

Originator: John Hall

Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 25th April 2019

Subject: 17/01212/FU – Retrospective change of use of land to form extension to existing waste transfer station and alterations to existing site layout approved by permission reference 24/295/00/MIN; new front extensions to existing waste transfer building – Whitehall Industrial Estate, New Farnley.

APPLICANT DATE VALID TARGET DATE Bill Dyson Skip Hire And Waste 10.04.2017 16.11.2017 Electoral Wards Affected: Specific Implications For: Equality and Diversity Community Cohesion Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

- 1. In accordance with approved plans.
- 2. Implementation of hours
- 3. Operating hours
- 4. No working on specified days
- 5. Waste processing
- 6. Noise Management Plan
- 7. Details to be submitted of any additional equipment/machinery
- 8. Waste to be unloaded onto tipping area inside building
- 9. No stockpiles
- 10. Height of skips
- 11. Containment of odour within building
- 12. No odour perceptible beyond the site boundary
- 13. Details of parking to be submitted
- 14. Details of Mud and Dust Management Plan to be submitted

- 15. Open-top loaded wagons shall be sheeted or netted
- 16. No burning of waste materials
- 17. No lighting fitment
- 18. Unexpected contamination
- 19. Importation of soils

1. INTRODUCTION

- 1.1 The application site relates to a waste transfer and recycling centre at the southern end of Whitehall Industrial Estate. The southern half of the site including the waste transfer building and yard area benefits from a planning permission approved in 2000 (ref 24/295/00/MIN). The permission grants working hours of 07:30-17:30 (Monday to Friday) and 07:30-13:30 (Saturday). The northern half of the site, comprising the access road, skip storage area, vehicle parking area and office accommodation is not covered by the permission.
- 1.2 The applicant is seeking a new permission which;
 - 1) Extends the red line boundary to include land to the north;
 - 2) Permits retrospective changes to the waste transfer building and yard area undertaken in 2016:
 - 3) Allows the applicant to carry out building work to extend the waste transfer building; and
 - 4) Grants an extension to the working hours.
- 1.3 There have been a total of 46 objections. The complaints relate primarily to a request for new working hours of 06:00-00:00 (Monday to Friday) and 06:00-15:00 (Saturday). However, with officers recommending hours of 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday), and subject to the proposed schedule of planning conditions, it is considered that the concerns of the majority of residents have been addressed.
- 1.4 Councillors Ann and David Blackburn for the Farnley and Wortley Ward have formally requested that this planning application be determined by the South and West Plans Panel. Their objection relates to the proposed extension to the operating hours (and associated noise nuisance).

2. PROPOSAL

- 2.1 The application site relates to a waste transfer and recycling centre at the southern end of the Whitehall Industrial Estate. The site includes a waste transfer station, yard area, access road, skip storage area, vehicle parking area and office accommodation.
- 2.2 The southern half of the site which includes the waste transfer building and yard area benefits from a planning permission approved in 2000 (ref. 24/295/00/MIN). The permission restricts waste operations to inside the waste transfer building only, and grants working hours of 07:30-17:30 (Monday to Friday) and 07:30-13:30 (Saturday). The northern half of the site comprising the access road, office accommodation, skip storage area and vehicle parking area is not covered by a planning permission.
- 2.3 There are a number of aspects to this application. These will be addressed, in turn, below;

Extending red line boundary

2.4 The applicant seeks a permission which extends the red line boundary to cover and regularise the whole of the site. The new red line boundary would incorporate land to the north which includes the access road, skip storage area, vehicle parking area and office accommodation. The office accommodation is formed of two porta cabins.

Retrospective changes to the waste transfer building and yard area

2.5 As noted in paragraph 2.2, the extant planning permission (ref. 24/295/00/MIN) restricts waste operations to inside the waste transfer building. However, in 2016, with the installation of a new trommel and conveyer belt system, two holes were formed in the front elevation of the building to allow conveyer belts to pass through in order for waste to be carried outside and deposited into a series of storage bays in the yard. Through this application, the applicant seeks to regularise this activity.

