

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

6. **20/2774/RSP – Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD (DCES)**

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 18.06.2021

Case Officer: Matthew Roberts

EOT: to be confirmed

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: Called in by three Members of the Planning Committee given distress the unauthorised use has caused to local residents.

1 **Relevant history at application site and wider site:**

- 1.1 8/97/78: Extension to form offices accommodation and car parking area. Permitted, temporary and personal permission to Thames Water.
- 1.2 01/01721/OUT: Mixed use scheme comprising 150 bedroom hotel, 18,580sq m office development, environment centre, park/land/meadows and landscaping. Refused.
- 1.3 17/0045/COMP: Unauthorised material change of use of land. Pending consideration, enforcement notice served on part of the wider site (land enclosed in blue on submitted location plan).
- 1.4 20/2827/RSP: Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment. Refused, for the following reasons:

R1: The concrete plant and equipment (including associated silos) arising from the material change of use constitute inappropriate development within the Green Belt and therefore are, by definition, harmful to the Green Belt. In addition, by virtue of their height, industrial design, scale and siting they have a significant impact on the openness of the Green Belt. No very special circumstances of sufficient weight are considered to exist to outweigh the inappropriateness of the development and identified harm to openness. The concrete plant and equipment therefore fails to comply with Policies CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R2: The concrete plant and equipment (including associated silos) arising from the material change of use by virtue of their height, industrial design, scale and siting have an adverse impact on the visual amenity of the locality and character of the area. The concrete plant and equipment therefore fails to comply Policy CP12 of the Core Strategy (adopted October 2011).

R3: It has not been demonstrated that the activities arising from the material change of use do not adversely impact on the quality of local groundwater quality and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R4: *It has not been demonstrated that the development would not be subject to unacceptable levels of air pollutants through on-site activities and vehicular movements. In the absence of an Air Quality Assessment the development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

R5: *In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the visual amenity of the area through the presence of on-street parking. The development is therefore contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policies DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).*

An appeal had been lodged against the decision to refuse planning permission but was turned away by the Planning Inspectorate on 6 October 2021 - APP/P1940/W/21/3273755.

- 1.5 20/0068/ENFNOT: Enforcement Notice Appeal against Unauthorised material change of use of land to open storage. PINS reference: APP/P1940/C/20/3265160. Pending consideration.
- 1.6 21/0424/RSP: Retrospective: Change of use of hanger for the maintenance and repair of lorries. Pending consideration.
- 1.7 20/2659/RSP: Retrospective: Change of use for open storage of builder's machinery, equipment and material. Pending consideration.
- 1.8 20/2831/RSP: Part Retrospective: Change of use to self-contained offices and use of hanger building for car maintenance and repairs. Withdrawn (use now ceased).

2 Description of Application Site

- 2.1 The application site relates to a rectangular parcel of land located within the north western part of a commercial yard (formerly owned and used by Thames Water), positioned on the northern side of the Thames Water service road which is accessed via Denham Way to the north east, in Maple Cross.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises two attached hanger type buildings and open yards, all of which are being used by a variety of different businesses, without planning permission. The elevated parcel of the wider site (referred to as Site 6 on the submitted location pan) is currently subject to an enforcement notice and appeal concerning unauthorised parking linked to one of the unauthorised businesses operating within a hanger type building (subject to application 21/0424/RSP).
- 2.3 The application site is physically enclosed from the wider site by the hanger buildings and metal fencing which runs along the service road frontage. To the immediate north west there is an earth bank which rises upwards away from the site and to the north the site is bounded by mature vegetation.
- 2.4 The application site has a single vehicular access point from the service road. Internally, the site is hard surfaced.
- 2.5 With regards to policy designations the application site falls within the Metropolitan Green Belt, Source Protection Zone 1, Flood Zone 1 and a Secondary Centre. It is also located opposite an allocated employment site (E(d)).

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil.

