



Planning Committee

Report of Head of Planning and Building Control on 10 March 2022

Plans List Item Number: 5

Reason for bringing to committee

County Matters Application

Application Details

Location: LAND ADJACENT KEBRELL NUTS AND BOLTS, HEATH ROAD, DARLASTON, WALSALL

Proposal: CHANGE OF USE OF VACANT SITE TO WASTE TRANSFER STATION INCLUDING THE CONSTRUCTION OF A WASTE STORAGE BUILDING AND OFFICE

Application Number: 21/1065

Case Officer: Sally Wagstaff

Applicant: Golden Skips Ltd

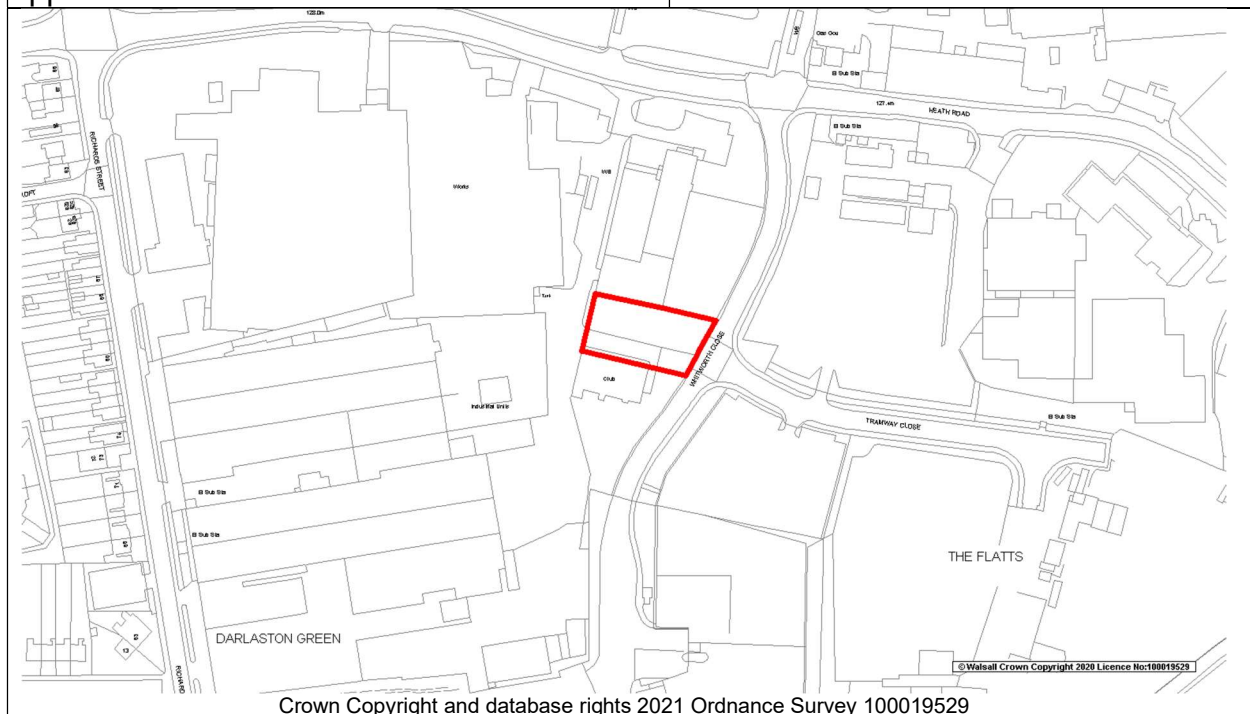
Ward: Bentley And Darlaston North

Agent: Gurmukhi Building Design Ltd

Expired Date: 15-Nov-2021

Application Type: County Matters: Waste Application

Time Extension Expiry:



Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to ...

- The amendment and finalising of conditions;

Proposal

The proposal relates to the change of use of a vacant piece of land between Kebrell Nuts and Bolts Heath Road Darlaston and Second Tyre Round Ltd to be used for manual sorting of non hazardous recyclable materials which will be bought to site by mixed loads of non-hazardous wastes.

Non hazardous wastes will be delivered to the proposed new building, inspected and validated then off loaded for sorting and segregation into recyclable components which will be sorted within the building.

Opening hours are proposed between 06:00 and 18:00 Mondays to Saturdays. The site traffic will mainly consist in skip lorries. The site will have 10 HGV movements per day. Based on a 10 hour working day, this is 20 HGV movements per day (10 in and 10 out), with an average of two HGV movements per hour. The site will be accessed from Heath Road service road. Vehicles delivering wastes for processing will carry away loads of non hazardous materials for use elsewhere.

The site will have an open front steel framed building on a newly constructed steel reinforced concrete floor, with a clad pitched roof and for the reception, sorting and storage of the non-hazardous waste located to the rear of the site to the boundary with Whitworth Close.

The proposed open front building measures:

- 7 metres in height eaves
- 8.6 metres in total height
- 22.8 metres in width
- 10.6 metres in depth

Additionally an office building will be located to the east boundary. The office building will be brick construction and measures:

- 2.4 metres to the eaves
- 3.7 metres in height
- 10.4 metres in width
- 5 metres in depth

It is proposed the site will store 150 cubic metres of non-hazardous wastes for processing and recovered non-hazardous materials within the proposed building. The site will process no more than 15,000 tonnes.

The proposal is accompanied by the following supporting documents:

- *Planning Statement* – sets out the development, the sites suitability for the proposal due to being located within an area of waste management and waste recycling activity and operational details.

