

**PLANNING AND REGULATORY COMMITTEE
6 JULY 2021**

PLANNING APPLICATION MADE UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO VARY CONDITION 1 (APPROVED PLANS), REMOVE CONDITION 6 (REQUIRING ALL DOORS TO THE BUILDING TO REMAIN CLOSED), REMOVE CONDITION 22 (REQUIREMENT FOR INSTALLATION OF ROLLER SHUTTER DOOR) AND TO VARY CONDITION 23 (REQUIREMENT TO INSTALL ACOUSTIC FENCING) OF PLANNING PERMISSION REF: 19/000016/CM, SO AS TO REMOVE THE REQUIREMENT TO INSTALL A ROLLER SHUTTER DOOR AND REDUCE THE EXTENT OF THE ACOUSTIC FENCING TO BE INSTALLED AT DIGAWAY AND CLEARAWAY LTD, GROVE HOUSE YARD, TEWKESBURY ROAD, UPTON-UPON-SEVERN, WORCESTERSHIRE

Applicant

Digaway and Clearaway Ltd

Local Member

Cllr Martin Allen

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 1 (approved plans), remove condition 6 (requiring all doors to the building to remain closed), remove condition 22 (requirement for installation of roller shutter door) and to vary condition 23 (requirement to install acoustic fencing) of planning permission ref: 19/000016/CM, so as to remove the requirement to install a roller shutter door and reduce the extent of the acoustic fencing to be installed 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 Clearaway 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 related 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, the Committee refused 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 that 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).

9. In October 2019, the Planning and Regulatory Committee granted planning permission (County Planning Authority Ref: 19/000016/CM, Minute No. 1031 refers) for the planning application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 2 (approved drawings list) of planning permission 14/000045/CM. The amendments included changes to the design of the Waste Transfer Station building extension (the south-east corner of the building to be reduced in size by approximately 18 square metres and relocation of the roller shutter door) and the removal of a proposed 2 metre visual screen wall. The application also proposed a close boarded acoustic fence, measuring approximately 2 metres high, to be installed to the south and west of the extension building.

10. The applicant stated that these changes were required due to circulation space on the eastern side of the building being limited whilst the reduction in the floor area of the building and the repositioning of roller shutter door opening would provide a more convenient ingress and egress to the building. The applicant stated 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.

11. In March 2020, a planning application (County Planning Authority Ref: 20/000011/CM) was made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 1 (approved plans), remove condition 6 which required all doors to the building to remain closed and remove condition 22 which required the installation of roller shutter door of planning permission 19/000016/CM, and sought to vary the condition so as to remove the requirement to install a roller shutter door. The application was subsequently withdrawn on the 7 February 2021.

The Proposal

12. The purpose of the current application is to regularise the development in the absence of a high-speed roller shutter door. The applicant states that they originally intended to source and install a roller shutter door as required. However, due to the size of the opening, it was not possible.

13. The current application also seeks to reduce the extent of the acoustic fencing so that it would be located along the southern boundary only. The applicant states that due to an existing concrete block wall which measures approximately 2 metres in height, and currently forms the western boundary there would be limited acoustic

benefit achieved by installing an additional acoustic fence along the western boundary as well.

14. As such this application seeks to vary the following extant conditions of planning permission 19/000016/CM:

- Vary condition 1 - approved plans;
- Remove condition 6 - requiring all doors to the building to remain closed;
- Remove condition 22 - requirement for the installation of a roller shutter door; and
- Vary condition 23 – requirement for the installation of acoustic fencing.

15. Extant condition 1 states:

"The development hereby approved shall be carried out in accordance with the details shown on the submitted drawings reference PL01; A200, received by the County Planning Authority on 16th August 2019, A101, A102, A103, except where otherwise stipulated by conditions attached to this permission".

16. The applicant is seeking to amend a plan, the amended condition would read:

"The development hereby approved shall be carried out in accordance with the details shown on the submitted drawings reference PL01; A200 A Rev A, , A101 Rev A, A102, A103, except where otherwise stipulated by conditions attached to this permission".

17. Extant condition 6 states:

"All doors to the building shall be kept closed except to allow entry and exit"

18. The application is seeking the removal of condition 6.

19. Extant condition 22 states:

"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 with a high-speed roller shutter door within 3 months of the date of this permission".

20. The application is seeking the removal of condition 22.

21. The applicant has commissioned a Noise Impact Report and a Dust Management Plan to demonstrate that the absence of the roller shutter door would have no unacceptable detrimental impact on any neighbouring properties or the amenity of the surrounding area and, therefore, is not necessary.

22. Extant condition 23 states:

"The 2 metre high close boarded acoustic fencing as shown on drawing numbered A200, received by the County Planning Authority on 16th August 2019, 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”.

