

Planning and Regulatory Committee

Tuesday, 22 March 2016, County Hall, Worcester - 10.00 am

		Minutes
Present:		Mr R C Adams (Chairman), Ms P Agar, Mr A T Amos, Mrs S Askin, Mr P J Bridle, Mr S J M Clee, Mr P Denham (Vice Chairman), Mrs A T Hingley, Mr A P Miller, Mr A C Roberts and Mr R J Sutton
Available papers		The Members had before them: A. The Agenda papers (previously circulated); and B. The Minutes of the meeting held on 9 February 2016 (previously circulated). A copy of document A will be attached to the signed Minutes.
927	Named Substitutes (Agenda item 1)	None.
928	Apologies/ Declarations of Interest (Agenda item 2)	Apologies were received from Mr M H Broomfield and Mr D W Prodger. Mr R C Adams declared a Disclosable Pecuniary Interest and left the room for Agenda item 8 as a tenant farmer on land owned by the applicant Mr A Amos, Ms P Agar, Mr P Denham and Mr A Roberts declared an interest in Agenda item 8 as members of Worcester City Council which was likely to consider a planning application that would provide a source of the soil for use in the creation of the bund. Mr A Roberts declared an interest in Agenda item 6 as a Cabinet Member at Worcester City Council. The portfolio for which had responsibility for the road sweeping contract currently undertaken by the applicant.
929	Public Participation (Agenda item 3)	None.
930	Confirmation of Minutes	RESOLVED that the Minutes of the meeting held on 9 February 2015 be confirmed as a correct record

(Agenda item 4)

931 Retrospective application for the use of land for external storage purposes ancillary to the existing waste transfer station at Lydstep, Cleeve Road, Middle Littleton, Evesham, Worcestershire (Agenda item 5)

and signed by the Chairman.

The Committee considered a County Matter planning application for the retrospective use of the land for external storage purposes ancillary to the existing waste transfer station at Lydstep, Cleeve Road, Middle Littleton, Evesham, Worcestershire.

The report set out the background of the proposal, the proposal itself, the relevant planning policy and details of the site, consultations and representations.

The report set out the Head of Strategic Infrastructure and Economy's comments in relation to the waste hierarchy, location of the development, the local economy, landscape character and appearance of the local area, residential amenities (including noise and dust emissions), ecology and biodiversity, the water environment, traffic and highways safety.

The Head of Strategic Infrastructure and Economy concluded that the proposed development was ancillary to an existing adjacent waste transfer station operation. Waste materials were recovered which drives waste management up the waste hierarchy and contributed to the delivery of sustainable development. The ancillary use of this site adjacent to the existing Waste Transfer Station was considered to be reasonable for the functionality of the existing waste transfer station business.

On balance, the Head of Strategic Infrastructure and Economy did not consider that the loss of the enclosed agricultural land as a result of this land being used for ancillary purposes in association with the existing waste transfer station business for storage use would have any adverse impact on the character and appearance of the area, subject to conditions limiting the height of any stockpiling of materials and skips and retaining and maintaining boundary hedgerows. This was in accordance with Policy WCS12 of the Worcestershire Waste Core Strategy and Policy SWDP 25 of the Draft South Worcestershire Development Plan.

Having taken into the account the concerns raised from local residents and in view of the comments received by Worcestershire Regulatory Services and the Environment Agency, the Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have any adverse impact on the amenities of the neighbouring residential properties in accordance with Policy WCS14

of the Worcestershire Waste Core Strategy and Policy 31 of the Draft South Worcestershire Development Plan.

In view of the above, the Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have an adverse impact on ecology and biodiversity in accordance with Policy WCS 9 of the Worcestershire Waste Core Strategy and Policy SWDP 22 of the Draft South Worcestershire Development Plan.

In accordance with the Environment Agency's advice, all waste storage areas should be located on impermeable hardstanding with sealed drainage and this was something that the Head of Strategic and Economy considered would be appropriate to control through the imposition of a condition. Subject to this condition, the Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have any adverse impact on the water environment in accordance with Policy SWDP 28 and Policy SWDP 29 of the Draft South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposed development was acceptable on highways grounds in accordance with Policy WCS 8 of the Waste Core Strategy for Worcestershire.

The Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have an adverse impact on ecology and biodiversity; the water environment and on highways. Taking into account the provisions of the Development Plan and in particular Policies WCS 1; WCS 3; WCS 8; WCS 9; WCS 11; WCS 12; WCS 14 and WCS 15 of the Adopted Worcestershire Waste Core Strategy and Policies SWDP 1; SWDP 2; SWDP 4; SWDP 5; SWDP 7; SWDP 21; SWDP 22; SWDP 25; SWDP 28; SWDP 29; SWDP 31 and SWDP 33 of the Adopted South Worcestershire development Plan, it was considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

The representative of the Head of Strategic Infrastructure and Economy commented that proposed condition a) needed to be amended to refer to the Layout Plan being received by the County Planning Authority on 14 March 2016 rather than 27 August 2015.

In the ensuing debate, the following principal points were raised:

- Concern was expressed about the restoration of the site should operations on the site cease. It was agreed that an additional condition be added to the permission relating to the restoration of the site, the wording of which to be agreed with the Chairman and Vice-Chairman of the Committee.
- Had any testing been undertaken for soil contamination bearing in mind vehicles were stored on the site with the potential leakage of hydraulic fluid? The representative of the Head of Strategic Infrastructure and Economy commented that the EA were responsible for pollution control on the site and had not raised concerns about contamination of soil on site and therefore testing had not been undertaken
- Was there a holding tank for filtering and removal of the contaminated water from the site? The representative of the Head of Strategic Infrastructure and Economy stated that there was an interceptor at the waste transfer station which dealt with water from the site
- Had any provision been made to address the problem of the noise from the alarms of reversing vehicles? The representative of the Head of Strategic Infrastructure and Economy indicated that noise pollution had not been raised as a concern by Worcestershire Regulatory Service therefore it was not considered necessary to recommend a relevant condition.

RESOLVED that subject to an additional condition relating to the restoration of the site, the wording of which to be agreed with the Chairman and Vice-Chairman of the Committee, planning permission be granted for the retrospective use of the land for external storage purposes ancillary to the existing waste transfer station at Lydstep, Cleeve Road, Middle Littleton, Evesham, Worcestershire, subject to the following conditions:

- a) The development hereby permitted shall be carried out in accordance with the details shown on submitted drawings, titled, Proposed external storage ancillary to waste transfer station [part retrospective] - Location Plan, received by the County Planning Authority on 27 August 2015 and Proposed external storage ancillary to waste transfer station [part retrospective] - Layout Plan, received by the County Planning Authority on 14 March 2016;

- b) All existing unroadworthy vehicles shall be removed from the site within 3 months of the date of this permission. Thereafter, no unroadworthy vehicles shall be stored within the site;
- c) The maximum height of the top soils storage area shall not exceed 5 metres and a height bar shall be maintained on site for the duration of the operations to maintain the 5 metre height restriction;
- d) The maximum height of the skips storage area shall not exceed 4 metres and a height bar shall be maintained on site for the duration of the operations to maintain the 4 metre height restriction;
- e) Vehicle movements on the site shall only take place between 8:00 a.m. and 6:00 p.m. Monday to Friday, 8:00 a.m. and 1:00 p.m. on Saturdays and not at all on Sundays or Public Holidays;
- f) The hedgerow along the southern boundary of the site shall be retained and maintained for the duration of operations on the site;
- g) Details of impermeable hardstandings and sealed drainage areas shall be submitted to and approved in writing by the County Planning Authority. The approved hardstanding areas shall be constructed and used for the storage of waste materials for the duration of waste management operations on the site; and
- h) No waste processing operations shall be carried out within this site other than the storage of waste materials on impermeable hardstandings with sealed drainage.

932 Part-retrospective application for proposed materials recovery plant to process road

The Committee considered a part-retrospective application for a proposed materials recovery plant to process road sweepings and highway drainage clearance material on Land at Station House, Saltway, Hanbury, Worcestershire.

The report set out the background of the proposal, the proposal itself, the relevant planning policy and details of the site, consultations and representations.

**sweepings and
highway
drainage
clearance
material on land
at Station
House, Saltway,
Hanbury,
Worcestershire
(Agenda item 6)**

The report set out the Head of Strategic Infrastructure and Economy's comments in relation to the waste hierarchy, location of the development, the Green Belt, the local economy, landscape character and appearance of the local area, residential amenities (including noise and dust emissions), ecology and biodiversity, the water environment, traffic and highways safety, and pollution control.

The Head of Strategic Infrastructure and Economy concluded that the proposed development contributed to the delivery of sustainable development by recovering waste materials and, therefore, driving waste management up the waste hierarchy.