Proposed extension to waste transfer building

2.6 The applicant proposes extending the waste transfer building through a phased approach. Phase 1 would include covering the external storage bays and conveyer belts on either side of the yard area. The extensions would be constructed of metal sheeting supported by a brick base. The extensions would have openings on one side to allow easy access to the storage bays but would otherwise be enclosed. Phase 2 would consist of covering the rest of the yard area.

Extending the operating hours

- 2.7 As mentioned in paragraph 2.2, the extant planning permission grants operating hours of 07:30-17:30 (Monday to Friday) and 07:30-13:30 (Saturday). Under this application, the applicant has requested extended hours of 06:00-00:00 (Monday to Friday) and 06:00-15:00 (Saturday). A Noise Impact Report (Cole Jarman, August 2017) has been submitted to support this request.
- 2.8 For reasons to be discussed later in the report, officers recommend granting working hours of 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday). In light of this, the applicant has confirmed they no longer wish to pursue phase 2 (see paragraph 2.6 proposed extension to waste transfer building), but still intend to implement phase 1.

3. SITE AND SURROUNDINGS

- 3.1 The application site is located at the southern end of Whitehall Industrial Estate at New Farnley and has a site area of 0.39ha. Access into and egress out of the Whitehall Industrial Estate is taken from Whitehall Road. The site consists of a waste transfer building, yard area, office accommodation, skip storage area, parking area and access road.
- 3.2 The waste transfer building is rectangular with a pitched roof. It is constructed of brick with cladding across the upper half and roof. Old doorways and windows have been sealed with breeze blocks. The front elevation contains two large openings which provide access for skip wagons. The openings are not fitted with doors. In 2016, two holes were created either side of the front elevation to allow a conveyer belt to pass through. The only other buildings on site are two porta cabins which form the office accommodation.
- 3.3 The nearest residential properties are located approximately 250m to the west of the site boundary along Croft Terrace and Coach Road.

4. RELEVANT PLANNING HISTORY

4.1 The southern half of the site is subject to the following planning permission;

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

Other waste operators on the estate

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 07.00 – 19.00 Monday to Friday) and 08.00 – 17.00 (Saturday) – Approved 12.11.2018

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

5. HISTORY OF NEGOTIATIONS

- 5.1 Negotiations have centred on hours of operation.
- 5.2 Under the extant permission, the approved working hours are 07:30-17:30 (Monday to Friday) and 07:30-13:30 (Saturday). However, the application proposes extended hours of 06:00-00:00 (Monday to Friday) and 06:00-15:00 (Saturday). To support the case for longer hours the applicant proposed extending the waste transfer building to allow more activities to be undertaken within a building which, in turn, should reduce noise levels. The extension would be carried out in a phased approach. Phase 1 would include covering the external storage bays and conveyer belts on either side of the yard area whilst phase 2 would comprise enclosing the remainder of the yard. The applicant submitted a Noise Impact Report which assessed noise levels between the hours of 17:00-00:00 during the week. The report purported that there would be no adverse impact on residential amenity.
- 5.3 Having reviewed the Noise Impact Report, the Council's Environmental Health team have advised that the report does not conform to best practice and contains erroneous interpretation of guidance. As such, the conclusions in the report cannot be verified. Despite the applicant proposing a revised end time during the week (i.e. ceasing operations at 22:00 instead of 00:00), officers recommend allowing daytime hours only i.e. 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday). This is in line with a recent permission for a similar use on the same industrial estate (ref. 18/01111/FU). On this basis, the applicant has instructed officers that they no longer wish to pursue phase 2, but still intend to implement phase 1 i.e. covering the external storage bays and conveyer belts.

6. PUBLIC/LOCAL RESPONSE

- 6.1 The planning application was advertised by a major site notice. Notices were posted in the locality on 12.04.2017 and 06.11.2018, and in the Yorkshire Evening Post on 28.04.2017.
- 6.2 46 letters were received from members of the public objecting to the application for the following reasons:
 - Noise impact in connection to longer operating hours;
 - Vehicles depositing dirt and debris onto the public highway;
 - Highway safety at the junction of Ashfield Way and Whitehall Road; and

- Dust levels from the site.
- 6.3 Of the 46 objection letters, 2 were 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.

