

**PLANNING AND REGULATORY COMMITTEE
22 OCTOBER 2019****PLANNING APPLICATION MADE UNDER SECTION 73 OF
THE TOWN AND COUNTRY PLANNING ACT 1990 (AS
AMENDED) TO VARY CONDITION 2 OF PLANNING
PERMISSION: 14/000045/CM "PROPOSED EXTENSION TO
EXISTING WASTE TRANSFER STATION BUILDING" TO
AMEND THE DESIGN OF THE BUILDING EXTENSION AND
OMISSION OF THE PROPOSED 2 METRE HIGH WALL AT
DIGAWAY AND CLEARAWAY LTD, GROVE HOUSE YARD,
TEWKESBURY ROAD, UPTON-UPON-SEVERN,
WORCESTERSHIRE**

Applicant

Digaway and Clearaway Ltd

Local Member

Mr P Middlebrough

Purpose of Report

1. To consider a County Matter planning application made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 2 of planning permission: 14/000045/CM "*Proposed extension to existing Waste Transfer Station building*" to amend the design of the building extension and omission of the proposed 2 metre high wall at Digaway and Clearaway Ltd, Grove House Yard, Tewkesbury Road, Upton-upon-Severn, Worcestershire.

Background***Planning History***

2. Grove House Yard has a history of mixed commercial and industrial uses. The yard was mainly used as a haulage and distribution depot from the early 1950s and has a number of uses operating from the site including a workshop and garage, motorcycle business, car sales, accommodation for hauliers, and small commercial units and a ready mix concrete batching plant.

3. The Planning and Regulatory Committee granted planning permission for the existing Waste Transfer Station in May 2012 (County Planning Authority Ref: 11/000060/CM, Minute no. 775 refers). Since then Digaway and Cleanaway applied for planning permission in November 2014 to extend the existing Waste Transfer Station building at the site. The rationale for this extension was because they had become highly successful due to a very high demand for waste management services

and a low supply of such operators locally. As a result, the existing building was not of a sufficient size to allow all waste transfer operations, including, sorting, storing, loading and unloading to be undertaken within the building which had meant that storage of materials and waste transfer operations had been occurring outside of the building. This was in breach of conditions 5 and 20 of the extant planning permission 11/000060/CM which relate to waste transfer operations only taking place within the building and storage of materials, (including wastes and processed materials) except empty skips, goods or equipment on the site, respectively.

4. In order to regularise this breach of planning control, the applicant applied to extend the existing building in order to provide a larger covered area within which the waste transfer activities would be carried out. The Planning and Regulatory Committee subsequently granted planning permission for the extension of an existing Waste Transfer Station building in May 2015 (County Planning Authority Ref: 14/000045/CM, Minute no. 907 refers).

5. In September 2016 Members of the Planning and Regulatory Committee refused to grant planning permission for a proposed extension of the yard associated with the existing Waste Transfer Station at Grove House Yard (County Planning Authority Ref: 16/000002/CM, Minute No. 953 refers). This application sought to extend the existing yard area eastwards into the agricultural land. The yard extension was proposed to accommodate car parking for staff, relocated weighbridge, empty skip storage, and external storage of inert wastes. A new concrete section of access road together with gates was also proposed to aid vehicle circulation. Planning permission was refused on the following grounds:

- The proposal was considered to be an unacceptable location contrary to Policy WCS 6 of the Worcestershire Waste Core Strategy; and
- The proposal was considered to have an unacceptable impact upon the open countryside, a core principle of the National Planning Policy Framework (NPPF), as set out at paragraph 17, bullet point 5, Policy WCS 12 of the Worcestershire Waste Core Strategy and Policies SWDP 21 and SWDP 25 of the South Worcestershire Development Plan.

6. The applicant appealed the decision and in May 2017, following a hearing held on 26 April 2017 the Planning Inspectorate dismissed the appeal (Appeal Ref: APP/E1855/W/16/3164484).

7. In June 2018, Malvern Hills District Council granted planning permission for a proposed extension of existing commercial yard to provide car parking and access road with landscaping at the site (District Council Ref: 18/00087/FUL). This includes car parking for 30 vehicles, provision of a new internal access road and landscaping. This related to a substantially similar area of land as Appeal Ref: APP/E1855/W/16/3164484, but included less hardstanding and no outside storage of waste material. Given the nature of the works, relating to parking and access associated with the wider commercial and industrial yard, it was considered Malvern Hills District Council were the correct authority to deal with this application.

8. Relevant to the above application was the Enforcement Notice issued by Malvern Hills District Council in November 2016 (Malvern Hills District Council Ref: E/15/00084/EAP), and subsequent appeal dated 17 July 2017 (Enforcement Appeal Ref: APP/J1860/C/16/3168230), which related to the laying of a hardstanding on

agricultural land for use as parking on the east side of Tewkesbury Road (A38). This land had been used unlawfully to provide overflow car parking in connection with Grove House Yard. The enforcement appeal was dismissed and the notice was upheld with a variation (amended so that the notice allowed 6 calendar months instead of 2 calendar months compliance period).