23. The applicant is seeking to amend this condition, so that it would read:

The 2 metre high close boarded acoustic fencing, as shown on drawing numbered: A200 A Rev A titled: Site Plan, and document titled: JAKOUSTIC – Jacksons Fencing shall be maintained for the duration of the development hereby approved.

The Site

24. 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.

25. 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.

26. The application site is located approximately 300 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.

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

28. 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 drivers 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

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

- Landscape Character and Visual Impacts
- Residential Amenity, and
- Ecology and Biodiversity

Planning Policy

National Planning Policy Framework (NPPF)

30. 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 (2019) was updated to include a correction slip to remove paragraph 209a relating to on-shore oil and gas development.

31. On 30 January 2021 the government published a consultation on draft revisions to the NPPF and a new draft National Model Design Code. The NPPF has been revised to implement policy changes in response to the Building Better Building Beautiful Commission 'Living with Beauty' report. The draft National Model Design Code provides detailed guidance on the production of design codes, guides and policies to promote successful design. The government expect the National Model Design Code to be used to inform the production of local design guides, codes and policies. The consultation on these documents closed on 27 March 2021. In light of the fact that the Government are currently analysing the consultation feedback and a revised NPPF or new National Model Design Code has not been published, the Head of Planning and Transport Planning consider that very little weight should be afforded to these consultation versions of the documents in the determination of this planning application.

32. The NPPF (2019) sets out the government's planning policies for England and how these are expected to be applied. The NPPF (2019) is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes)

33. The NPPF (2019) should be read in conjunction with the Government's planning policy for waste (National Planning Policy for Waste). Annex 1 of the NPPF (2019) 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"*.

34. The NPPF (2019) 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.

35. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF (2019); 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.

36. So that sustainable development is pursued in a positive way, at the heart of the NPPF (2019) 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 (2019) 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.

37. 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.

38. The following guidance contained in the NPPF (2019), 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

39. 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)

40. 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

41. 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.

42. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF (2019) is a material consideration in planning decisions.

43. With regard to the weight to be given to existing policies adopted prior to the publication of the revised NPPF (2019), 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

44. 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

Draft Planning Policy

Emerging South Worcestershire Development Plan Review (SWDPR)

45. Worcester City Council, Wychavon District Council and Malvern Hills District Council are reviewing the SWDP. The SWDPR will cover the period to 2041. The 'Preferred Options' consultation version of the SWDPR was consulted on from 4 November to 16 December 2019.

46. Worcester City Council, Wychavon District Council and Malvern Hills District Council are reviewing the SWDP. The SWDPR will cover the period to 2041. The 'Preferred Options' consultation version of the SWDPR was consulted on from 4 November to 16 December 2019. An Additional Preferred Options (Focused on Sustainability Appraisal) Consultation (Regulation 18), was consulted upon from 1 March to 19 April 2021. The next step is to produce a Publication Consultation (Regulation 19), which is programmed for October – November 2021. The SWDPR would then be submitted to the Secretary of State for Housing, Community and Local Government in March 2022 for independent examination. The Secretary of State would then appoint an independent Planning Inspector to assess the 'soundness' and legal compliance of the plan with hearings anticipated to be between May 2022 – January 2023. Once the plan is adopted which is anticipated for April 2023 it would replace the existing policies in the SWDP. Having regard to the advice in the NPPF (2019), Section 4, as the SWDPR is still at an early stage of preparation, only limited weight should be applied to the policies.

47. The SWDPR policies that, for the avoidance of doubt, are of relevance to the proposal are set out below:

Policy SWDPR: 1 Employment, Housing and Retail Requirements

Policy SWDPR 2: The Spatial Development Strategy and Associated Settlement Hierarchy
Policy SWDPR 3: Strategic Transport Links
Policy SWDPR 4: Green Infrastructure
Policy SWDPR 7: Health and Wellbeing
Policy SWDPR 8: Providing the Right Land and Buildings for Jobs
Policy SWDPR 11: Employment in Rural Areas
Policy SWDPR 25: Design
Policy SWDPR 26: Biodiversity and Geodiversity
Policy SWDPR 29: Landscape Character
Policy SWDPR 32: Management of Flood Risk
Policy SWDPR 33: Sustainable Drainage Systems
Policy SWDPR 34: Water Resources, Efficiency and Treatment
Policy SWDPR 35: Amenity
Policy SWDPR 37: Land Stability and Contaminated Land

Other Documents

Waste Management Plan for England (2021)

48. 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. The Government, through Defra, published the latest Waste Management Plan for England in January 2021. The Waste Management Plan for England is required to fulfil the requirements of the Waste (England and Wales) Regulations 2011 and together with its associated documents, local authorities' waste local plans and, combined with the equivalent plans produced by the devolved administrations in Scotland, Wales and Northern Ireland, and Gibraltar, it ensures that waste management plans are in place for the whole of the UK and Gibraltar. It supersedes the previous Waste Management Plan for England (2013).