7. CONSULTATIONS RESPONSES

7.1 Statutory

Environment Agency

No objection, but support implementation of phase 2 No objection

Coal Authority Highways

No objection subject to conditions to control mud and dust

on the road

7.2 Non-statutory

Environmental Health Contaminated Land

Objection to proposed extension of operating hours No objection subject to conditions and directions

Flood Risk Management No objection

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.
- 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) and any made neighbourhood plans.

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.

<u>Unitary Development Plan Review 2006 Saved Policies</u>

Policy GP5: Refers to detailed planning considerations and loss of amenity.

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 (2019): 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) General Amenity
- 4) Highways
- 5) Use of Planning Conditions
- 6) Representations

10. APPRAISAL

Principle of Development

10.1 The principle of the development on the southern half of the application site – comprising the waste transfer building and yard area – has been established by the extant planning permission (ref. 24/295/000/MIN). This area is also safeguarded as a general waste site under policy Waste 2 of the adopted Natural Resources and Waste Local Plan (NRWLP). The northern half of the application site, which includes the office accommodation, access road, skip storage area and parking area does not form part of the extant planning permission and is not safeguarded under policy Waste 2. However, since all of Whitehall Road Industrial Estate is identified as suitable for waste management uses under policy Waste 5 of the NRWLP, the whole of the site is considered suitable for its intended purpose.

10.2 The policies contained in the Natural Resources and Waste Local Plan are 'live' for the duration of the plan period i.e. until 2026.

Visual Impact

- 10.3 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.
- 10.4 It is considered that the proposal would not result in any further harm to visual amenity above that already approved by the extant planning permission. Visually speaking, the proposal is appropriate to its context given its location within an industrial estate. Furthermore, the site is well contained and is not immediately visible in views from outside of the estate looking in. Accordingly, the visual impact is deemed acceptable.

General Amenity

- 10.5 Development should seek to prevent problems of environmental intrusion and protect general and residential amenity. This is identified 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.
- 10.6 There is scope for noise, mud, dust and odour to be generated by this type of operation. Whilst it is recognised that the facility would be covered by an Environmental Permit, it is also necessary to ensure that in planning terms, the site is designed to minimise the potential for such environmental impacts upon receptors off site.

Noise

- 10.7 The site is currently operating as a waste transfer and recycling centre. Noises associated with the site include loading and unloading of waste materials, moving skips, use of a trommel/screener and vehicle movements (i.e. reversing beepers). The nearest residential properties are located approximately 250m to the west along Croft Terrace and Coach Road.
- 10.8 Under the extant planning permission, waste operations are restricted to the hours of 07:30-17:30 (Monday to Friday) and 07:30-13:30 (Saturday). However, the applicant is seeking extended hours of 06:00-00:00 (Monday to Friday) and 06:00-15:00 (Saturday). To support this request, the applicant submitted a Noise Impact Report. The report assessed noise levels between the hours of 17:00-00:00 during the week and purported that there would be no adverse impact on residential amenity.
- 10.9 Having studied the report, the Council's Environmental Health team have raised concerns over its validity. They consider the report to be insufficient which could lead to conclusions that understate impacts on residential amenity. According to Environmental Health the assessment does not comply with BS4142:2014 'methods for rating and assessing industrial and commercial sound'. They advise that "sufficient data has not been provided to unequivocally prove the noise report has fairly assessed the impacts on nearest noise sensitive residential properties" and, consequently, recommend not approving the hours as requested by the applicant.