- 3.2 The submitted planning statement sets out that the site is used by A1 Grab Hire Ltd, a construction vehicle hire company that receives aggregates and hires out vehicles that deliver aggregates. The grab lorries operating from the site pick up excess soil which is transferred to landfill sites.
- 3.3 A number of shipping containers exist on site, one of which is used as a waste container. Towards the front of the site there is a double stacked container (one of which is used as an office) which is proposed to be reduced to a single height container.
- 3.4 An area towards the north (side) and rear is used for the storage of excess soil with the remainder of the site used for parking.

4 Consultation

4.1 Statutory Consultation

4.1.1 Environment Agency: [Objection]

*We **object** to this retrospective planning application, as submitted, because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources can be satisfactorily managed.*

Reason:

The site is located within an inner groundwater protection zone (SPZ1) relating to a groundwater abstraction borehole located approximately 350m north east of the site. Areas in SPZ1 are the catchment areas for sources of potable water, high quality water supplies usable for human consumption. Groundwater at this location is therefore particularly vulnerable to polluting uses on the surface.

In this instance the proposed change of usage includes the processing of construction waste material aggregates and soils. The information submitted does not characterise the nature of this material. Leachate from these materials can result in contaminative run-off that could be a detriment to groundwater quality beneath the site.

This objection is in line with paragraph 170 of the National Planning Policy Framework (NPPF) and Policy DM9 of the Three Rivers Local Plan (2013).

Overcoming our objection

The applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change in use at this site can be safely managed.

4.1.2 Highway Authority (HCC): [Objection]

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reason:

- 1. The application form for the above site refers to a site area of 280sqm, which is significantly less than the actual area of the site (approximately 900sqm). The application and planning statement would therefore need to be updated / corrected to reflect the total area of the site including more detailed trip rates and distribution for vehicle trips to and from the site. A Transport Statement would be beneficial when taking into consideration the size and nature of the site and in order for a full assessment of the highway / transport impacts of the use to be made and in the context of any nearby existing and proposed uses and the cumulative impact of such uses.*

4.1.3 Thames Water: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.4 Affinity Water: [Objection]

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ1) corresponding to our Pumping Stations (SPRW). These are for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.

*We are writing to **object** to this Application as we require further information in order for us to assess the risks posed to groundwater with regards to material storage and on site activities. Further information should include the following:*

- *An **Intrusive Ground Investigation** to identify the current state of the site and appropriate techniques/set ups for on site activities to avoid aquifer contamination.*
- *A **Risk Assessment** identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.*
- *Details of the **Surface Water Drainage** that ensures aquifer protection with regards to onsite activities such as the storage of materials and vehicles. We would like to see oil/water interceptors present but no infiltration methods.*
- *Details of any substance tanks, generators and filling areas that demonstrate **bunding** of 110% capacity.*
- *Details of **leak detection systems** and procedures that includes directly notifying Affinity Water along with the Environment Agency immediately if any substance leak (including leachate from materials) is suspected.*

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Site Notice: Expired 27.05.2021.

4.2.2 Press Notice: Not applicable.

4.2.3 Number consulted: 20

4.2.4 No of responses received: 1 [Objection from Maple Cross & West Hyde Residents Association]

4.2.5 Summary of Responses:

- Open storage is unacceptable in a Green Belt location
- No precedent that can be example to support this
- Does not protect the tranquillity of the farmland which it backs onto
- It has not and has never been an industrial area and should not now be regarded as one
- Ground water impacts
- Vehicles and the materials on site are both possible sources of pollution
- Business concerns not significant enough to outweigh the harm caused as a direct result of A1 Grab Hire occupying this site
- Vehicles cannot use service road to park

5 **Relevant Planning Policy, Guidance and Legislation**

5.1 National Planning Policy Framework and National Planning Practice Guidance

On 20 July 2021 the National Planning Policy Framework was revised. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2021 NPPF is clear that “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 NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

5.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include PSP3, CP1, CP6, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM4, DM6, DM9, DM13 and Appendix 5.

5.3 Other

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014).

Online National Planning Practice Guidance.