49. While the Our Waste, Our Resources: A Strategy for England (2018) sets out a vision and a number of policies to move to a more circular economy, such as waste prevention through policies to support reuse, repair and remanufacture activities, the Waste Management Plan for England focuses on waste arisings and their management. It is a high-level, non-site specific document. It provides an analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of the Waste (England and Wales) Regulations 2011. It will be supplemented by a Waste Prevention Programme for England, which will set out the Government's plans for preventing products and materials from becoming waste, including by greater reuse, repair and remanufacture supported by action to ensure better design to enable this to be done more easily.

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

50. 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.

51. 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.

52. 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.

53. 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.

The Government Review of Waste Policy England 2011

54. 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

55. **Local County Councillor Martin Allen** objects to the variation of the planning arrangements to replace the roller door with an acoustic fence and notes that the original application was to install a roller shutter door that was designed to keep noise, dust, and light pollution to a minimum in order not to disturb the residents at the

Grove, who live in flats only a few metres away. Councillor Allen would like the officers to produce photos for the Committee that shows how close the flats are. This would allow Committee Members to have a visual idea of how bad the dust will be if the original approved application is now ignored. Also, he notes that in the original application all external doors to the building were to remain closed.

56. In paragraph 14 of the Greenaway Supporting Statement the applicant had originally intended to source and install a roller shutter door, which they now claim is not possible to source. Clearly, they would not have proposed installing a door in the first place if they did not perceive a noise and dust issue and had, of course, checked to ensure they could source said door. Why would you put in an application knowing that you cannot purchase the item required to fulfil the planning conditions? This is clearly an attempt to undermine a previous Planning Committee's judgement.

57. In Councillor Allen's capacity as owner of an Intruder and Fire Alarm Company, over the last 26 years he has been to many factories that have these high-speed doors. He notes that they come in all sizes and that it would appear that cost seems to be the factor here and no demonstration has been made to clearly prove that a door cannot be purchased.

58. Councillor Allen asks Committee Members to note the previous County Councillor for Croome's objections and also Earls Croome Parish Council's disapproval. He notes that WRS are stating that there is not an issue, but how can they tell this until an acoustic fence is installed and the door left open? No data has been provided to support their stance.

59. Councillor Alen recommends that the Committee's original prior conditions are kept and refuse this application.

60. **Earls Croome Parish Council** objects to the proposed removal/variation of conditions. The Parish Council state that they are appalled at this application to remove the requirement for all doors to be closed except when vehicles are moving in and out of the building and to remove the need to install roller shutter doors.

61. The Parish Council also state that when the design of this building was altered and the entrance placed across the corner of the building immediately adjacent to residential flats, it necessitated the need for a roller shutter door and the need for it to be kept closed except when vehicles were moving in and out of the building was put in place to give the flats facing this door, only a few yards away, protection from noise, dust and pollution coming from this type of operation of sorting dry waste material. Unless these two requirements are kept in place neither the residents living in these flats or the wider area would have any protection at all from noise and pollution. The Parish Council strongly disapprove of this application and request that it be refused.

62. **Ripple Parish Council (Neighbouring Parish Council)** expect that consideration and approval of the planning application would be dependent on assurances that following analysis of the submitted Noise and Dust Reports the County Planning Authority are satisfied that there would be no adverse unacceptable effects to local residential properties including those within the Ryall Grove district of Ripple Parish.

63. **Malvern Hills District Council** notes from the supporting information that the previous planning permissions 14/000045/CM and 19/000016/CM were lawfully implemented, and that the relevant pre-commencement conditions have been discharged. However, it is understood that neither the required high-speed roller shutter doors or the acoustic fencing were installed.

64. The District Council state that the current proposals have the potential to unacceptably impact on the amenities enjoyed by the occupiers of nearby residential properties by reason on noise disturbance and dust pollution. The original conditions, requiring the installation and use of the roller shutter door, were imposed to protect residents from unacceptable impacts. The District Council note that a Noise Impact Report and Dust Management Plan have been submitted, with the current application, in an attempt to demonstrate that the original mitigation measures are now not necessary. Furthermore, the submitted planning statement suggests that the relevant conditions no longer meets the relevant tests for conditions.

65. The revised noise assessment dated 9 March 2020 predicts the noise from activities within the building and suggest that the roller shutter doors are therefore not required meaning conditions 6 and 22 would no longer be necessary. In terms of condition 23, the noise assessment recommends that, in order to minimise the noise impact at receptor R1 (residential properties located adjacent to the southern boundary of the application site), installation of a 2 metre high barrier along the southern boundary is carried out.

66. They note that Worcestershire Regulatory Services have commented on the proposals and raise no objection to the removal of condition 6 or the variation of condition 23 and make no reference to condition 22. Given the acceptance that condition 6 could be removed it follows that condition 22 would also be unnecessary.