The Proposal

9. The applicant states that during the construction of the development two minor alterations to the original design became necessary. These are amendments to the design of the Waste Transfer Station building extension; and the removal of a proposed 2 metre high wall. As such this application seeks to vary condition 2 (approved drawings list) of planning permission 14/000045/CM, dated 26 May 2015. Extant condition 2 states:

10. *"The development hereby permitted shall be carried out in accordance with the details shown on submitted drawings referenced: PL-01; PL-02; PL-03; Amended Site/block Plan, received by the County Planning Authority on 5 March 2015; PL- 05, except where otherwise stipulated by conditions attached to this permission".*

11. The applicant is seeking to amend this condition, so that it would reads:

12. *"The development hereby approved shall be carried out in accordance with the details shown on submitted drawings referenced: PL-01; A200 received by the County Planning Authority on 16 August 2019, A101, A102, A103, except where otherwise stipulated by conditions attached to this permission".*

Design of the Building

13. The applicant states that *"originally the proposed extension mirrored the existing Waste Transfer Station building with an opening in the eastern elevation. During construction, it was noted that circulation space on the eastern side of the building was limited and the decision was taken to reduce the floor area of the building. This was achieved by removing the south-eastern corner to create a splay. In addition, the opening to the building was relocated onto the splayed south-eastern elevation which provides more convenient ingress and egress to the building. All other aspects of the building are in accordance with the previously approved details".*

14. The approved building extension measured approximately 20 metres wide, by 30 metres long, by approximately 9.6 metres in high. The amended building also measures approximately 20 metres wide, by a maximum of 30 metres long, by 9.6 metres high, but with the south-eastern corner of the building being reduced by approximately 18 square metres.

2 Metre High Wall

15. The applicant is seeking to remove the requirement to construct a 2 metre high screen wall which was depicted on approved Amended Site/Block Plan within the yard to the south of the Waste Transfer Station building extension. The applicant states that *"to construct a wall in this location would significantly limit the useable space within the yard to the detriment of the operational arrangements of the business. It is unclear why this wall was proposed in this location and may have been a drafting error. To construct a wall in this position would create a significant area of*

unusable 'dead space' between the new wall and the existing boundary wall. It is illogical to create unusable space within a yard that is already limited in terms of the space available for storage and circulation".

16. The applicant is proposing a closed board acoustic fence, measuring approximately 2 metres high to be located to the south and west of the Waste Transfer Station building extension.

The Site

17. The application site measures approximately 0.35 hectares in area and is located about 240 metres north of Ryall village and approximately 1.1 kilometres north-east of Upton-upon-Severn in a predominantly rural setting. The application site is located within a small commercial and industrial yard along the eastern side of Tewkesbury Road (A38). The commercial and industrial yard comprises a ready mix concrete plant to the north; and a workshop and garage, specialist motorcycle enterprise and car sales business in the western part of the yard. At the southern end of the yard are offices, two commercial business units, a glass and glazing company, a tyre and battery enterprise and two motor repair businesses.

18. The industrial estate is surrounded by agricultural land which bounds the application site to the east.

19. Access to the site is gained via the existing access off Tewkesbury Road (A38). There are two Public Rights of Ways located in close proximity to the site. Footpath RP-512 is sited approximately 285 metres east of the application site and Footpath RP-513 is sited about 300 metres south-east of the site. The application site is visible from these Public Rights of Ways.

20. The application site is located approximately 370 metres west of the Smithmoor Common and Meadows Local Wildlife Site (LWS), and approximately 800 metres north-east of the River Severn LWS. The application site is also located approximately 850 metres north-east of the Upton Ham Site of Special Scientific Interest (SSSI), and about 1 kilometre south-east of Earl's Croome Meadow SSSI.

21. The whole of the application site falls within Flood Zone 1, which has a low probability of flood risk.

22. The nearest residential properties to the application site are Grove House, which is sited immediately adjacent to the application site and approximately 15 metres south-west of the Waste Transfer Station building extension. A row of 6 flats are located approximately 25 metres directly south of the Waste Transfer Station building extension within the commercial and industrial yard. It is understood these are provided for the driver's associated with the adjacent commercial units. The dwelling of the Willows is sited approximately 70 metres south of the application site. There are further residential properties situated along Ryall Grove, which is located about 240 metres south of the application site, beyond agricultural land.

Summary of Issues

23. The main issues in the determination of this application are:

- Landscape Character and Visual Impacts
- Residential Amenity.

Planning Policy

National Planning Policy Framework (NPPF)

24. The revised National Planning Policy Framework (NPPF) was published on 19 February 2019 and replaces the previous NPPF published in March 2012 and July 2018. On the 19 June 2019 the revised NPPF was updated to include a correction slip to remove paragraph 209a relating to on-shore oil and gas development, following the Secretary of State for Housing, Communities and Local Government issuing a Ministerial Statement on 23 May 2019 due to the outcome of a legal judgment. The NPPF sets out the government's planning policies for England and how these are expected to be applied. The revised NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes).

25. The NPPF should be read in conjunction with the Government's planning policy for waste (National Planning Policy for Waste). Annex 1 of the NPPF states that *"the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication"*.

26. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

27. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable

solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

28. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

29. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

30. The following guidance contained in the NPPF, is considered to be of specific relevance to the determination of this planning application:

- Section 2: Achieving sustainable development
- Section 4: Decision-making
- Section 6: Building a strong, competitive economy
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 14: Meeting the challenge of climate change, flooding and coastal change
- Section 15: Conserving and enhancing the natural environment
- Section 16: Conserving and enhancing the historic environment

National Planning Policy for Waste

31. The National Planning Policy for Waste was published on 16 October 2014 and replaces "Planning Policy Statement 10 (PPS 10): Planning for Sustainable Waste Management" as the national planning policy for waste in England. The document sets out detailed waste planning policies, and should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning

authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

Chief Planning Officer Letter - Green Belt protection and intentional unauthorised development (31 August 2015)

32. This letter sets out changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt.

The Development Plan

33. The Development Plan is the strategic framework that guides land use planning for the area. In this respect the current Development Plan that is relevant to this proposal consists of the Adopted Worcestershire Waste Core Strategy Development Plan Document and the Adopted South Worcestershire Development Plan.

34. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

35. With regard to the weight to be given to existing policies adopted prior to the publication of the revised NPPF, Annex 1 states "*existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Worcestershire Waste Core Strategy Development Plan Document (WCS)

Policy WCS 1: Presumption in favour of sustainable development

Policy WCS 2: Enabling Waste Management Capacity

Policy WCS 3: Re-use and Recycling

Policy WCS 6: Compatible land uses

Policy WCS 8: Site infrastructure and access

Policy WCS 9: Environmental assets

Policy WCS 10: Flood risk and water resources

Policy WCS 11: Sustainable design and operation of facilities

Policy WCS 12: Local characteristics

Policy WCS 14: Amenity

Policy WCS 15: Social and economic benefits

South Worcestershire Development Plan

36. The South Worcestershire Development Plan (SWDP) covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The SWDP policies that are of relevance to the proposal are set out below:-

Policy SWDP 1: Overarching Sustainable Development Principles

Policy SWDP 2: Development Strategy and Settlement Hierarchy

Policy SWDP 3: Employment, Housing and Retail Provision Requirement and Delivery

Policy SWDP 4: Moving Around South Worcestershire

Policy SWDP 8: Providing the Right Land and Buildings for Jobs

Policy SWDP 12: Employment in Rural Areas

Policy SWDP 21: Design

Policy SWDP 22: Biodiversity and Geodiversity
Policy SWDP 25: Landscape Character
Policy SWDP 28: Management of Flood Risk
Policy SWDP 29: Sustainable Drainage Systems
Policy SWDP 30: Water Resources, Efficiency and Treatment
Policy SWDP 31: Pollution and Land Instability

Other Documents

Our Waste, Our Resources: A Strategy for England (2018)

37. This Strategy is the first significant government statement in relation to waste management since the 2011 Waste Review and the subsequent Waste Prevention Programme 2013 for England. It builds on this earlier work, but also sets out new approaches to long-standing issues like waste crime, and to challenging problems such as packaging waste and plastic pollution. The Strategy is guided by two overarching objectives:

- To maximise the value of resource use; and
- To minimise waste and its impact on the environment.

38. The Strategy sets five strategic ambitions:

- To work towards all plastic packaging placed on the market being recyclable, reusable or compostable by 2025;
- To work towards eliminating food waste to landfill by 2030;
- To eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan;
- To double resource productivity by 2050; and
- To eliminate avoidable waste of all kinds by 2050.

39. It contains 8 chapters which address: sustainable production; helping consumers take more considered action; recovering resources and managing waste; tackling waste crime; cutting down on food waste; global Britain: international leadership; research and innovation; and measuring progress: data, monitoring and evaluation. Chapter 3 – 'Resource Recovery and Waste Management' is the most relevant chapter to this proposal.

40. This states that whilst recycling rates in construction have improved since 2000, from 2013 onwards recycling rates have plateaued. The government wishes to drive better quantity and quality in recycling and more investment in domestic recycled materials markets. The government wants to promote UK-based recycling and export less waste to be processed abroad. The government wish to:

- Improve recycling rates by ensuring a consistent set of dry recyclable materials is collected from all households and businesses;
- Reduce greenhouse gas emissions from landfill by ensuring that every householder and appropriate businesses have a weekly separate food waste collection, subject to consultation;
- Improve urban recycling rates, working with business and local authorities;
- Improve working arrangements and performance between local authorities;

- Drive greater efficiency of Energy from Waste (EfW) plants;
- Address information barriers to the use of secondary materials; and
- Encourage waste producers and managers to implement the waste hierarchy in respect to hazardous waste.

Waste Management Plan for England (2013)

41. The Government through Defra published the Waste Management Plan for England in December 2013. This Plan superseded the previous waste management plan for England, which was set out in the Waste Strategy for England 2007.

42. There are comprehensive waste management policies in England, which taken together deliver the objectives of the revised Waste Framework Directive, therefore, it is not the intention of the Plan to introduce new policies or to change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of one national plan.

43. This Plan is a high level document which is non-site specific, and is a waste management, rather than a waste planning document. It provides an analysis of the current waste management situation in England, and evaluates how it will support implementation of the objectives and provisions of the revised Waste Framework Directive.