6 **Reason for Delay**

6.1 Allowed time to enable applicant to address technical objection from the Environment Agency however this has not progressed.

7 **Planning Analysis**

7.1 Overview

7.1.1 Following reports concerning a breach of planning control relating to unauthorised uses spanning the application site and wider site, an enforcement case was opened and assigned the reference 17/0045/COMP. After site visits a number of Planning Contravention Notices were issued to various businesses operating from the site. From July 2019 all unauthorised uses ceased from the elevated parcels of land (outside the application site). One use re-commenced and is subject to an enforcement notice and subsequent enforcement appeal which is currently pending with The Planning Inspectorate.

7.1.2 This application has been submitted (utilising section 73A of the TCPA 1990) after the land owner was made aware that the current use constituted a material change of use.

7.1.3 It is noted that the application site was formally used by Thames Water for commercial purposes when in their ownership.

7.2 Principle of development

7.2.1 The application site falls within a Secondary Centre as set out within PSP3 of the Core Strategy. This policy states that development in such centres will enhance employment opportunities. The site is also located opposite an employment site (E(d) which is safeguarded for business, industrial and storage or distribution uses and falls within previously developed land by virtue of the presence of hard surfacing which formed part of a historic use by Thames Water. The historic use of the site was by Thames Water contractors linked to their function as a statutory undertaker and operated under permitted development.

7.2.2 As a result of the site circumstances a commercial presence within the application site is not unacceptable in principle, and clearly some weight must be given to its character which is dominated by existing buildings and hard surfacing. Nevertheless, the above view is caveated against other material planning considerations set out below which may make the development unacceptable.

7.3 Impact on Green Belt and openness

7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development

7.3.2 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 pre-dates the NPPF; however, it is considered to be consistent with the aims of national policy and thus can be given weight.

7.3.3 Policy DM2 of the Development Management Policies LDD is also a Green Belt local plan policy, however, it is silent with regards to 'material change of uses.'

7.3.4 Within the NPPF at paragraph 147 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved expect in very special circumstances.

It also states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 7.3.5 The NPPF makes certain exceptions for development in the Green Belt and these are set out within paragraph 149 with a number of requirements also set out at paragraph 150. At paragraph 150, it states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One such exception at paragraph 150(e) is listed as 'material changes in the use of land'.
- 7.3.6 As such, subject to preserving openness and not conflicting with the purposes of Green Belts (paragraph 138) the proposed change of use of land to vehicle hire and processing construction waste materials could be considered appropriate.
- 7.3.7 The Planning Practice Guidance (PPG) states that when assessing the impact of a proposal on the openness of the Green Belt, this requires a judgement based on the circumstances of the case. It goes on to state that the courts have identified a number of matters which may be taken in account, such as, the spatial and visual aspects arising from the development, the duration of the development and the degree of activity.
- 7.3.8 The application site is fairly limited in size and is enclosed by vegetated banks, existing hanger buildings and metal fencing/gate, the latter of which is set back from the service road. As such views into the site are limited to the service road, a private road.
- 7.3.9 Prior to its unauthorised use, the site already contained hard surfacing which aided its historic use by Thames Water. Due to the size constraints of the site, activity is confined to the existing area of hard surfacing. It is acknowledged and agreed that the site prior to its unauthorised use had not been in active use for some time (since 2010/2011). As it stands, the use is uncontrolled in a planning sense and therefore is and has the potential to impact on openness through on-site activity and the presence of high storage of materials and double stacked shipping containers. Nevertheless, when considering the site's locational context in the sense that it already has hard surfacing, is adjacent to existing buildings which clearly utilised the yards in and around them historically for ancillary purposes and its limited visibility, the principal of the use in the Green Belt is not considered unacceptable. However, it is recognised that there could be an impact from the use on openness if no controls were recommended. It is therefore considered important to impose a number of planning conditions, if the application is approved, so the impact can be controlled to ensure it does not adversely affect openness to such an extent that fails to meet the requirement of paragraph 150 of the NPPF. Notwithstanding the potential impact on openness, given the location of the site and its condition prior to the unauthorised use, the development does not conflict with any of the purposes of Green Belts.
- 7.3.10 In order to ensure that the use preserves the Green Belt it would be necessary to impose conditions limiting the height of any construction waste aggregate, soil and associated materials to no more than 3m. Additionally, no other temporary structures (other than vehicles associated with the use) shall be erected/stored on site other than those shown on the proposed site plan, which includes three single storey containers, one of which would be used for storage of waste. It will also be reasonable and necessary to controls the hours of use to 7am to 5pm Monday to Friday which limits on-site activity, restrictions on external lighting and ensuring vehicles under the control of the applicant are not parked on the adjacent service road as the subsequent use of this private service has the potential to harm openness.
- 7.3.11 Accordingly, subject to conditions the development would meet one of the requirements at paragraph 150(e) and thus would be appropriate development within the Green Belt. As a direct result it would not harm openness.