67. The District Council also note that Worcestershire Regulatory Services have not commented with regard to dust impact or the information contained within the submitted dust management plan and suggest that this advice is sought prior to the determination of the application.

68. They advise that the County Planning Authority must be satisfied that the proposed development would not result in unacceptable noise and disturbance or dust dispersal to residential properties and that this can be adequately mitigated in accordance with Policy SWDP 31 (Pollution and Land Stability) of the South Worcestershire Development Plan.

69. With regard to the acoustic barrier now proposed, in accordance with (Section 9 and Appendix 2) the noise assessment, the introduction of a (minimum) 2 metre high acoustic fence has the potential to have a visual impact on the surrounding area as well as impact upon the residential amenity space associated with receptor R1. The County Council should carefully consider that impact of the proposals in accordance with Policies SWDP 21 and 25 of the South Worcestershire Development Plan.

70. They strongly recommend that prior to any determination Worcestershire Regulatory Services are engaged to ensure that the submitted Noise Impact Report and Dust Management Plan and the contents of the application, as a whole, are carefully scrutinised from a technical perspective in order to ensure the development

would not have unacceptable consequences for local residents and the amenities they enjoy.

71. In addition, the District Council also point out that it would be necessary that if planning permission is granted, the County Planning Authority re-impose any relevant conditions from the previous applications (14/000045/CM and 19/000016/CM), as well as considering whether the imposition of any additional conditions are necessary to make the development acceptable in planning terms.

72. **The Environment Agency (EA)** have no objections in principle to the proposed amendments but make comments in relation to the EA's regulation of the site under the Environmental Permitting Regulations. The EA state that the Standard Rules 2008 No.3 Environmental Permit at Grove House Yard held by Digaway & Clearaway is for a transfer and treatment station. It allows the treatment including sorting separation, screening, baling shredding, crushing and compaction of certain non-hazardous waste. Under the Permit all waste other than that which is specifically specified (mainly inert waste) should be treated and stored inside the transfer station building. The Permit specifically states that emissions of substances not controlled by emission limits shall not cause pollution (condition 3.1.1 of the Permit).

73. Any changes to the current Planning Permission which may increase the potential of pollution or amenity incidences at the site, should fully consider the current Permit conditions. The EA go onto state that the proposal to amend/remove certain planning conditions does not change the activities allowed under the Permit. The EA have had previous reports of the impacts of emissions from the site, but these have not been substantiated and no action was necessary. To date, the EA has not considered it necessary to request the operator to comply with condition 3.1.2 (relating to the operator producing an emissions management plan if requested by the EA). However, this could be utilised if the operator breached condition 3.1.1 of the Permit.

74. Following the submission of the amended Dust Management Plan, the EA confirmed that they had no further comments to add to the above and reiterated that the Environmental Permit would control dust emissions.

75. **Worcestershire Regulatory Services (WRS) (Noise and Dust)** have no objections to the removal of condition 6 and note that the revised noise assessment appears satisfactory and predicts that noise from activities within the building in question should not adversely impact the nearest noise sensitive receptors without the previously proposed roller shutter door in place and closed. In terms of condition 23, they note that in order to minimise the noise impact at receptor R1 (residential properties located adjacent to the southern boundary of the application site), the noise assessment recommends the installation of a 2 metre high barrier along the southern boundary. They recommend that a barrier should be installed in line with Section 9 and Appendix 2 of the noise assessment.

76. Worcestershire Regulatory Services also confirm that the submitted Dust Management Plan appears comprehensive and acceptable. Additionally, they have reviewed their nuisance database and can find no current or historic complaints relating to dust nuisance / emissions from the site. Therefore, they have no objection to the application in terms of dust nuisance.

77. **South Worcestershire Land Drainage Partnership** have no objections to the proposal.
78. **The Lead Local Flood Authority** have no objections to the application.
79. **Severn Trent Water Limited** have no objections to the application.
80. **The County Highways Officer** has no objections to the application.
81. **The Campaign to Protect Rural England (CPRE)** do not wish to comment.
82. **The County Landscape Officer** has no objections to the application on landscape grounds and considers that the proposal would not impose additional harm to the surrounding landscape character or visual amenity of the setting.
83. **Worcestershire Wildlife Trust** have no objections to the proposal and note the contents of documents submitted with the planning application. The Wildlife Trust note that the site falls close to the Smithmoor Common Local Wildlife Site (LWS) and consider that the proposed condition changes would not have an adverse effect on the LWS or other associated ecological features. They also confirmed that they wish to defer to the County Council's Ecologists for all on-site biodiversity considerations.
84. **The County Ecologist** have no objections to the proposal and is satisfied with the ecological information submitted as part of the current planning application, they have no further comments to make on the scheme.
85. **West Mercia Police** have no objections to the proposal.
86. **Hereford and Worcester Fire and Rescue** have made no comments.
87. **Zayo Group (Line Search Before U Dig online comments)** confirm that their apparatus is located in the vicinity of the application site (within the public highway).
88. **Western Power Distribution (Line Search Before U Dig online comments)** confirm that their apparatus is located within the application site (an underground low voltage line), which crosses the site access; and an overhead 11kV electricity line is located to the north-east of the application site. They comment that the use of mechanical excavators in the vicinity of their apparatus should be kept to a minimum. Any excavations in the vicinity of their apparatus should be carried out in accordance with the document titled: 'Health & Safety Executive Guidance HS(G)47, Avoiding Danger from Underground Services'. The applicant should contact Western Power Distribution should any diversions be required.