The application site was located in Level 5 of the Geographic Waste Hierarchy. In accordance with Policy WCS 3 of the Waste Core Strategy, the Head of Strategic Infrastructure and Economy considered that the proposed location was appropriate.

The Head of Strategic Infrastructure and Economy had considered the applicant's very special circumstances in attempt to overcome Green Belt restrictions, however, he did not consider that the applicant had demonstrated very special circumstances that outweigh the potential harm to the Green Belt. In particular, the applicant had given no locational reason as to why the plant needed to be located on this site within the Green Belt and would not maintain the openness of the Green Belt.

The proposal was, therefore, considered to be contrary to Section 9 ("Protecting Green Belt Land") of the National Planning Policy Framework; Policy WCS 13 of the Worcestershire Waste Core Strategy and Policy SWDP 2 of the South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy considered that the proposal would promote continuation of employment opportunities and was, therefore, in accordance with Policy SWDP 12 of the South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposed development would be well screened from public view and would not have any adverse impact on the landscape character of the area in accordance with Policy SWDP25 of the South Worcestershire Development Plan.

Given the separation and vegetation buffer between the neighbouring residential properties and the application site, the Head of Strategic Infrastructure and Economy did not consider that that the proposed development would have any adverse impact on residential amenities in accordance with Policy WCS14 of the Worcestershire Waste Core Strategy and Policy 31 of the South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have any adverse impact on ecology and biodiversity in accordance with Policy SWDP 22 of the South Worcestershire Development plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposed development would not have any adverse impact on the water environment in accordance with Policy SWDP 29 of the South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have any adverse impact on traffic and highways safety and was, therefore, in accordance with Policy SWDP 4 of the South Worcestershire Development Plan.

The Head of Strategic Infrastructure and Economy was satisfied that the proposal would not have implications for the bank's integrity and, therefore, would not have detrimental impacts on the environment and human health in accordance with Policy SWDP31 of the South Worcestershire Development Plan, subject to a condition recommended by the Pollution Control Team requesting the completion of the works to shore up the bank all along the boundary with the adjacent closed landfill site, should planning permission be granted.

In the ensuing debate, the following principal points were raised:

- Had an Environmental Permit been applied for?
The representative of the Head of Strategic Infrastructure and Economy advised that the applicant had an Environmental permit for waste management operations which protected human health and the environment from pollution. However the applicant had not yet applied to the EA for a Permit
- There were a lot of positive aspects regarding this application. The applicant had demonstrated that

the proposal would help to drive waste up the waste management hierarchy. There were very few objections to it and most of the statutory consultees were satisfied with it. The facility was already in situ in the Green Belt, performing an essential function in the County as well as creating 16 jobs. If the facility was not granted permission on this location, it would need to be located elsewhere potentially nearer to residential properties or would cease to operate. Special circumstances had therefore been demonstrated and permission should be granted

- The proposal was contrary to the policies in the NPPF and the SWDP. In addition, Wychavon District Council had objected to the proposal. The applicant had not provided special reasons for locating this facility in the Green Belt. The facility could be located elsewhere and continue to operate effectively. Permission should therefore be refused
- In response to a concern expressed about the possibility of losing an appeal against a decision to refuse, the representative of the Head of Strategic Infrastructure and Economy commented that he was confident that the arguments put forward to support refusal of the application, based on the policies set out in the NPPF and the SWDP would be defensible at an appeal.

RESOLVED that planning permission be refused for the part-retrospective application for a proposed materials recovery plant to process road sweepings and highway drainage clearance material on Land at Station House, Saltway, Hanbury, Worcestershire, for the following reason:

The proposal is considered to be inappropriate development and accordingly harmful to the Green Belt contrary to Section 9 ("Protecting Green Belt Land") of the National Planning Policy Framework; Policy WCS 13 of the Worcestershire Waste Core Strategy and Policy SWDP 2 of the South Worcestershire Development Plan.

933 Proposed construction of a two-storey science park

The Committee considered an application under Regulation 3 of the Town and Country Planning General Regulations 1992 for planning permission for the proposed construction of a two-storey science park building together with associated car parking and

building together with associated car parking and landscaping to replace the existing Dytechna buildings to form phase five of Malvern Hills Science Park, Geraldine Road, Malvern, Worcestershire (Agenda item 7)

landscaping to replace the existing Dytechna buildings at Malvern Hills Science Park, Geraldine Road, Malvern, Worcestershire.