- 10.10 In light of this, and with no other supporting information, officers consider the most appropriate course of action would be to permit daytime working hours in line with other waste management sites on the estate. There are two waste sites in operation on the estate. They include planning permission 18/0111/FU (BW Skips (BWS)) to the north and planning permission 07/04828/FU (Mone Brothers) to the north east. Their working hours are as follows:
 - BWS have working hours of 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday); and
 - Mone Brothers have working hours of 07:30-18:00 (Monday to Friday) and 07:30-13:00 (Saturday).
- 10.11 In the case of BWS, a further restriction was applied to the use of a trommel (which is only permitted to operate from 08:00-17:00 (Monday to Friday) and 09:00-14:00 (Saturday)) and the final hour of each working day (when only vehicles movements and the transferring of skips off vehicles is allowed).
- 10.12 The most recent permission relates to BWS which was determined at Plans Panel in October 2018. Whilst each application is assessed on its own merits, officers are of the opinion that mirroring the start and end times of planning permission 18/01111/FU (for BWS) would provide a degree of consistency, and help establish an accepted and recognised working pattern for waste operations on the estate. However, in this instance, officers do not recommend applying further restrictions relating to the use of a trommel/screener, or around the final hour of each working day. The reason being that the two sites operate differently. The application site benefits from a waste transfer building whereas, with BWS, waste operations take place externally. Although officers acknowledge that the waste transfer building would not be entirely covered (there are two openings in the front elevation, for instance), it is considered that there is still a significant level of enclosure to ensure that, during the hours of 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday), noise levels should not present an issue.
- 10.13 It is also recommended that any approval includes a condition requiring the site to comply with the submitted 'Noise Management Plan'. The plan seeks to control noise emissions by requiring that noise impact is considered as part of routine inspections, that noise is controlled at source by good operational practices and that all appropriate measures are taken to prevent or, where that is not reasonably practicable, to reduce noise emissions.
- 10.14 Officers recommend that, subject to the working hours being restricted to 07:30-19:00 (Monday to Friday) and 08:00-17:00 (Saturday), the proposed development is acceptable in terms of noise. Environmental Health have no objection providing the above hours are imposed.

Odour

10.15 It is understood that no reports of odour complaints have been received by the Environment Agency or the Council in relation to the site. The majority of the waste accepted on site is construction and demolition, and soils. These materials do not produce an odour. Despite this, the Planning Statement notes that, under the terms of the Environmental Permit, the site can accept other materials such as 'mixed household', which could contain putrescible waste and could create an odour. However, in recognition that there have been no reported incidents of odour so far and bearing in mind that, in any event, odour will be regulated by the Environment Agency, officer's consider it sufficient to apply conditions which contain putrescible waste to inside the

waste transfer building and which stipulate that odour must not be detectable at the site boundary.

Mud and Dust

- 10.16 As with noise and odour, officers consider that mud and dust can be controlled using appropriate planning conditions. Officers recommend including a condition requiring a mud and dust management plan to be submitted and approved within 1 month from the date of permission. The plan would be required to contain the following measures;
 - Equipment to enable mud and grit to be removed from the wheels, tyres and underside of vehicles prior to their entering the public highway;
 - The employment of a road sweeping vehicle to ensure the site access road, Ashfield Way and Whitehall Road (on the approach to the site) is maintained in a clean condition at all times;
 - Equipment to deliver sufficient volumes of water to suppress dust generated within the site in dry weather; and
 - Preventative action, including the suspension of operations, if dust generated by machinery on site becomes airborne and is transmitted beyond the site boundary.

It is also advised a condition is imposed requiring all open-top loaded heavy goods/commercial vehicles leaving the site to be sheeted or netted.

10.17 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 paragraph 183 of the 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.

<u>Highways</u>

- 10.18 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.
- 10.19 The site layout plan shows an area for staff and visitor parking located alongside the office accommodation. Officers have no objection to the indicative parking arrangements providing a detailed plan of vehicle parking and turning areas is submitted, and agreed, within 3 months from the date of permission. In respect to vehicular access and highways safety, Highways team have no objection.
- 10.20 Highways support the imposition of planning conditions to control dust and mud on the road as outlined in paragraph 10.16.

Use of Planning Conditions

10.21 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".
- 10.22 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.
- 10.23 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".
- 10.24 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".
- 10.25 The application of the recommended planning conditions to any approval is therefore considered to meet the tests set in paragraph. 55 of the NPPF.