Other Representations

89. The application has been advertised on site, in the press and by neighbour notification. To date, four letters of representation objecting to the application have been received, one of which is from Grove Residents Reclaiming Altogether a Tranquil Environment (GRRATE). Letters of representation have been made available to Members of the Planning and Regulatory Committee upon request. Their main comments are summarised below:

90. GRAATE object to the latest planning application. They consider that the situation concerning dust emanating from the unit and the yard and settling on their properties has not abated and that large heaps of soil, gravel, wood and plaster are a constant eyesore. The unit doors are not closed or installed. Noncompliance issues have not been addressed by the Worcestershire County Council Enforcement Officer, even prior to covid-19 restrictions being put in place. Numerous letters and telephone calls have been had with the Enforcement Officer. They consider that the Planning and Regulatory Committee should take into consideration residents' concerns and refuse the application. Doors deemed necessary as per the previous planning application, should still be installed and operational as previously sanctioned during working hours. They ask that planning submissions and residents comments are referred to, as they crop up on a regular basis.

91. They state that none closure of doors and the absence of the acoustic fencing would reduce protection from noise, dust and light pollution.

92. The applicant has not fulfilled the longstanding obligation to provide evergreen screening to the trees to absorb noise, dust and unsightly visual impact.

93. The company operates long hours and generates lots of machinery noise and airborne pollution. They are concerned about other industrial and residential development in the local adjacent area and consider that it makes good sense to refuse the application and protect the wellbeing of workers living at Grove Yard and the residents of Ryall Grove.

94. They note that in the Supporting Statement the applicant had originally intended to source and install a roller shutter door as required. However, due to the size of the opening, it was not possible. Questions whether this means that there are no manufacturers of high-speed roller doors and notes that there are many such manufacturers in the UK.

95. They note that the Planning and Regulatory Committee previously imposed a condition which should be adhered too and that the proposals have not been demonstrated as being a better solution to the roller shutter doors just as an alternative solution which may not be an improvement.

The Head of Planning and Transport Planning's Comments

96. 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.

97. The current application is proposing to remove the requirement to install the roller shutter door. The applicant states that they intended to source and install a roller shutter door as required, however, due to the size of the opening, it was not possible. Whilst the County Planning Authority are not wholly convinced that it would not be possible to source and install a roller shutter door for the opening, this application will be considered on its own merits.

98. The application also seeks to vary extant condition 23 by reducing the extent of the acoustic fence to form the southern boundary only. The applicant states that due to an existing concrete block wall which measures approximately 2 metres in height, and currently forms the western boundary there would be limited acoustic benefit achieved by installing an additional acoustic fence along the western boundary as well.

99. The applicant further states that the addition of the western acoustic fencing previously conditioned as part of County Planning Authority Ref: 19/000016/CM, was a drafting error on the submitted plan.

Landscape Character and Visual Impacts

100. 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"*.

101. The 2019 variation of conditions application (County Planning Authority Ref: 19/000016/CM) which sought the removal of a 2 metre-high screen wall on the southern boundary of the site, introduced a condition for the applicant to install an acoustic closed boarded fence measuring approximately 2 metres in height to be located immediately in front of the palisade fence to the south and west of the Waste Transfer Station building extension. The Committee report for that application stated 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"*. It concluded that *"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"*.

102. The current application seeks to remove the requirement to install a roller shutter door to the existing building and to vary condition 23 to reduce the extent of acoustic fencing to be installed on site.

103. The provision of the 2 metre high acoustic fencing to the southern boundary would screen views between the operational development and the nearest residential receptors, being the live/work units located approximately 25 metres from the proposal. Screening along the western boundary would be provided by an existing 2 metre high concrete block wall. The proposed omission of the acoustic fencing along the western boundary would not unduly impact on landscape character or visual amenity beyond that which already exists.

104. The County Landscape Officer has been consulted and has raised no objection to this application and notes that the proposed variation of conditions would not impose additional harm to the surrounding landscape character or visual amenity of the setting. Malvern Hills District Council have also raised no objections in relation to landscape or visual impacts.

