Saturday). The Council's Environmental Health team has assessed the proposal in terms of the increased potential for noise and has stated that it is unlikely that the proposal would cause significant harm. They concluded by saying;

*"There are no residential [sp] houses in the close vicinity and the transport links do not pass by residential dwellings".*

- 10.9 Notwithstanding this, several objections received from residents and ward members refer to the potential for noise nuisance. Officers have therefore applied a precautionary approach and in accordance with the agreements provided for at paras. 5.3 and 5.4 of this report, it is recommended that a planning condition/s be imposed on any grant of planning permission to restrict crushing and screening operations and the operations to take place in the final hour of the working days.
- 10.10 For the avoidance of doubt, other than crushing and screening, the main source of noise is likely to comprise loading and unloading of skip wagons, the forming of stockpiles and HGV movements. Whilst these activities by their very nature will inevitably cause a degree of noise, full regard should be had to the location of the development within an active industrial estate and with no houses being located in the immediate vicinity, it is unlikely that the proposal to amend condition would result in significant harm to living conditions.
- 10.11 That said, the applicant has voluntarily submitted a 'Noise Control Strategy' which contains the following clause;

*"If a complaint is received regarding noise, the complaint will be investigated and a record kept. If the complaint is found to be justified by the local authority, the*

*operation causing the problem will be modified or will cease until a control measure is put into place”.*

- 10.12 It is considered that all reasonable restrictions have been negotiated with BWS to ensure that the impacts from noise are mitigated to allow the operating hours to be extended.

#### *Mud and Dust*

- 10.13 BWS has submitted a ‘Dust Control Strategy’ and ‘Vehicle Movement Plan’ setting out measures to control dust and mud respectively. Compliance with these documents is recommend to be conditioned as part of any grant of planning permission. Officers consider that, providing these documents are adhered to by the site operator, impacts from dust and mud can be mitigated. As a contingency, the documents include clauses which state that if a complaint is received regarding mud or dust, providing the complaint is found to be justified by the local authority, the operation causing the problem will be modified or will cease.
- 10.14 The position of stockpiles around the loading, crushing and screening area and the construction of the perimeter bund will assist in reducing or containing any dust within the site. To mitigate dust drift, palisade fencing with ‘scaffnet’ or equivalent will be erected along sections of the site boundary. Additionally, the wheelwash facility referred to in para. 10.5 will assist in reducing instances of mud on the road.
- 10.15 In taking account of the above assessment, it is considered that operational impacts can be minimised and controlled through good site management and enforced by robust planning conditions to ensure that adjacent businesses and other nearby sensitive receptors are not significantly harmed. That said, the operational control of processes or emissions at waste sites are subject to a separate pollution control regime, regulated by the Environment Agency. In taking a decision on this planning application, as with all planning applications, the Council is directed by para. 183 of the revised NPPF to assume that the Environment Agency’s regulatory regime will operate effectively. Should an Environmental Permit for the proposed use of the land be issued by the Environment Agency, it would then be up to the applicant to abide by its terms and if not, enforcement action should be taken by the Agency to ensure compliance with the issued permit.

#### Use of Planning Conditions

- 10.16 The main powers relating to local planning authority use of conditions are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”.
- 10.17 The NPPG states that the purpose of imposing planning conditions on planning permissions is to enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.
- 10.18 Paragraph 54 of the revised National Planning Policy Framework states “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”.

- 10.19 Paragraph 55 of the revised National Planning Policy Framework states “Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”.
- 10.20 The applicant proposes the variation of conditions no. 1, 5, 6 and 18 of permission ref. 11/01809/FU, which has been assessed above as being acceptable to the Council and its relevant consultation bodies. Other conditions, as stipulated above, are recommended or have been amended to ensure that improvements are made to the site and its management routine.
- 10.21 The application of the recommended planning conditions to any approval is therefore considered to meet the tests set in para. 55 of the NPPF.

#### Other issues raised in the Representations

- 10.22 An objection was made alleging that BWS frequently flout their operating hours at their waste management site at 263 Whitehall Road and that there is a risk the same could happen at the proposed site. Members are advised that an application cannot be refused on the basis that an applicant may in the future breach planning conditions attached to a planning permission. If the site operator was found to be breaching a planning permission this would then become a separate enforcement matter for the Council to resolve with the operator. The Council's Minerals and Waste Planning Team monitor waste sites throughout the district to ensure compliance with planning controls. Likewise, should there be a breach of any future Environmental Permit then it would be for the Environment Agency to enforce through its regulatory controls.
- 10.23 An objection was made on the grounds that residents are already experiencing noise nuisance from an existing waste management operator on another part of the Whitehall Industrial Estate and that granting planning permission for the proposal currently under consideration will only add to the problem. Whilst it is understood and appreciated that this is a concern, Members are advised that the planning application currently under consideration must be judged on its own merits. Any perceived or founded complaints in connection with other sites elsewhere have to be addressed separately.
- 10.24 Finally, some representations made reference to the wording of the 2011 permission which stated the operating hours were conditioned in “*in the interests of residential amenity*”. The representations go on to say that, since little has changed on the ground, extending the operating hours would be in direct conflict with the 2011 assessment. However, the revised NPPF at para. 47 is clear in identifying that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. Para. 8.1 of this report which relates to Section 73 of the Town and Country Planning Act is also very relevant. Officers have assessed the current proposal and recommend to Members that the proposed amendments to the planning conditions are acceptable in this instance.