44. The key aim of this Plan is to work towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the “waste hierarchy” (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

The Government Review of Waste Policy England 2011

45. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re-use, recycling, other types of recovery (including energy recovery) and last of all disposal.

Consultations

46. **Local County Councillor Mr Paul Middlebrough** objects to the proposal, stating that a screen wall measuring approximately 2 metres high is the only means of giving the nearby residents any significant protection from noise and dust. The proposed fence is not a sustainable solution compared to a solid wall. The rationale for seeking to avoid unusable 'dead space' is primarily an operational matter. Perhaps the dead space issue should have been thought about by the applicant before proceeding with the scheme.

47. **Earls Croome Parish Council** objects to the proposed removal of the requirement to construct the 2 metre high screen wall. The Parish Council state that the alteration to the building has already been carried out and the doorway is now placed across the south-east corner of the building. The Parish Council consider that this alteration gives the residents of the flats facing the southern end of the building more exposure to dust, noise and pollution which would occur when the doorway is in constant use. For this reason the Parish Council consider that the inclusion of the 2

metre high wall is necessary to give these residents maximum protection and object to it being omitted.

48. Following amended details of the proposed acoustic fencing being submitted, Earls Croome Parish Council commented that it is only a wooden fence with an acoustic rating of 28 dBA, which would do very little to offer any protection from noise from this type of industrial building or noise from the vehicles driving in and out of the building. Furthermore, a wooden fence will be easily damaged and have a very short life. Only a brick wall measuring approximately 2 metres would give the type of protection needed for the residents of the adjacent flats from the noise and pollution from this building.

49. **Ripple Parish Council (Neighbouring Parish Council)** have made no comments.

50. **Malvern Hills District Council** have no objections to the proposal, subject to the imposition of the relevant extant conditions, together with any additional conditions that are considered necessary to make the development acceptable in planning terms. The District Council request that careful consideration is given to noise impacts and highway implications of this application.

51. The District Council comments that they understand that the extant planning permission was lawfully implemented and the relevant pre-commencement conditions have been discharged. However, the County Planning Authority should be satisfied that this is indeed the case.

52. The District Council considers that the proposed alternations to the building would have a similar wider visual impact as the previously approved scheme and, therefore, consider it would be acceptable and accords with Policies SWDP 21 and SWDP 25 of the South Worcestershire development Plan.

53. With regard to the removal of the proposed 2 metre high wall and proposed acoustic fence in an alternative position. The District Council comments that residential properties are located to the west and south of the application site and the revised proposals would allow for a large external storage area to south of the building and proposed extension. No updated noise assessment has been submitted with the application to assess the likely impact of the development. However, the District Council understand that Worcestershire Regulatory Services have not requested such an update and are content that, subject to the imposition of conditions relating to the specification of the noise barrier, the proposal would not have a detrimental impact upon the amenities of nearby residential properties. The County Planning Authority must be satisfied that the proposed development would not result in unacceptable noise and disturbance to residential properties and that this can be adequately mitigated in accordance with Policy SWDP 31 of the South Worcestershire Development Plan.

54. The District Council also recommends that County Highways are consulted on this application.

55. **The Environment Agency** have no objections to the proposal and recommends that the County Planning Authority consults Worcestershire Regulatory Services in respect of noise impacts and the proposed acoustic mitigation.

56. The Environment Agency also confirm that the site benefits from a Standard Rules Environmental Permit, which regulates and controls matters such as the general management of the site and permitted activities; waste acceptance, including quantity; emissions, including odour, noise and vibration; and monitoring, records and reporting.

57. **Worcestershire Regulatory Services (Noise, Dust and Odour)** have no objections to the application, stating that they do not consider that the amended Waste Transfer Station building extension design would lead to an adverse impact at the closest noise sensitive receptor, assuming that the high speed roller shutter door remains closed except for ingress and egress.

58. With regard to the removal of the requirement to construct a wall measuring approximately 2 metres high and the proposed installation of acoustic fencing. Worcestershire Regulatory Services have confirmed that the proposed fencing is acceptable in terms of its specification and extent and, therefore, has no objections to the proposal.

59. With regard to the acoustic performance of the proposed fence, Worcestershire Regulatory Services have confirmed that as the fence would have a surface density greater than 15kg/m² (it would be 25kg/m²) it would acoustically perform marginally better than a wall.

60. **South Worcestershire Land Drainage Partnership** have made no comments.

61. **Lead Local Flood Authority** have no objections to the application.

62. **Severn Trent Water Limited** have no objections to the application.

63. **The County Highways Officer** has no objections to the application.

64. **The Campaign to Protect Rural England (CPRE)** have made no comments.

65. **The County Landscape Officer** has no objections to the application.

66. **Worcestershire Wildlife Trust** have no objections, stating that they do not consider the changes have a significant impact in relation to ecology and biodiversity and wish to defer to the County Ecologist for all on-site detailed ecological considerations.

67. **The County Ecologist** has no objections to the application.

68. **West Mercia Police** have made no comments.

69. **Hereford and Worcester Fire and Rescue** have made no comments.

