

## PLANNING COMMITTEE – 21 OCTOBER 2021

### PART I - DELEGATED

#### 7. 21/0424/RSP – Retrospective: Change of use of hanger for the maintenance and repair of lorries at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 20.05.2021  
(EOT: tbc)

Case Officer: Matthew Roberts

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: Called in by the Head of Regulatory Services given two other applications within the wider site have been called in by members of the Planning Committee.

#### 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 has been lodged against the decision to refuse planning permission (turned away 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 20/2659/RSP: Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil. Pending consideration.
- 1.7 20/2774/RSP: Retrospective: Change of use of hanger for the maintenance and repair of lorries. 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 incorporates a hanger type building, associated yard on the northern side of the Thames Water service road which is accessed via Denham Way to the north east, in Maple Cross. The application site is used by Bulk Transfer, a waste management and aggregate company.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises the other attached hanger type building (previously subjected to 20/2831/RSP) and open yards either side, 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 which is linked to Bulk Transfers' use of the application site.
- 2.3 Internally within the hanger type building is a lorry pit and a small mezzanine used for storage associated with the use. Outside the building there is an open yard which contains a number of shipping containers and a porta-cabin used as an office (previously was a double stacked porta-cabin as shown on the submitted plans). Access through the site is also possible to the adjoining hanger, the site used by A1 Concrete (referred to as Site 4) and to the elevated parcel of land (referred to as Site 6).
- 2.4 The application site is bounded to the north east by mature vegetation.
- 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 hanger for the maintenance and repair of lorries.

- 3.2 The submitted planning statement states that as a waste collection and delivery service it also repairs and maintains its fleet of vehicles. The business utilises tripper trucks and articulated lorries who deliver 6F2 (recycled aggregate) and Type 1 materials which undergo a complete recycling process from landfills in Bletchley and Buckden. An average of 7-8 vehicles, dependent on breakdowns and the need to replace tyres, are serviced on a daily basis, with this increased throughout the winter months. The statement comments that four cars are parked at the site in front of the porta-cabin which is used as a canteen and office.
- 3.3 In terms of staffing levels for the business, there are 4/5 office staff, 4 mechanics and 26 drivers.
- 3.4 The submitted statement also clarifies that the lorry parking area (Site 6) does not form part of this planning application.

## 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.*

#### **Reasons**

*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 particular, the proposed change of usage includes vehicle maintenance that could result in accidental or uncontrolled release of pollutants to ground (motor oil, hydrocarbons, brake fluid coolant) that could have a detrimental impact on 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.*

#### **Final comments**

*Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.*

***If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations***

- 4.1.2 Highway's Authority (HCC): [No comments received. Any comments received will be verbally updated at the Committee meeting]

#### 4.1.3 Thames Water: [Advisory comments submitted]

##### *Waste Comments*

*Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.*

*Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.*

*With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection.*

*Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.*

<https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-forservices/Wastewater-services>

*A Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes - toilets, showers, washbasins, baths, private swimming pools and canteens). Typical Trade Effluent processes include: - Laundrette/Laundry, PCB manufacture, commercial swimming pools, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other process which produces contaminated water. Pre-treatment, separate metering, sampling access etc may be required before the Company can give its consent.*

*Applications should be made at <https://wholesale.thameswater.co.uk/Wholesaleservices/Businesscustomers/Trade-effluent> or alternatively to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London. SE2 9AQ. Telephone: 020 3577 9200.*

*Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses. Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT*

*WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.*

##### *Water Comments*

*With regard to water supply, this comes within the area covered by the Affinity Water Company.*

For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwaterprotection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

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

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 28.04.2021.

4.2.2 Press Notice: Not applicable.

4.2.3 Number consulted: 17

4.2.4 No of responses received: 0

## 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 overcome 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 buildings and 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 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 except 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. Two relevant exceptions at paragraph 150(d) and (e) are listed as 'the re-use of buildings provided that the buildings are of permanent and substantial construction' and '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 use of the existing building and associated yard areas for ancillary purposes 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 existing hanger building is of permanent and substantial construction and had previously been used to service vehicles given the presence of the service pit. As such, when vehicles are being serviced within the building, there is no impact on the openness of the Green Belt nor any conflict with the purposes of Green Belts.
- 7.3.9 Notwithstanding the above, the subsequent activities associated with the use do have an impact on the openness of the Green Belt, excluding the current unauthorised parking use (within the wider site) which is subject to an enforcement appeal. From site visit observations and from the submitted planning statement there are a number of vehicles

which are serviced on a daily basis and many vehicles are required to park up and wait as there is only space for one vehicle at a time within the building. The planning statement states that typically, lorries go to and from the site for maintenance purposes between the hours of 6am to 5pm Monday to Friday. In addition, within the yard area there are double stacked shipping containers which are positioned against the building. The porta-cabin is no longer double stacked in height which has reduced its presence given its position, immediately adjacent to the mature vegetation along the north eastern boundary.