The report set out the background of the proposal, the proposal itself, the relevant planning policy and details of the site, consultations and representations.

The report set out the Planning Development Control Manager's comments in relation to the local economy, landscape character and appearance of the area, residential amenity including lighting, scale, design, noise, adjacent bridleway and construction works, water environment, traffic and highway safety, ecology and biodiversity and the Malvern Hills AONB and SSSI.

The Planning Development Control Manager concluded that the proposed building would accommodate office and research and development. The proposed building would provide flexible 'grow-on' space to retain established tenants and allow for future growth within the existing Science Park. The Planning Development Control Manager was satisfied that the proposal was in accordance with Policy SWDP 8 and Policy SWDP 52 of the Draft South Worcestershire Development Plan and was therefore acceptable.

The Planning Development Control Manager considered that the design of the scheme was in keeping with and would complement the existing buildings within the Malvern Hills Science Park complex; was satisfied that the scale of the proposed building would not dominate the site and considered that the proposed development, particularly the non-shiny roofing materials used would not have a significant adverse visual impact on the views from the Malvern Hills AONB and on the immediate character and appearance of the area in accordance with Policy SWDP 21 and SWDP 23 of the South Worcestershire Development Plan.

The Planning Development Control Manager did not consider that the proposal would have a significant impact on the residential amenity of any of the neighbouring residential properties, in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

Subject to the imposition of conditions relating to drainage, the Planning Development Control Manager was satisfied that the proposal would not have any adverse impact on the water environment, in accordance

with Policy SWDP 28 and SWDP 29 of the South Worcestershire Development Plan.

The Planning Development Control Manager was satisfied that there would be no adverse impact on highways safety and that the proposal offered genuinely sustainable travel choices in accordance with Policy SWDP 4 of the South Worcestershire Development Plan and was therefore acceptable.

The Planning Development Control Manager was satisfied that the proposal would not have an adverse impact on ecology and biodiversity, subject to conditions as recommended by the County Ecologist, in accordance with Policy SWDP 22 of the South Worcestershire Development Plan.

The Planning Development Control Manager considered that the design of the proposed development would not have a significant adverse impact on the views to and from the Malvern Hills AONB or on the SSSI, in accordance with Policy SWDP 23 of the South Worcestershire Development Plan.

Taking into account the provisions of the Development Plan and in particular Policies SWDP 1; SWDP 2; SWDP 3; SWDP 4; SWDP 5; SWDP 7; SWDP 8; SWDP 21; SWDP 22; SWDP 23; SWDP 25; SWDP 28; SWDP 29; SWDP 31; SWDP 38; SWDP 52 and SWDP 53 of the South Worcestershire Development Plan, it was considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

In the ensuing debate, the following principal points were raised:

- This was an important development for the county providing employment in the high technology field. The proposed development was modern, lower in height and a great improvement on the existing building. The objections to the proposal had already been addressed and permission should be granted
- In response to a query about the adherence to conditions relating to tree planting and street lighting, the representative of the Planning Development Control Manager stated that the Planning Monitoring Officer would be responsible for ensuring that the conditions attached to the permission would be monitored effectively

- Concern was expressed that not enough was being done to provide vehicle charging points that provided affordable electricity to encourage people to use electric cars. The Planning Development Control Manager advised that the purpose of the proposed condition was to enable the provision of vehicle charging points. The affordability of these charging points was a site management issue
- In response to a concern expressed about the energy off-set arrangements for the building, the Planning Development Control Manager stated that the design ethos of the building had been based on Passivhaus principles to be as energy efficient as possible. The SWDP only required energy off-set for buildings over a certain size which was the case for this proposal. Members could request the inclusion of a condition to comply with this policy if they so wished
- The proposal strengthened the Council's technology strategy and plans and would help keep and attract highly skilled graduates to the local area. The building was designed to be thermally efficient. The parking concerns expressed by local residents were legitimate
- The Travel Plan needed updating to reflect the fact that buses did not stop on Geraldine Road. The nearest bus stop was 10 minutes walk away in Barnards Green.