105. In view of the above, the Head of Planning and Transport is satisfied, in line with the previous permission, 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 regarding materials, external storage of materials, lighting scheme, and maintenance of the existing acoustic fencing

Residential Amenity

106. 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"*.

107. The Committee report for the 2019 variation of conditions application (County Planning Authority Ref: 19/000016/CM) reiterated that *"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"*.

108. The current application is proposing to remove the requirement to install the roller shutter door. The application is accompanied by a Noise Impact Report which assesses the potential impact from the proposed site without a roller shutter. It states that *"a roller shutter door would add no improvement to the overall Acoustic Level' at the nearest sensitive receptor. The roller shutter itself would add noise in use, with no net acoustic advantage"*.

109. The report recommends the installation of an acoustic barrier at X-Y (along the southern boundary of the site) to a minimum height of 2 metres. It concludes that *"the barrier would bring the Rating level at R1 (residential properties located adjacent to the southern boundary of the application site) down to 50 dB to match the background noise level minimising the impact of the Unit"*. The report identifies that the residential properties located adjacent to the southern boundary of the application site do not have gardens or balconies to the front the properties and that the Waste Transfer Station building is lined with concrete slabs, which act as an excellent noise barrier.

110. In relation to the residential property located adjacent to the western boundary of the site, the Noise Impact Report states that *"the context here is that the specific noise alone is imperceptible against the measured background levels...therefore a roller shutter door would add no improvement to the overall acoustic level"* at this receptor.

111. In terms of noise impacts, Worcestershire Regulatory Services state that the revised noise assessment appears satisfactory and predicts that noise activities within the building should not adversely impact the nearest noise sensitive receptors without the previously proposed roller shutter door in place and closed and, therefore, have no objection to the removal of condition 6.

112. With regard to the variation of condition 23, Worcestershire Regulatory Services state that in order to minimise the noise impact at the nearest noise receptor, the revised noise assessment recommends the installation of a 2 meter high acoustic fence along the southern boundary in accordance with Section 9 Appendix 2 of the noise assessment.

113. A Dust Management Plan has been submitted with this application, which identifies a number of mitigation measures to minimise dust emissions, including managing dust generation attributable to vehicle movements through the maintenance and sweeping of the site access and internal roads, limiting speed limits and hosing down vehicles, and the use of a road sweeper.

114. Worcestershire Regulatory Services have been consulted on this application and have raised no objection to this proposal. In terms of dust they state that the Dust Management Plan appears suitable to control dust emissions from site and minimise the potential for nuisance, therefore they have no objections or adverse comments to make in relation to the plan.

115. The primary environmental controls over the proposed operation would be contained within the EA'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"*.

116. 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"*.

117. The EA have been consulted on this application and have no objection in principle to the proposed amendments. The EA confirmed that the site has an existing Environmental Permit for a transfer and treatment station. It allows the treatment including sorting separation, screening, baling shredding, crushing and compaction of certain non-hazardous waste. Under the Permit all waste other than that which is specifically referenced (mainly inert waste) should be treated and stored inside the transfer station building. The Permit specifically states that emissions of substances not controlled by emission limits shall not cause a pollution.

118. Any changes to the current planning permission which may increase the potential of pollution or amenity incidences at the site, should fully consider the current permit conditions. The proposal to amend/remove certain planning conditions does not change the activities allowed under the Permit. The EA have had previous reports of the impacts of emissions from the site, but these have not been substantiated and no action was necessary. To date, the EA have not considered it

necessary to request the operator to comply with condition 3.1.2 of the Permit (relating to the operator producing an emissions management plan if requested by the EA).

119. It is noted that the extant condition 3 requires that 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 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 11 and 12 restrict the crushing, screening and burning of waste materials on site. The applicant is not proposing to amend these conditions. In view of this, it is recommended that the above conditions are re-imposed on any new planning permission. It is also noted that extant condition 20 required a Dust Management Plan, which has now been submitted with the current application and has been described earlier in this section. A new condition is recommended to be imposed requiring the development to be carried out in accordance with the mitigation measures outlined in the Dust Management Plan.

120. Malvern Hills District Council have been consulted and strongly recommend that prior to any determination Worcestershire Regulatory Services are engaged to ensure that the submitted Noise Impact Report and Dust Management Plan and the contents of the application, as a whole, are carefully scrutinised from a technical perspective in order to ensure the development would not have unacceptable consequences for local residents and the amenities they enjoy.

121. The District Council are concerned that the current proposals would remove important safeguards originally put in place to protect the occupiers of residential properties and that the County Planning Authority must be satisfied that the proposed development would not result in unacceptable dust pollution, noise and disturbance.

122. Earls Croome Parish Council objects to the proposal stating that when the design of this building was altered and the entrance placed across the corner of the building the need for a roller shutter door, and the need for it to be kept closed except when vehicles were moving in and out of the building was put in place to give the flats facing this door protection from noise, dust and pollution. Unless these two requirements are kept in place neither the residents living in these flats or the wider area would have any protection at all from noise and pollution.