Other Representations

70. The application has been advertised on site, in the press and by neighbour notification. To date, 2 letters of representation objecting to the application have been

received from Grove Residents Reclaiming Altogether a Tranquil Environment (GRRATE). These letters of representation are available in the Members' Support Unit. Their main comments are summarised below:

- The residents do not agree to any alteration to the original planning application County Planning Authority Ref: 14/000045/CM, either to the size of the design of the building, or the omission of the 2 metre high wall
- The application form is incorrectly completed as the site is visible from Public Rights of Way and is clearly visible from Strensham Road
- Following approval of the original application the situation for residents of Ryall Grove has deteriorated. Mounds of soil, hardcore, wood and plaster board are regularly crushed and stored on the open yard. Dust settles all over local residents' properties and vehicles in the vicinity of the application site. These actions are not permitted by conditions 12 or 14 of the extant planning permission
- Condition 4 of the extant planning permission states that no machinery or equipment shall operate on the site outside the stipulated hours. This has happened on numerous occasions and has been raised with the Planning Monitoring and Enforcement Officer, with no successful sanction has been taken by Worcestershire County Council
- Condition 6 of the extant planning permission states all waste transfer operations including sorting, loading, unloading of vehicles and storage of waste shall only take place within the approved building. This is not the case and has never been complied with
- Continued dust emissions emanating from the site. A letter has been sent to the Environment Agency with photographs showing dust in the atmosphere, which cannot be contained within the site
- Question when and by whom was permission granted for the sorting and crushing of hardcore on site.

The Head of Strategic Infrastructure and Economy's Comments

71. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The relevant policies and key issues have been set out earlier.

Landscape Character and Visual Impacts

72. The original report to committee (County Planning Authority Ref: 14/000045/CM) considered the development in respect of landscape character and concluded that *"although, the proposed development would be visible from public view, given that the proposed development would be sited in the centre of an existing small industrial estate and would not exceed the height of the buildings and structures already sited there, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have any adverse impact on the landscape character of the area"*.

73. It is noted that extant condition 6 requires all the waste transfer operations including sorting, loading / unloading of vehicles and storage of waste shall only take place within the approved building. Extant condition 7 requires all doors to the building shall be kept closed except to allow entry and exit; and extant condition 14 requires no outside storage of materials (including wastes and processed materials)

goods or equipment except empty skips, which shall only be stored in the storage area immediately to the north-east of the Waste Transfer Station building.

74. The retrospective amendment to the Waste Transfer Station building extension seeks to regularise the form of the building, which differs to the approved plan, in that the south-eastern corner of the building has been 'sliced off', reducing its footprint, and relocating the opening and proposed roller shutter door into this location.

75. The Waste Transfer Station extension building is located within the confines of the existing commercial and industrial yard, and this building and its amendment would be seen in the context of the existing Waste Transfer Station building and site. It is noted that extant condition 3 required details of the external materials and finishes of the Waste Transfer Station building extension to be approved by the County Planning Authority. The materials that were approved and that have been installed match the original Waste Transfer Station Building (County Planning Authority Ref: 11/000060/CM).

76. This application also seeks to remove the proposed 2 metre high screen wall. The applicant states that *"to construct a wall in this location would significantly limit the useable space within the yard to the detriment of the operational arrangements of the business. It is unclear why this wall was proposed in this location and may have been a drafting error"*.

77. It is noted that a 2 metre high screen wall was proposed in the same location on the approved Site / Block Plan for planning permission 11/000060/CM. This also included strip planting immediately beyond the wall, between the proposed wall and the existing concrete panel fence / wall which measures approximately 1.5 metres high.

78. It is also noted that the report to committee in respect of planning permission 14/000045/CM stated: *"although screening is not proposed by the applicant on the eastern boundary of the site as requested by a local resident, the applicant proposes to retain a 2 metre high screen wall on the southern boundary of the site, to screen the proposed development from the residential flats sited directly south of the proposed extension. The applicant states that there is no opportunity for structural landscaping within the site"*.

79. In view of this, the Head of Strategic Infrastructure and Economy considers that the 2 metre high screen wall was likely originally proposed by the applicant as a visual screen.

80. Since then, the applicant has installed a palisade fence, measuring approximately 1.8 metres high in a similar alignment to the proposed screen wall, but closer to the existing concrete panel fence / wall. The applicant is proposing to install an acoustic closed boarded fence measuring approximately 2 metres high, which would be located immediately in front of the palisade fence to the south and west of the Waste Transfer Station building extension.

81. The Head of Strategic Infrastructure and Economy notes that the removal of the requirement for the proposed screen wall would provide a larger useable space within the yard for the applicant, and it is considered that the installation of acoustic closed

boarded fencing in this location would have the same visual screening effect as a proposed 2 metre high screen wall.

82. The County Landscape Officer has been consulted and has raised no objections to this application. Malvern Hills District Council has no objections to the proposal, subject to the imposition of the relevant extant conditions. The District Council considers that the proposed alternations to the building would have a similar wider visual impact as the previously approved scheme. With regard to the fencing, they note that the revised proposals would allow for a large external storage area to south of the building and proposed extension. Extant condition 14 restricts external storage to only skips in an area adjacent to the north-east of the Waste Transfer Station building. The applicant has not applied to remove or amend this condition to allow storage to the south of the Waste Transfer Station extension building. In view of this, it is considered prudent to impose the extant condition restricting storage and the location of empty skips.