Other issues raised in the Representations

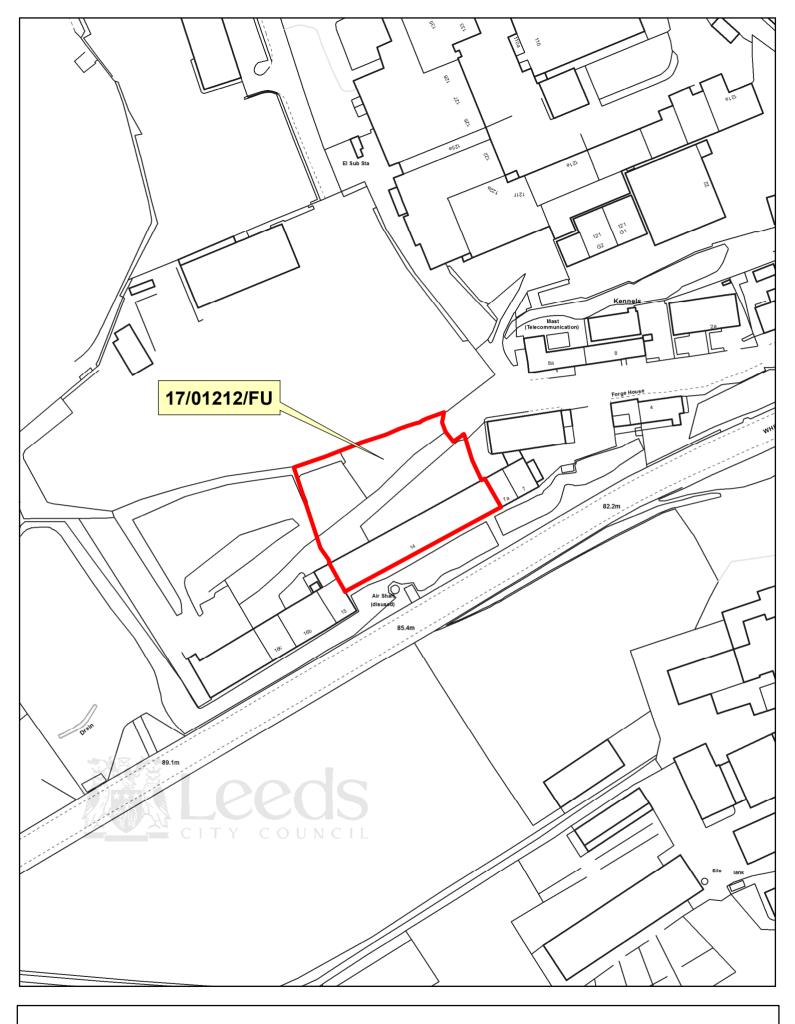
- 10.26 Objections were made alleging that the operator frequently flouts their operating hours. Members are advised that an application cannot be refused on the basis that an applicant may in the future breach planning conditions attached to a planning permission. If the site operator was found to be 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.
- 10.27 A few objections queried the effectiveness of the proposed Noise Management Plan. However, providing the permission is implemented in accordance with the plan, officers are of the opinion that the plan should prove effective at controlling noise emissions from the site. The plan will appoint a person who is technically competent to perform regular site inspections and investigate and address noise complaints. Furthermore, in an emergency situation, the plan requires site operations creating the unacceptable levels of noise to be immediately suspended.

11. CONCLUSION

11.1 The officer assessment demonstrates that the proposal 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: 17/01212/FU