7.4 Impact on local character:

- 7.4.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.
- 7.4.2 Due to the commercial nature of the development, there is a visual impact arising from its use. However, given its locational context and the size of the site it is not considered that the impact is harmful to the character of the immediate area which is predominately dominated by office buildings and open land falling in a designated employment site.
- 7.4.3 Objections have been raised stating that the development fails to protect the tranquillity of the farmland which it backs onto and has not and never has been an industrial area and should not now be regarded as one. In response, the application site is well-contained and is physically separated from shrub land immediately behind and is not readily visible from such vantage points due to the topography. Whilst acknowledging that the activity on site generates noise, it is not considered that the noise impacts associated with the use, which is on a relatively limited scale, would have a harmful impact on the character of the area. The application site is previously developed and sited a significant distance from residential properties making it an appropriate site for the existing use.
- 7.4.4 It is recognised that the parking on the service road and the general condition of the verges which front the application site and wider site could be improved; however, these fall outside the controls of the applicant and the application site. Nevertheless, on-going discussions are taking place about enhancing the condition of the verges.
- 7.4.5 As highlighted above, the conditions which are to be recommended, if approved, will also ensure that the character of the area is maintained and not unacceptably harmed. As such, there would be no conflict with Policies CP1 or CP12 of the Core Strategy.

7.5 Impact on neighbouring amenity:

- 7.5.1 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable impact on the indoor and outdoor acoustic environment of existing or planned development.
- 7.5.2 Due to the location of the application site it is not considered that the activity arising from the application site is and will be harmful to local residents or nearby businesses.
- 7.5.3 It is recognised that residential properties (Froghall Farm) are located to the north, however, there is a substantial distance (in excess of 130m) and varying land levels between which would mitigate noise as a result of the use, which would be controlled in terms of its hours of use. To the south, and some distance away (over 200m) is Longmore Close. Again, due to the nature of the use and its location, it will not have an adverse impact on nearby residential amenity.
- 7.5.4 Given the size constraints of the site and the limited levels of activity, it does not result in unacceptable harm. The hours of use are also not excessive and will be controlled by the imposition of a condition.

7.6 Parking and Access

- 7.6.1 Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.