83. In view of the above matters, the Head of Strategic Infrastructure and Economy is satisfied that this application would not have an adverse or detrimental impact upon the character and appearance of the local area, subject to the imposition of appropriate extant conditions.

Residential Amenity

84. The original report to committee (County Planning Authority Ref: 14/000045/CM) considered the development in respect of residential amenity and concluded that *"given that all the site operations would be carried out within the building and given the size, siting and design of the building and associated site screening, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have any significant detrimental impact on the amenities of the neighbouring residential properties"*.

85. It is noted that the Noise Assessment originally submitted with planning permission 14/000045/CM did not make reference or appear to take account of the proposed screen wall, and it concluded that *"there is likely to be a low impact on the surrounding residents"*.

86. Earls Croome Parish Council objects to the proposed removal of the requirement to construct the 2 metre high screen wall. The Parish Council considers that the alteration to the building extension gives the residents of the flats facing the southern end of the building more exposure to dust, noise and pollution. For this reason the Parish Council considers that the inclusion of the 2 metre high wall is necessary to give these residents maximum protection and object to it being omitted. County Councillor Middlebrough also objects to the removal of the screen wall on the basis of providing maximum protection to local residents from noise and dust emissions.

87. The Environment Agency have no objections to the proposal and recommends that the County Planning Authority consults Worcestershire Regulatory Services in respect of noise impacts of the development and confirms that the site benefits from an existing Standard Rules Environmental Permit.

88. Worcestershire Regulatory Services have been consulted have no objections to the application on noise or dust grounds, and consider the proposed acoustic fence is acceptable stating that it would acoustically perform marginally better than a wall. In

view of this, it is recommended that a condition be imposed requiring the installation of the proposed acoustic fencing.

89. The primary environmental controls over the proposed operation would be contained within the Environment Agency's Standard Rules Environmental Permit for the site. It is noted that paragraph 183 of the NPPF states that *"the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively"*. Paragraph Reference ID: 28-050-20141016 of the Government PPG elaborates on this matter, stating that *"there exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body"*.

90. It is noted that the extant condition 4 requires operations shall only take place on the site between 07:30 and 18:00 hours Mondays to Fridays, 07:30 to 13:00 hours on Saturdays and not at all on Sundays or Public Holidays. Extant condition 7 requires all doors to the building shall be kept closed except to allow entry and exit. Given the Waste Transfer Station extension building new opening (access) has yet to be installed with a door, it is recommended that a condition be imposed requiring the installation of a high speed roller shutter door. Extant condition 8 requires all vehicles, plant and machinery operating within the site to be maintained in accordance with the manufacturer's specifications at all times and includes the fitting and use of effective silencers. Extant conditions 12 and 13 restrict the crushing, screening and burning of waste materials on site. The applicant is not proposing to amend these conditions. It is also noted that extant condition 21 requires a dust management plan, details of which are outstanding. In view of this, it is recommended that a condition requiring a dust management plan be imposed on any new planning permission.

91. Two letters of representation have been received from GRRATE, a local residents action group objecting to the application.

92. Concerns are also raised by GRRATE that materials are stored on the open yard. It is understood that part of the northern yard (outside of the application site boundary) benefits from planning permission for open storage, granted planning permission by Malvern Hills District Council Ref: 98/00862/FUL, associated with the concrete batching plant.

93. GRRATE question when and by whom was permission granted for the sorting and crushing of hardcore on site. It is understood that the applicant is constructing and laying a hardstanding adjacent to this application site, associated with the planning permission granted by Malvern Hills District Council for a proposed extension of existing commercial yard (District Council Ref: 18/00087/FUL). This planning permission does not limit the construction hours for the development.

94. Extant condition 4 restricts the operating hours of the facility, GRRATE state that the applicant has breached this condition on numerous occasions. The Planning Monitoring and Enforcement Officer has investigated this matter but has been unable to substantiate the complaint. It is noted that whilst vehicles may have been observed at the site, the operator has confirmed that no waste management operations were taking place at the time, and the maintenance of machinery and vehicles takes place when the waste management operations cease on a Saturday. The Planning Monitoring and Enforcement Officer will continue to monitor the site and this matter.

95. GRRATE also state that there are continued dust emissions emanating from the site. A letter has been sent to the Environment Agency with photographs showing dust in the atmosphere, which cannot be contained within the site. Since the receipt of the letters of representation from GRRATE, a multi-agency meeting took place in July 2019 with invitees including the Environment Agency, Worcestershire Regulatory Services and Malvern Hills District Council. Further joint meetings / site meetings are being arranged to investigate this matter further.

96. It is noted that the Environment Agency in their acknowledgment letter to GRRATE, which accompanied GRRATE's letter of representation stated that *"during the last inspection we did not identify any non-compliance of the Environmental Permit for the waste activities taking place at the site. However, I am aware that there was a stockpile of aggregate / hardcore material on site that was planned to be used as a base for the onsite car park. Digaway & Clearaway are allowed to accept inert waste materials including construction and demolition waste, hardcore, stones and bricks etc., and treat this material at the site under the Environmental Permit...With regard to the wood waste [located to the north of the application site] as you are aware we have investigated reports of dust from the loading of wood waste previously in 2016. At that time we visited the area on a number of occasions and also visited the site during the time when the wood waste was being loaded on to the lorry to be transferred off site. There was a small amount of dust generated by this activity, but this was localised to the area and did not appear to escape beyond this location. On this occasion we have not visited the site in response to your letter. However, I have spoken to the operator and suggested that measures are put in place to reduce the potential for dust to escape beyond the site boundary whenever waste activities are likely to increase the amount of dust produced and in particular when crushing inert material"*.