123. Local Councillor Allen objects to the proposal on the grounds of noise and dust impacts and notes that WRS are stating that there is not an issue, but questions how can they tell this until an acoustic fence is installed and the door left open? The Head of Planning and Transport Planning notes that the acoustic fence has now been installed on the southern boundary and the site has been operating without the benefit of roller shutter doors for some time. All assessments of the site by the applicant in terms of noise and dust (and which WRS would have based their comments upon) have been undertaken without the benefit of a roller shutter door installed on the Waste Transfer Station building, which this application now seeks to regularise.

124. Letters of representation received from local residents object to the proposals on the grounds of dust, visual and residential amenity, and noise.

125. A letter of representation has also been received from GRRAATE, a local residents' action group objecting to this proposal on a number of grounds including adverse dust impacts. Their main comments are summarised within the 'Other Representations' section of this Report. GRRAATE also state that notification of noncompliance with planning conditions has been reported to the Worcestershire County Council Enforcement Officer, Malvern Hills District Council Enforcement Officer and the Environment Agency on several occasions. Photographic proof has in the past been sent to the Environment Agency. These agencies and departments are all involved in monitoring this site, but no positive action has been taken to resolve residents' concerns, over a period of years.

126. The Head of Planning and Transport Planning notes that this matter was raised by GRRAATE in the consideration and determination of planning application 19/000016/CM. In response the County Council's Planning Monitoring and Enforcement Officer visited the site in mid-June 2019, a multi-agency meeting took place at the end of July 2019 with invitees including the Environment Agency, Worcestershire Regulatory Services and Malvern Hills District Council, and a joint site visit took place in early October 2019. At the time the impacts of dust emissions from site could not be substantiated.

127. It also noted that this matter was considered in 2019 report to Committee (County Planning Authority Ref: 19/000016/CM), which noted that the EA 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 (associated with District Council Ref: 18/00087/FUL). 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...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"*. The Environment Agency in commenting on this application have reconfirmed that they have had previous reports of the impacts of emissions from the site, but these have not been substantiated and no action was necessary.

128. As stated above, the applicant has submitted a Dust Management Plan, which concludes that the generation of dust from the site can be prevented with mitigation and control measures, including managing dust generation attributable to vehicle movements through the maintenance and sweeping of the site access and internal roads, limiting speed limits and hosing down deposits of mud from the vehicles. The EA and Worcestershire Regulatory Services have both raised no objections to the submitted Dust Management Plan or the current proposal.

129. This application also seeks to amend the requirement of condition 23 of the extant permission which states that the 2 metre high close boarded acoustic fencing, as shown on drawing numbered: A200, received by the County Planning Authority on the 16 August 2019, titled: Site Plan, and document titled' JAKOUSTICE – Jacksons Fencing, shall be installed within 3 months of the date of this planning permission and shall be maintained for the duration of the development hereby approved.

130. Worcestershire Regulatory Services have been consulted and have no objection to the reduced extent of acoustic fencing provision at the site and recommend that in order to minimise the potential for noise impact at receptor R1(the row of residential worker units) the installation of a 2 metre high barrier along the southern boundary should be installed in line with Section 9 and Appendix 2 of the submitted Noise Impact Assessment. The applicant states that there is an existing concrete block wall approximately 2 metres in height that currently forms the western boundary and that therefore there would be no acoustic benefit by installing the acoustic fence along the western boundary. In assessing the acoustic performance of the proposed fence, Worcestershire Regulatory Services previously confirmed in the 2019 report to Committee (County Planning Authority Re:19/000016/CM), *“that as the acoustic fence would have a surface density greater than 15kgg/m2 (it would be 25kg/m2) it would acoustically perform marginally better than a wall”*. It is therefore considered that any potential noise impacts on residential amenity would be mitigated by the provision of a 2-metre high acoustic fence, which the applicant has now installed, along the southern boundary only. A condition is recommended requiring this fence to be maintained for the duration of the development.

131. In view of the above matters, based upon the advice of Worcestershire Regulatory Services and the Environment Agency, the Head of Planning and Transport Planning 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 and revised conditions including compliance with the submitted Dust Management Plan and the maintenance of the installed acoustic fencing.

Ecology and Biodiversity

132. The original report to Committee (County Planning Authority Ref: 14/000045/CM) 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"*. This conclusion was then re-confirmed by the 2019 report (County Planning Authority Ref: 19/000016/CM).

133. The application site is located approximately 300 metres west of the Smithmoor Common and Meadows 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.