RESOLVED that planning permission be granted for the proposed construction of a two-storey science park building together with associated car parking and landscaping to replace the existing Dytecna buildings at Malvern Hills Science Park, Geraldine Road, Malvern, Worcestershire, subject to the following conditions:

- a) The development enures for the benefit of Worcestershire County Council only;
- b) The development must be begun not later than the expiration of three years beginning with the date of this permission;
- c) The development hereby permitted shall be carried out in accordance with the details shown on submitted Drawing Numbers:
BW10115L/A050.002 Rev 0;
BW10115L/A/050.001 Rev 0; BW10115L
/A120.005 Rev 0; BW10115L A/120.010 Rev 0;

BW10115L/A/100.010 Rev 0; BW10115L A/140.005 Rev A; BW10115L A/100.030 Rev 0; BW10115L/A/90.005 Rev 0; BW10115L/LS/01 Rev 0 and BW10115L/LS/02 Rev 0, except where otherwise stipulated by conditions attached to this permission;

- d) Notwithstanding any indication of the materials, which may have been given in this application, prior to the construction of the development hereby approved, a schedule and/or samples of the materials and finishes for the development, including those for the roof shall be submitted to and agreed in writing by the County Planning Authority. Thereafter the development shall not be carried out other than in accordance with the approved details;**
- e) No development shall take place until details of all boundary fences and other means of enclosure have been submitted to and approved in writing by the County Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- f) No demolition, ground work or construction work on the site outside the hours of 07:30 – 18:00 Mondays to Fridays and 08:00- 13:00 on Saturdays with no construction work on Sundays, or public and bank holidays;**

Ecology and biodiversity

- g) The removal or destruction of suitable breeding habitat should occur outside the bird breeding season. Should any area of hedgerow, shrub or trees be removed during early April to late September then a suitably qualified ecologist must be engaged prior to commencement in order to check for nesting birds. Where active nests are discovered they should be protected by a stand-off zone of no less than 5 meters until the young have fledged;**
- h) Trees and hedgerows to be retained throughout the scheme should be given adequate protection as per BS5837:2012;**
- i) In the unlikely event that any protected**

species are found on the site during the works then all works must cease immediately and the advice of a suitably qualified ecologist must be sought prior to works re-commencing;

- j) Prior to the commencement of development, a lighting plan should be submitted to and approved in writing by the County Planning Authority. The plan should demonstrate compliance with the recommendations set out in Section 3.4 of the Preliminary Ecological Appraisal & Bat Survey undertaken by Worcestershire Wildlife Consultancy, referenced 2015/157(A)v1, dated 7 September 2015;
- k) Within 6 months of the date of planning permission, the specification and location of bat and bird boxes shall be submitted to and approved by the County Planning Authority in writing. The specifications should meet the recommendations as set out in Section 3.4 of the Preliminary Ecological Appraisal & Bat Survey undertaken by Worcestershire Wildlife Consultancy, referenced 2015/157(A)v1, dated 7 September 2015. The bat and bird boxes shall be installed on site in accordance with the approved details;

Highways

- l) The development hereby permitted shall not be brought into use until the access, turning area, cycle parking and vehicle parking facilities shown on the approved drawings have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted and approved in writing to the Planning Authority and these areas shall thereafter be retained and kept available for those users at all times;
- m) The development hereby permitted shall be brought into use in accordance with the submitted travel plan which promotes sustainable forms of access to the site. This plan shall be implemented and updated in agreement with Worcestershire County Council's Travel Plan Co-ordinator;
- n) Prior to the development being brought into

use, 2 car parking spaces shall be provided on the site which are equipped to charge electric vehicles. Details of their locations shall be submitted to and approved in writing by the County Planning Authority. The approved spaces shall be identified and reserved solely for that purpose and shall be made available prior to the developments occupation;

Drainage

- o) Prior to the commencement of development, details of the three mitigation measures in the Flood Risk Assessment should be submitted to and approved in writing by the County Planning Authority. The mitigation measures shall deal with the residual surface water flood risk, setting appropriate minimum proposed ground floor levels, incorporate flood proofing measures and include an effective Flood Evacuation Management Plan (FEMP) to ensure safe access and egress from the site. The mitigation measures shall be carried out in accordance with the approved scheme;**

- p) Prior to the commencement of development, a SuDS management plan which will include details on future management responsibilities, along with maintenance schedules for all SuDS features and associated pipework should be submitted to and approved in writing by the County Planning Authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the approved details;**

- q) Prior to the commencement of development, drainage plans for the disposal of foul and surface water flows should be submitted to and approved in writing by the County Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use;**