- 7.6.2 The NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. The site is served by a formal access so no concerns are raised in this respect. However, the Highway Authority have objected due to the lack of information pertaining to trip rates and the distribution for vehicle trips to and from the site and the possible cumulative impact from nearby uses. On that basis they are unable to appropriately assess the highway implications resulting from the use.
- 7.6.3 With regards to parking standards Appendix 5 of the Development Management Policies LDD states that for sui generis uses the car parking standards are to be decided in each case on individual merits.
- 7.6.4 From the information provided and despite attempts to seek greater clarity, the number of vehicles on site is unclear. However, through a number of site visits it is apparent that vehicles are contained on site; although it is unclear where the staff who drive the trucks park.
- 7.6.5 Due to the nature of the development, it does not require cycle provision; however, space exists for such, if required.
- 7.6.6 Notwithstanding the above, there is a lack of information pertaining to the application in respect of trip distributions and whether acceptable levels of parking exists on-site.
- 7.7 Contamination
- 7.7.1 The application site falls within Source Protection Zone 1 relating to a groundwater abstraction borehole located approximately 350m north east of the site. The site is also potentially on or within close proximity to a historic landfill.
- 7.7.2 Paragraph 183(a) of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from instability and contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Additionally, paragraph 183(c) states that adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 7.7.3 Policy DM9 of the Development Management Policies LDD (adopted July 2013) states that the Council will only grant planning permission for development, on, or near to, on land suspected to be contaminated, where the Council is satisfied that:
- i) There will no threat to the health of future users or occupiers of the site or neighbouring land; and
 - ii) There will be no adverse impact on the quality of local groundwater or surface water quality
- 7.7.4 The Environment Agency (EA) have commented that given the change of use includes the processing of construction waste material aggregates and soils the applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change of use can be safely managed. The EA have also advised that leachate (by product derived from solid wastes due to their physical, chemical and biological changes) from construction waste/aggregate can result in contaminative run-off that could be a detriment to groundwater quality beneath the site.
- 7.7.5 The applicant was advised some time ago to undertake a holistic (site wide including application site and wider site) ground water risk assessment; however no assessment has been forthcoming which conflicts with the requirements of the NPPF.

- 7.7.6 Affinity Water have also objected to the application as they require further information on the risks posed to groundwater. They require an Intrusive Ground Investigation, details on the surface water drainage and details of leak detection systems / procedures in the event of a substance leak.
- 7.7.7 In light of the above, due to the absence of a groundwater risk assessment the LPA, EA and Affinity Water are unable to conclude that the risks to potable water can be safely managed. This is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).
- 7.8 Air quality:
- 7.8.1 The NPPF at paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Paragraph 186 also states that decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 7.8.2 Policy DM9 of the Development Management Policies LDD states that development will not be permitted where it would have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.
- 7.8.3 The application site does not fall within an Air Quality Management Area; however, the site is located near to the Reach Free School, whereby local children and residents walk along Denham Way. Due to the nature of the business, it is considered reasonable to assume that emissions and vehicle movements would have an impact on air quality. However, due to the lack of information, this along with any mitigation cannot be quantified as part of the current application and thus conflicts with Policy DM9 and the NPPF (2021).
- 7.9 Ecology impacts
- 7.9.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.
- 7.9.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.9.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. A single lighting column exists close to the site entrance however no further lighting is proposed. A planning condition could be recommended to control external lighting in the event of an approval.

7.10 Flooding and drainage

- 7.10.1 Policy DM9 of the Development Management Policies LDD states that development will only be permitted where it would not be subject to unacceptable risk of flooding; and would unacceptably exacerbate risk of flooding elsewhere.
- 7.10.2 The application site is located in Flood Zone 1; however, it is at high risk of surface water flooding. The current surface of the site is hard surfaced; however, there is clear evidence from site visits that parts of the site are prone to a build-up of surface water.
- 7.10.3 Due to the concerns regarding groundwater quality, it is considered that improvements to the surface of the site are likely to be required which will in-turn enhance drainage across the site.

8 **Recommendation**

- 8.1 That RETROSPECTIVE PLANNING PERMISSION BE REFUSED for the following reasons:-

R1: It has not been demonstrated that the activities arising from the change of use including the processing of construction waste do not adversely impact on the quality of local groundwater and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

R2: In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the openness of the Green Belt and the visual amenity of the area through the presence of on-street parking. In addition, due to the absence of more detailed trip rates and distribution of vehicles trips to and from the site a proper assessment of the highway/transport impacts and the cumulative impact of adjacent/nearby uses cannot be made. The development is therefore contrary to Policies CP10 and CP11 of the Core Strategy (adopted October 2011) and Policies DM2 and DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

R3: It has not been demonstrated that the development would not cause unacceptable levels of air pollutants through on-site activities and vehicular movements nor can any mitigation be quantified. The development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

8.2 **Informative:**

- I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.