- 7.3.10 The yard area in front of the building is hard surfaced, albeit in poor condition and as highlighted above does have a vegetated backdrop when viewed from the service road. From other vantage points from Denham Lane and from Froghall Farm the use and associated activities would not be readily visible; however, lack of visibility is not the sole means of assessing the impact on openness.
- 7.3.11 The applicant has put forward a number of mitigation measures to reduce the impact of the development. These include painting the porta-cabin green, planting new landscaping and implementing an ecological zone on parts of the wider site.
- 7.3.12 Whilst the painting of the porta-cabin would assist further in reducing the visual impact from their current height, having regard to the site circumstances there are no areas on site to incorporate new planting nor have sufficient details been provided in respect of the ecological zone and how this could be achieved.
- 7.3.13 With limited information, it is unclear as to how large vehicles will be parked when waiting to be serviced given the size constraints of the site and the fact that parking on the service road falls outside of the applicant's control and any use of the service road by large lorries would have a significant impact on openness. In order to mitigate this, the vehicles would need to be booked in advance via appropriate booking management system to ensure that sufficient time exists between servicing to prevent them from turning up at the site at the same time. Any servicing would also need to be restricted to the business operating from the building, to ensure that the use is not more widely used. Additionally, a condition can be imposed to ensure that vehicles under the applicant's control (which are easy to recognise) do not park on the service road, thus requiring the applicant to ensure that bookings are well managed.
- 7.3.14 At the moment vehicles are utilising the elevated parcel of land due to the fact the yard contains other businesses thereby limiting the ability to park the vehicles close to the hanger, within the established part of the site. The elevated parcel of land falls within an open part of the wider site and the use of it has, in officers' opinion, significant impacts on the openness of the Green Belt. The parcel of land does not part form of this application, nor would the parking of vehicles within the wider elevated site be considered acceptable.
- 7.3.15 In light of the above, subject to conditions relating to painting of the port-cabin, submission of a booking management plan, parking controls on the service road, hours of use (in-line with other businesses) and restrictions on external lighting, it is not considered that the impacts arising from the use would have a harmful impact on the openness of the Green Belt. As a result the development subject to those controls would preserve the openness of the Green Belt and given its locational context would not conflict with any of the purposes of the Green Belts. As a result the development would be appropriate within the Green Belt, meeting the requirements of paragraph 150 (d) and (e).

#### 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 The immediate area is generally dominated by office buildings and open undeveloped land which falls within a designated employment site. Within the application site there is a pre-existing hanger building and a commercial yard enclosed by metal fencing. As such, notwithstanding the uses which are currently taking place there is a commercial character to the site. Therefore, understandably such sites are generally not the most attractive. However, the use of the building and the subsequent external activities arising from the use, subject to the controls detailed above, would not have a demonstrable adverse impact on the overall character of the area.
- 7.4.3 Efforts from the land owner could be made to enhance soft landscaping verges to the front of the wider site, adjacent to the service road which would go some way in enhancing the site's appearance. It is hoped through discussions outside of this application (which have occurred) that such improvements could be achieved.
- 7.4.4 As highlighted above, the conditions which are to be recommended, if approved, will 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 which would be from 7am to 6pm Monday to Friday. 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 suggested controls, the development will not result in unacceptable harm and thus would not conflict with Policy DM9.
- 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.
- 7.6.3 With regards to parking standards Appendix 5 of the Development Management Policies LDD states that for workshops 3 spaces per 4 employees plus 3 spaces per bay (for waiting and finished vehicles) in addition to repair bays is required.
- 7.6.4 From the information provided there are 4/5 office staff, 4 mechanics and one bay within the building. Whilst there are 26 drivers within the company these are not linked to the current application but the area used for unlawful parking which is subject to an on-going enforcement appeal. As a result, 9 spaces are required (6 for staff and 3 for the bay). The planning statement confirms that four parking spaces (informal) can be parked in front of

the porta-cabins and from site observations this is possible, albeit it is informal. A shortfall of 5 spaces would therefore exist.

7.6.5 As highlighted above, concerns exist in respect of vehicles waiting on the highway and without greater information the impact of this is hard to quantify. Whilst controls via a planning condition can ensure that parking under the applicant's control does not take place along the service road (including private enforcement from the land owner), this would be harder to enforce for private cars belonging to staff who drive to the site as they will not be indistinguishable from any other private car. Based on the limited information submitted and given the shortfall, it is not considered that acceptable on-site parking provision can be achieved which has the ability to impact the use of the service road.

7.6.6 Due to the nature of the development, it does not require cycle provision; however, space exists for such, if required.

7.6.7 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 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 advised that accidental or uncontrolled release of pollutants to ground (motor oil, hydrocarbons, brake fluid coolant) could have a detrimental impact on 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 In light of the above, due to the absence of a groundwater risk assessment the LPA and EA 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 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 impact 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 portable mobile lighting column exists on site (adjacent to the porta-cabin) but is relatively low level. To avoid excessive lighting of the site, a condition can be imposed if approved to ensure all lighting is turned off after the hours of use (excluding any security lights which may be attached to the building) and that no further lighting (mobile or permanent) is erected. If controlled in this manner it is considered that no harm would arise.
- 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 low 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 hard surface are likely to be required which will ensure appropriate measures are placed on site to mitigate surface water flooding.

## 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 vehicle maintenance does 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 (including parking for waiting and finished vehicles) 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, 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 **Informatives:**

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.