Landscaping

- r) Notwithstanding the submitted details, prior to the commencement of the development hereby approved a landscaping scheme,**

which shall include the retention of any existing trees and hedgerows and details of all new trees, shrubs and other planting, and details of the proposed planting species, sizes, spacing, densities, locations, planting methods and details of the provision of adequate growing medium and drainage shall be submitted to and approved in writing by the County Planning Authority. The scheme shall be implemented in accordance with the approved details within 6 months of the completion of the development. Any new trees or shrubs, which within a period of five years from the completion of the planting die, are removed, or become damaged or diseased, shall be replaced in the next planting season with others of a similar size and species; and

Contaminated Land

- s) No development shall commence until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved, in writing, by the County Planning Authority:
- i) A preliminary risk assessment must be carried out. This study shall take the form of a Phase I desk study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors to determine whether a site investigation is required and this should be detailed in a report submitted to the County Planning Authority. The risk assessment must be approved in writing by the County Planning Authority before any development takes place;
 - ii) Where an unacceptable risk is identified a scheme for detailed site investigation must be submitted to and approved in writing by the County Planning Authority prior to being undertaken. The scheme

must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11";

- iii) Detailed site investigation and risk assessment must be undertaken and a written report of the findings produced. This report must be approved by the County Planning Authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11";
- iv) Where identified as necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and submitted to the County Planning Authority for approval in writing. The approved remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation;
- v) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation;
- vi) Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the County

Planning Authority for approval in writing prior to the occupation of any buildings; and

- vii) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the County Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the County Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared and submitted to the County Planning Authority for approval in writing prior to the occupation of any buildings.**

Mr P Denham, Vice-Chairman in the Chair.

934 Proposed formation of an earth bund on land to the south of B4636 and east of M5 motorway, Spetchley, Worcestershire (Agenda item 8)

The Committee considered a County Matter planning application for the formation of an earth bund on land to the south of B4636 and east of M5 Motorway, Spetchley, Worcestershire.

The report set out the background of the proposal, the proposal itself, the relevant planning policy and details of the site, consultations and representations.

The report set out the Planning Development Control Manager's comments in relation to the waste hierarchy, landscape character and appearance of the local area, residential amenities (noise and dust impacts), the water environment, ecology and biodiversity, traffic, highway safety and impact upon the Public Rights of Way, and economic impact.

The Planning Development Control Manager concluded that as with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicated otherwise. The NPPF was a material consideration in planning decisions. The reason why the Development Plan was at the heart of the planning system was because it was the forum where the need for new development was identified, and also where it would be inappropriate. The plan would have been through

public consultation, and would have been subject of independent examination.

The key development plan policy to be considered in the determination of this planning application was Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Policy WCS 5 stated that "no capacity gap had been identified for the landfill or disposal of waste". The supporting text to Policy WCS 5 stated that "the decision on whether proposals were a form of disposal would be guided by the Environment Agency's advice". This was contained within the document: RGN13: Defining waste recovery: permanent deposit of waste on land.

Appendix 1 of RGN13 gave examples of when the Environment Agency considers a particular activity could be considered a recovery operation rather than disposal operation. Appendix 1 stated that "bunds can be created for a number of purposes. Evidence must be presented that shows the bund is needed. This would include setting out the benefits that would be derived when the work is complete, and justifying that there was a genuine need for the bund...if a very large bund is proposed, but the benefits derived from installing it are marginal, this would point more towards a disposal operation".

Therefore, for the proposal to be considered a recovery operation rather than a waste disposal operation, the applicant had to demonstrate a clear benefit to the deposit of waste soils in this location.

It was noted that the application was accompanied by a Noise Overview Assessment, which concluded that "whilst some acoustic screening of short segments of the M5 Motorway to specific receptors points would occur, there would be little or no additional screening from the majority of the section of the M5 Motorway from which noise currently contributes to the local noise environment at individual noise-sensitive locations. Accordingly, the overall reduction in noise would be very slight and it is unlikely the reduction would be perceptible". Therefore, the Planning Development Control Manager considered that the proposal would provide negligible noise attenuation benefits.

The submitted Landscape and Visual Appraisal concluded that "there would be temporary short-term adverse impacts on the landscape and visual character of the site while the works are being undertaken, due to the increased vehicle movements and the presence of construction vehicles and bare soil on the site. However,

in the medium to longer-term the proposal could be accommodated without harm to the wider landscape, and in a manner consistent with existing landscape pattern and character evident in the surroundings". Therefore, the Planning Development Control Manager considered that the proposal would provide a neutral impact upon the landscape, subject to the imposition of appropriate conditions.