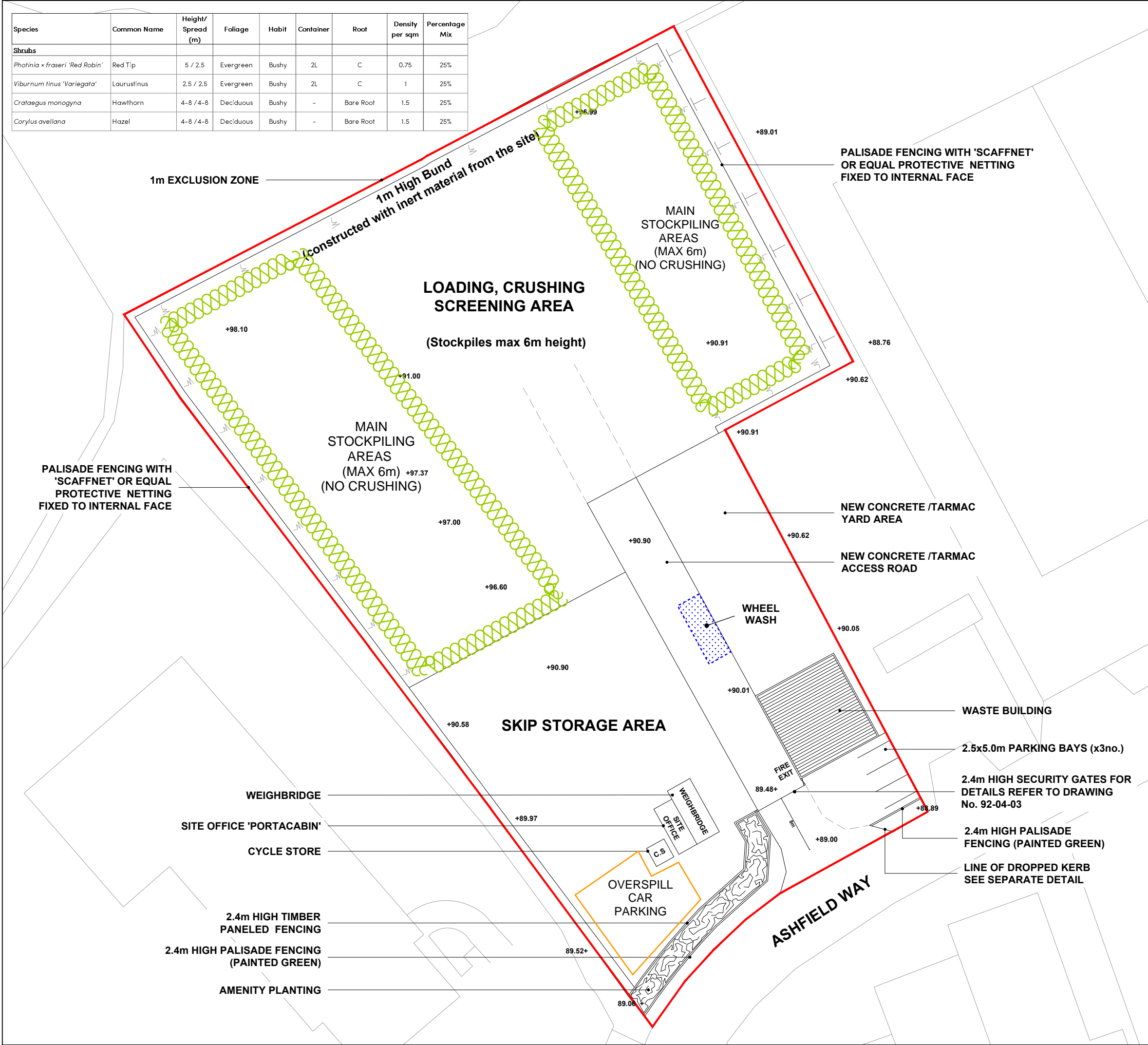
## **11. CONCLUSION**

- 11.1 The planning application relates to a vacant, brownfield site at Whitehall industrial estate which is safeguarded in the adopted development plan as an existing waste management site for aggregate recycling purposes. The proposed site already benefits from planning permission for waste transfer operations (ref. 11/01809/FU). The proposal seeks to amend planning conditions linked to this permission to enable operating hours for waste transfer operations to be extended and to carry out minor

changes to the site layout and landscaping. The officer assessment demonstrates that the proposal to amend the conditions is unlikely to result in significant harm to sensitive receptors, including local residents and users of the public highway. As the proposal does not conflict with any relevant local or national planning policies and it is considered that there are no material considerations that would outweigh local or national planning policy in this particular instance, a recommendation for approval is made subject to the proposed schedule of planning conditions.