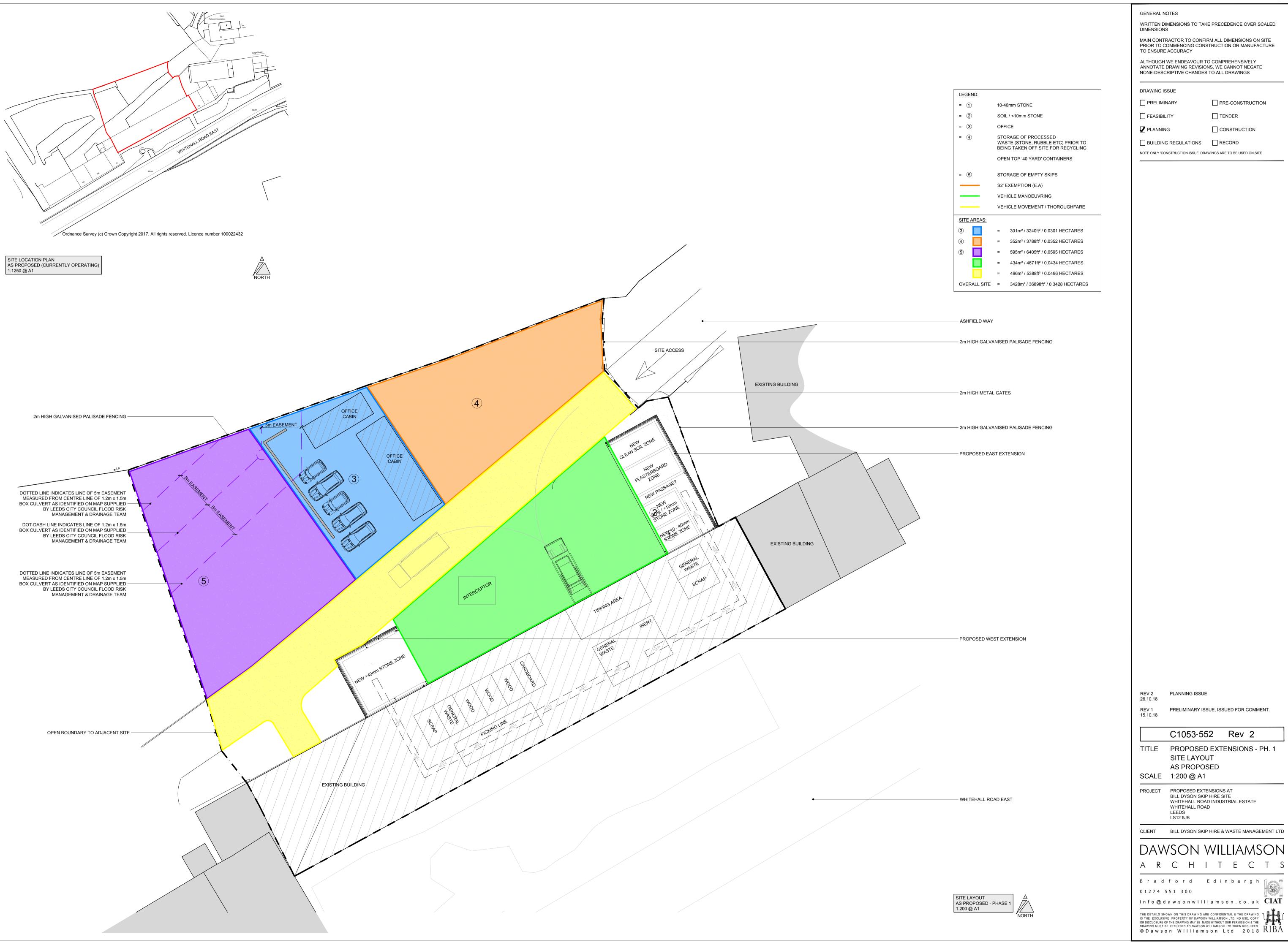
SOUTH AND WEST PLANS PANEL

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SCALE: 1/1500





WRITTEN DIMENSIONS TO TAKE PRECEDENCE OVER SCALED

MAIN CONTRACTOR TO CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING CONSTRUCTION OR MANUFACTURE

ALTHOUGH WE ENDEAVOUR TO COMPREHENSIVELY ANNOTATE DRAWING REVISIONS, WE CANNOT NEGATE

PRE-CONSTRUCTION

☐ TENDER ☐ CONSTRUCTION

☐ BUILDING REGULATIONS ☐ RECORD

NOTE ONLY 'CONSTRUCTION ISSUE' DRAWINGS ARE TO BE USED ON SITE

REV 2 PLANNING ISSUE

C1053-552 Rev 2

TITLE PROPOSED EXTENSIONS - PH. 1 SITE LAYOUT

AS PROPOSED SCALE 1:200 @ A1

PROJECT PROPOSED EXTENSIONS AT
BILL DYSON SKIP HIRE SITE
WHITEHALL ROAD INDUSTRIAL ESTATE
WHITEHALL ROAD

LS12 5JB

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