The submitted Ecology Assessment concluded that "the landscape proposals will create habitat enhancements in the medium-term with the provision of grassland and woodland planting of greater ecological value than the existing arable fields". Therefore, the Planning Development Control Manager considered that the proposal would provide minor ecology and biodiversity benefits.

Furthermore, it was noted that the applicant had stated that the proposal "provides an opportunity to dispose of the waste soil within Worcestershire". In view of above matters, the proposal was considered a disposal operation. Policy WCS 5 went on to state that "planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated that:

- i. re-use, recycling, or energy or resource recovery are not practicable for the waste type to be managed and no landfill or disposal capacity exists in the county for that type of waste; or
- ii. there will be a shortfall in landfill or disposal capacity necessary to achieve the aims and purpose of the strategy; or
- iii. the proposal is essential for operational or safety reasons or is the most appropriate option".

It was considered that parts i) and ii) of Policy WCS 5 did not apply to the proposal and therefore, for the proposal to conform with this Waste Core Strategy Policy the applicant must demonstrate that the proposal was essential for operational or safety reasons or was the most appropriate option.

It was considered that there would be no clear noise attenuation benefits from the construction of the earth bund in this location; it was considered the proposal would have a neutral impact upon the landscape, subject to the imposition of appropriate conditions; and only minor benefits in terms of ecology and biodiversity were anticipated. It was considered that the proposal would provide minor drainage benefits in terms of reducing the

reliance of the existing site on the M5 Motorway drainage infrastructure, thereby enhancing the resilience of the Strategic Road Network. It was also considered that the proposal would help to facilitate the development of the Worcester 6 site, which was identified as a key project in the Worcestershire LEP Business Plan; as an 'Economic Game Changer site' in the Strategic Economic Plan (SEP); and was allocated within the South Worcestershire Development Plan (Policy SWDP 45 / 6). It was noted that the NPPF afforded significant weight to be placed on the need to support economic growth through the planning system.

Furthermore, the proposal would limit the distance HGV's had to travel to dispose of the waste soils at an appropriate licenced facility or recovered for beneficial purposes in other projects. Notwithstanding this, the Planning Development Control Manager was not satisfied that the limited benefits of this proposal when taken individually or as a whole demonstrated that "the proposal is essential for operational or safety reasons or is the most appropriate option", as set out in part iii) of Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Therefore, it was considered that there would not be a clear benefit for the construction of an earth bund in this location that would override Policy WCS 5 of the adopted Waste Core Strategy and the principle of the waste hierarchy.

It was also noted that the County Minerals and Waste Management Planning Policy Officer objected to the proposal as it was considered contrary to the vision, objectives and policy of the adopted Worcestershire Waste Core Strategy.

Whilst the NPPF reiterated that applications for planning permission must be determined in accordance with the development plan unless material considerations indicated otherwise; and each application must also be considered on its own merits, it was considered that should this application be granted planning permission, it would set an undesirable precedent which would encourage further landfill/landraising applications to dispose of construction waste in the countryside potentially creating alien landforms without any clear benefits, undermining Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Furthermore, the County Minerals and Waste Management Planning Policy Officer considered that appropriate disposal of waste must be considered to be an essential component of the design and business case for any development. No

overriding factors had been demonstrated in this case, and it was considered that the waste arising from the Worcester 6 Site and Retail Park development should be appropriately disposed of, as would be expected of all developments in the county.

On balance, it was considered that permitting the formation of an earth bund on land to south of B4636 and east of M5 Motorway, Spetchley, Worcestershire, would be contrary to Policy WCS 5 of the adopted Worcestershire Waste Core Strategy, as the proposal would be a waste disposal operation, with no clear benefits that outweigh the harm of not driving waste up the waste hierarchy.

The representative of the Planning Development Control Manager indicated that since the publication of the report, the applicant had requested that the application be deferred so they could reconsider the proposal, provide further information on the Waste Core Strategy and to overcome the objections from Highways England. Highways England had put in a holding objection to the application. In light of the holding objection from Highways England, Members would only be able to refuse permission or be minded to grant permission subject to consultation with the Secretary of State. He considered that in the circumstances, the request to defer consideration was reasonable.

RESOLVED that consideration of the application be deferred.

The meeting ended at 11.20am.

Chairman