**Background Papers:**

Application file: 18/01111/FU

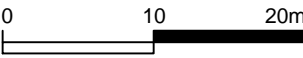


BWS, Ashfield Way

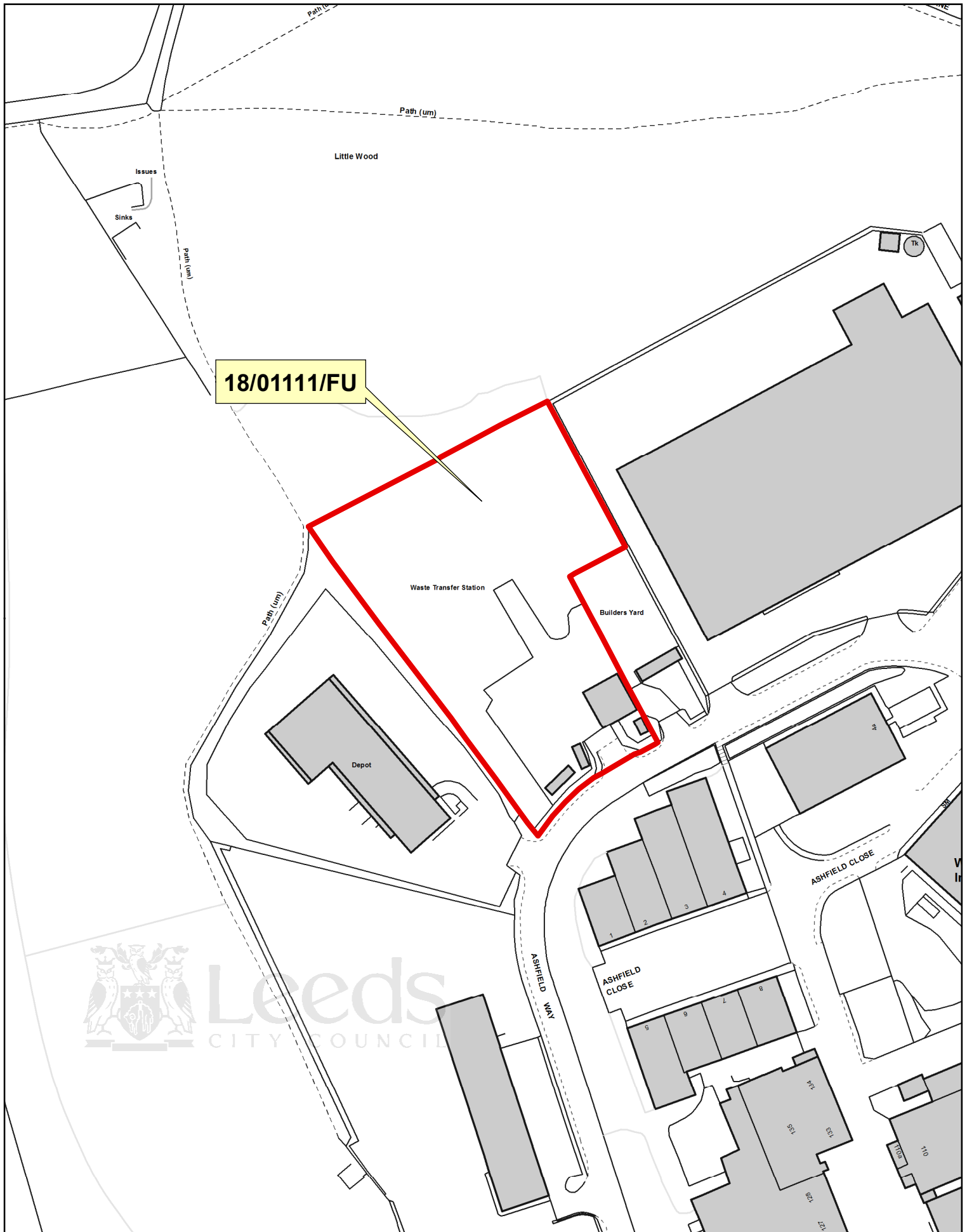
FIGURE 1  
Site Layout

KEY

- Site boundary
- Existing building
- Site layout
- Amenity Planting  
Shrub species mix as specified



Date	By	Paper	Scale	QA	Rev
FEB 2018	EK	A3	1: 500	CS	A



# SOUTH AND WEST PLANS PANEL

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

SCALE : 1/1500