97. In view of the above matters, based upon the advice of Worcestershire Regulatory Services and the Environment Agency, the Head of Strategic Infrastructure and Economy considers that this application would have no adverse noise, dust or odour impacts on residential amenity or that of human health, subject to the imposition of the relevant extant conditions, including a dust management plan and conditions requiring the installation of the proposed acoustic fencing, and high speed roller shutter door.

Other Matters

Water Environment and Flood Risk

98. The previous report (County Planning Authority Ref: 14/000045/CM) concluded that *"subject to the imposition of a drainage condition as recommended by Severn Trent Water Ltd, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would have no adverse impact on the water environment"*. Both the Lead Local Flood Authority and Severn Trent Water Limited have raised no objections to

the application. In view of this, it is considered that this application would not impact upon the water environment, subject to the imposition of the appropriate extant conditions.

Traffic and Highway Safety

99. Traffic and highway safety was considered in the original report to committee (County Planning Authority Ref: 14/000045/CM), and concluded that "*the proposed development would not have an adverse impact on the highway safety of the local area*". This application does not propose any amendments to the existing access arrangements and does not propose to amend the throughput of the site (extant condition 10). It is also noted that extant condition 15 requires no mud, dust, dirt or debris to be deposited on the public highway, and extant condition 16 does not allow waste materials to be accepted at the site directly from members of the public.

100. The County Highways Officer has been consulted and has raised no objections to the application. In view of the above matters, the Head of Strategic Infrastructure and Economy is satisfied that this application would not have an unacceptable impact upon traffic or highway safety, subject to the imposition of the appropriate extant conditions.

Ecology and Biodiversity

101. The original report to committee considered the development in respect of ecology and biodiversity and concluded that "*subject to the imposition of conditions relating to protected species and site lighting, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would have no adverse impact on the ecology and biodiversity of the local area*".

102. Worcestershire Wildlife Trust and the County Ecologist have been consulted and have both raised no objections to this application. In view of this, the Head of Strategic Infrastructure and Economy is satisfied that this application would not have an unacceptable impact upon ecology and biodiversity at the site or in the surrounding area, subject to the imposition of the appropriate extant conditions.

Conclusion

103. The applicant states that during the construction of the Waste Transfer Station building extension two minor alterations to the original design became necessary. These are amendments to the design of the Waste Transfer Station building extension, so that the south-east corner of the building is reduced in size by approximately 18 square metres, relocation of the roller shutter door, and the emissions of a proposed 2 metre high visual screen wall to the south of the building extension. However, the applicant is proposing a close boarded acoustic fence, measuring approximately 2 metres high, to be installed to the south and west of the extension building. As such this application seeks to vary condition 2 (approved drawings list) of the planning permission 14/000045/CM.

104. The applicant states that during construction, it was noted that circulation space on the eastern side of the building was limited and the decision was taken to reduce the floor area of the building and the repositioned roller shutter door opening provides a more convenient ingress and egress to the building. The applicant also states that to construct a wall to the south of the building extension would significantly limit the

useable space within the yard to the detriment of the operational arrangements of the business.

105. Based on the advice of the County Landscape Officer and Malvern Hills District Council, it is considered that this application would not have an adverse or detrimental impact upon the character and appearance of the local area, subject to the imposition of appropriate extant conditions.

106. Based upon the advice of Worcestershire Regulatory Services and the Environment Agency, it is considered that this application would have no adverse noise, dust or odour impacts on residential amenity or that of human health, subject to the imposition of the relevant extant conditions, including a dust management plan and conditions requiring the installation of the proposed acoustic fencing, and high speed roller shutter door.

107. Taking into account the provisions of the Development Plan and in particular Policies WCS 1, WCS 2, WCS 3, WCS 6, WCS 8, WCS 9, WCS 10, WCS 11, WCS 12, WCS 14 and WCS 15 of the Adopted Worcestershire Waste Core Strategy and Policies SWDP 1, SWDP 2, SWDP 3, SWDP 4, SWDP 8, SWDP 12, SWDP 21, SWDP 22, SWDP 25, SWDP 28, SWDP 29, SWDP 30 and SWDP 31 of the Adopted South Worcestershire Development Plan, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

Recommendation

108. The Head of Strategic Infrastructure and Economy recommends that planning permission be granted for the carrying-out of development pursuant to planning permission reference number 14/000045/CM, without complying with condition 2 of that permission to amend the design of the building extension and omission of the proposed 2 metre high wall at Digaway and Clearaway Ltd, Grove House Yard, Tewkesbury Road, Upton-upon-Severn, Worcestershire, subject to the following conditions:

Approved Plans

- a) **The development hereby approved shall be carried out in accordance with the details shown on submitted drawings referenced: PL-01; A200, received by the County Planning Authority on 16 August 2019, A101, A102, A103, except where otherwise stipulated by conditions attached to this permission;**

Materials

- b) **The development hereby approved shall be carried out in accordance with 'Application for Approval of Details Reserved by Condition – 14/000045/CM' and Appendix B Materials: titled: 'Travis Perkins';**

Operating Hours

- c) **Operations shall only take place on the site between 07:30 to 18:00 hours Mondays to Fridays, 07:30 to 13:00 hours on Saturdays and not at all on Sundays or Public Holidays. No machinery or equipment shall operate on the site outside the hours;**

Construction Hours

- d) Construction works shall only be carried out on the site between the hours of 08:00 hours to 17:00 hours on Mondays to Fridays inclusive, and 08:00 hours to 13:00 hours on Saturdays, with no construction work on Sundays, Bank or Public Holidays;

Pollution

- e) All the waste transfer operations including sorting, loading/unloading of vehicles and storage of waste shall only take place within the approved building provided for the purpose;
- f) All doors to the building shall be kept closed except to allow entry and exit;
- g) All vehicles, plant and machinery operating within the site shall be maintained in accordance with the manufacturer's specifications at all times and this shall include the fitting and use of effective silencers;
- h) Any facilities for the storage of oils, fuels or chemicals shall be sited on impermeable bases and surrounded by impermeable walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks and vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have a secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund;

Throughput

- i) The operator shall ensure that the amount of wastes treated at the facility hereby approved does not exceed more than 5,000 tonnes per year. Records shall be kept for the inspection by the County Planning Authority on written request of the amount of throughput of materials for the durations of operations on the site;

Waste Acceptance

- j) The operator shall ensure that only non-hazardous construction and demolition wastes (described as soil, rubble, concrete, brick, timber, metal, glass, plastic and cardboard) are accepted at the site. Any other waste shall be quarantined and removed from the site forthwith to a suitably licensed treatment or disposal facility;

Crushing, Screening and Burning

- k) No crushing or screening of waste materials shall take place on the site;
- l) No materials shall be burnt on the site;

Storage

- m) Notwithstanding the submitted details, there shall be no outside storage of materials (including wastes and processed materials) goods or equipment except empty skips. Such skips shall only be stored in the storage area marked on drawing titled: 'Amended Site/Block Plan', received by the County Planning Authority on 5 March 2015 and shall not exceed 4 metres in height. A permanent

height marker shall be provided at the skip storage area to show 4 metres from ground level;

Highways

- n) No mud, dust, dirt, or debris shall be deposited on the public highway;
- o) No waste materials shall be accepted at the site directly from members of the public, and no retail sales of wastes or processed materials to members of the public shall take place at the site;

Drainage

- p) The development hereby approved shall be carried out in accordance with Planning Statement titled: 'Application for Approval of Details Reserved by Condition – 14/000045/CM', Appendix A: Drainage Details Drawing titled: 'Grove Farm Waste Transfer Station Surface Water Disposal', and document titled: 'Grove Farm Waste Transfer Station Extension, Surface Water Disposal', dated March 2018;

Ecology and Biodiversity

- q) 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;
- r) The site's northern, eastern and southern boundaries should be protected from any additional high-powered lighting. In these areas no new lighting should be installed other than may be unavoidably required for health, safety and security; in which case details of appropriate mitigation (timers/shielding or cowls) should be provided for the prior approval of the County Planning Authority;

Lighting

- s) The development hereby approved shall be carried out in accordance with the Planning Statement titled: 'Application for Approval of Details Reserved by Condition – 14/000045/CM', Appendix C Lighting, and Drawings Numbered: PL-4 and PL-05;

Dust Management

- t) Within 3 months of the date of this permission, a detailed scheme for the mitigation of dust shall be submitted to and approved in writing by the County Planning Authority. The approved scheme shall be implemented and complied with at all times for the duration of the development hereby permitted;

Planning Permission

- u) A copy of this decision notice, together with all approved plans and documents required under the conditions of this permission shall be maintained at the site office at all times throughout the period of the development and shall be made known to any person(s) given responsibility for management or control of waste activities /operations on the site;

Roller Shutter Door

- v) The new opening (access) in the extension building hereby approved, as shown between Points Z and Y on the 'East' Elevation on Drawing Number: A102, titled: 'Elevations' and Drawing Numbered: A101, titled: 'Floor Plan', shall be fitted within a high-speed roller shutter door within 3 months of the date of this permission; and

Acoustic Fencing

- w) **The 2 metre high close boarded acoustic fencing, as shown on drawing numbered: A200, received by the County Planning Authority on 16 August 2019, titled: Site Plan, and document titled: JAKOUSTIC – Jacksons Fencing shall be installed within 3 months of the date of this permission and shall be maintained for the duration of the development hereby approved.**

Contact Points

County Council Contact Points

County Council: 01905 763763

Worcestershire Hub: 01905 765765

Specific Contact Points for this report

Case Officer: Steven Aldridge, Team Manager – Development Management

Tel: 01905 843510

Email: saldridge@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Strategic Infrastructure and Economy) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference: 19/000016/CM.