134. The submitted Dust Management Plan has identified a number of sensitive receptors in proximity to the site, including the Smithmoor Common and Meadows LWS. The Dust Management Plan states that this LWS is considered an exceptionally high sensitive habitat and is positioned across open fields from the doorway of the

Waste Transfer Station. The Management Plan reviewed a full 12 months of wind directional data and concludes that *"the findings therefore demonstrate that the percentage of annual wind directed to the LWS equates to 14% of the annual total...It can therefore be considered a low risk operation in relation to contamination blowing from the shed to the LWS"*.

135. Worcestershire Wildlife Trust have been consulted due to the proximity to LWSs, and have raised no objections to the proposal, deferring to the County Ecologist for all on site detailed consideration. The County Ecologist also has no objections to the proposal.

136. In view of this, the Head of Planning and Transport Planning 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 relevant extant conditions and a revised condition requiring compliance with the submitted Dust Management Plan.

Other Matters

Water Environment and Flood Risk

137. 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"*. This conclusion was then re-confirmed by the 2019 report (County Planning Authority Ref: 19/000016/CM). The Lead Local Flood Authority, South Worcestershire Land Drainage Partnership and Severn Trent Water Limited have all raised no objections to this 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

138. 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 conclusion was then re-confirmed by the 2019 report (County Planning Authority Ref: 19/000016/CM). 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 14 requires no mud, dust, dirt or debris to be deposited on the public highway, and extant condition 15 does not allow waste materials to be accepted at the site directly from members of the public.

139. The County Highways Officer has been consulted and has raised no objections to this application. In view of the above, the Head of Planning and Transport Planning 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 and a revised condition requiring compliance with the submitted Dust Management Plan.

Conclusion

140. The purpose of the application is to regularise the development in the absence of a high-speed roller shutter door and the reduced extent of acoustic fencing. The applicant states that they originally intended to source and install a roller shutter door as required, however, due to the size of the opening, this was not possible. With regard to the reduced extent of acoustic fencing the applicant considers that the existing concrete block wall located on the western perimeter of the site is sufficient. As such this application seeks to vary condition 1 (approved plans), remove condition 6 (requiring all doors to the building to remain closed) and 22 (requirement for installation of roller shutter door) and vary condition 23 (requirement to install acoustic fencing) of planning permission 19/000016/CM, dated 22 October 2019.

141. Based upon the advice of Worcestershire Regulatory Services and the Environment Agency, the Head of Planning and Transport Planning 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 and revised conditions including compliance with the submitted Dust Management Plan and the maintenance of the installed acoustic fencing.

142. Based on the advice of the County Landscape Officer, 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.

143. Based on the advice of the County Ecologist and Worcestershire Wildlife Trust, it is considered 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 relevant extant conditions and a revised condition requiring compliance with the submitted Dust Management Plan.

144. 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

145. The Head of Planning and Transport Planning recommends that planning permission be granted for the carrying-out of development pursuant to planning permission reference number 19/000016/CM, without complying with condition 1 (approved plans), condition 6 (requiring all doors to the building to remain closed), condition 22 (requirement for installation of roller shutter door) and condition 23 (requirement to install acoustic fencing) of that permission, so as to remove the requirement to install a roller shutter door and to reduce the extent of the acoustic fencing to be installed, at Digaway and Clearaway

Ltd, Grove House Yard, Tewkesbury Road, Upton-upon-Severn, Worcestershire, subject to the following conditions:

Approved Plans

- 1) The development hereby approved shall be carried out in accordance with the details shown on the submitted drawings reference PL01; A200 A Rev A, A101 Rev A, A102, A103, except where otherwise stipulated by conditions attached to this permission;

Materials

- 2) 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

- 3) 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, Bank or Public Holidays. No machinery or equipment shall operate on the site outside the hours;

Construction Hours

- 4) 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

- 5) 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;
- 6) 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;
- 7) 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

- 8) 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

- 9) 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

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

Storage

- 12) 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

- 13) No mud, dust, dirt, or debris shall be deposited on the public highway;
- 14) 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

- 15) 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

- 16) 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;
- 17) 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

- 18) 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

- 19) **The development shall be carried out in accordance with the approved Dust Management Plan, dated 22 October 2020. The approved scheme shall be implemented for the duration of the development hereby approved;**

Planning Permission

- 20) **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; and**

Acoustic Fencing

- 21) **The 2 metre high close boarded acoustic fencing, as shown on drawing numbered: A200 A Rev A titled: Site Plan, and document titled: JAKOUSTIC – Jacksons Fencing shall be maintained for the duration of the development hereby approved.**

Contact Points

Specific Contact Points for this report

Case Officer: Joanne O'Brien, Senior Planning Officer

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Steven Aldridge, Team Manager – Development Management

Tel: 01905 843510

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Background Papers

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

The application, plans and consultation replies in file reference 21/000002/CM, which can be viewed online at: <http://www.worcestershire.gov.uk/eplanning> by entering the full application reference. When searching by application reference, the full application reference number, including the suffix need to be entered into the search field. Copies of letters of representation are available on request from the Case Officer.