- *Design and Access Statement* – sets out the layout, scale, appearance and access off the development
- *Noise Assessment* – concludes the proposed operations at the site are likely to have a low impact with respect to the nearest residential receptors. No additional surveys or mitigation required.
- Coal Mining Risk Assessment – Intrusive Ground investigations are required.

Site and Surroundings

The site is a vacant plot of land with accessed via a service road from Heath Road Darlaston. The site is located in an industrial area with surrounding premises also being industrial in nature. To the north of the site is the head office of a business which distributes fasteners, screws and fixings. To the east of the site is a scrap motor company, to the south of the site is an alloy and steel wheel specialist and to the west is a premises specialising in vehicle repairs. Adjacent to the site are a number of warehouses which are accessed from Richards Street.

The closest residential properties are located approximately 150 metres to the south of the site on Pattern Drive accessed from Richards Street.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- ENV3: Design Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
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- WM4: Locational Considerations for New Waste Management Facilities
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

IND1: Existing High Quality Industry
IND2: Potential High Quality Industry
IND3: Retained Local Quality Industry
EN1: Natural Environment Protection, Management and Enhancement
W1: Future Waste Management Requirements
W3: New Waste Management Development- Waste Treatment and Transfer
W4: New Waste management Development- Waste Disposal
T4: The Highway Network
T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows

- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- W3 Character

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Coal Authority

No objection subject to conditions relating to intrusive ground investigations and possible remedial measures.

Environment Agency

No objections. Note to applicant recommended in relation to Environmental Permitting Regulations.

Local Highways Authority

No objections subject to conditions relating to access and parking areas

Pollution Control

No objections subject to conditions relating to the management of the site and building.

Severn Trent Water

No objections subject to a condition in relation to a drainage scheme for the disposal for foul and surface water.

Representations

3 objections have been received by local premises with concerns relating to:

Officer comments in italics

- Activity has been taking place on the site without consent
- Fires on the site/ burning of waste – air pollution affecting workers on other sites and complaints made to local businesses from residents (*There is third party environmental legislation to deal with burning of waste on site*)
- Proposal would attract further vermin (*There is third party environmental legislation to deal with vermin*)
- Noise pollution will increase due to machines working all day

- Shared site is not being secured daily which could encourage theft and effect on other business (*this is a civil matter which is not material to the determination of the application*).

Determining Issues

- Principle of Development
- Design, Layout and Character
- Impact upon residential and commercial occupiers
- Highways
- Ground Conditions and Environment

Assessment of the Proposal

Principle of Development

The proposal relates to the change of use of vacant land to a waste transfer unit. Heath Road including the site is categorised as retained quality local industry Policy IND3 of Walsall's SAD. The proposed use is an industrial process therefore it is considered the use would accord with the above policy. The proposal would also potentially increase local employment opportunities.

It is considered the principle of development in this location is acceptable.

Design and layout

The site will be accessed from the existing service Road on Heath Road.

The proposed open ended building and office building are of simple design, whilst the open ended building is over 8 metres in total height and would extend along majority of the eastern boundary, it would be seen in the back ground of surrounding industrial use uses. On balance, it is considered the buildings not unduly harm the visual amenities of this part of Heath Road, Whitworth Close and Tramway Close as to warrant refusal of the application for this reason.

Impact upon residential and commercial occupiers

The proposed buildings would be located away from the two adjacent premises. It is considered the proposal would have a limited impact upon light and outlook for the adjacent premises.

The site is located approximately 150 metres the nearest residential properties. A noise assessment has been submitted in support of the application. The conclusion of the report indicates the proposed activities on site would have a low impact with respect to the nearest residential receptors. It is considered the proposal would not have an unduly detrimental impact upon the amenity of local residents in relation to noise and disturbance.

Highways

Access onto Heath Road is via the existing private commercial access road.

The development is predicted to generate 10 two-way trips per day by 8 wheeler rigid trucks. This is not expected to have a significant impact on the operation of the local highway network.

Ground Conditions and Environment

High Risk Coal Area

A coal Mining Risk Assessment has been submitted in support of the application. The Coal Authority consider based on a review of appropriate sources of coal mining and geological information, the submitted report concludes, the site may be underlain by old coal workings at shallow depth and as such, there remains a risk that further settlement of these workings could affect future surface structures. Conditions are recommended for intrusive ground investigations to be carried out prior to commencement of development.

Noise, Dust and Odour

The proposed operations on site will generate some noise during working hours. A noise assessment has been submitted in support of the application which concludes, the noise generated by the site activity would not increase the general background noise levels within the vicinity.

The Planning Statement advises that onsite activities will be controlled by the Environment Agency permit. This permit will specify the waste management activities and the maximum amount of waste that can be accepted onto site in addition to setting conditions to control the effects the activities can have on the environments including such nuisance effects as noise and dust.

The on-site activities have the potential to create some odour from non-hazardous waste. The applicant advises this will be managed by the rapid turnaround of materials and deployment of odour suppressants if considered necessary. It is considered that in order to protect the amenity of occupiers of surrounding business in relation to the noise and odour a condition is required for no external waste storage, sorting or processing to take place at any time in the open air on the site. Concerns raised by local business in relation to the potential for activities on site to attract vermin. It is considered a condition restricting where the waste can be stored, sorted and processed will minimise the risk of attracting vermin to the site. Also there is third party environmental legislation to deal with vermin, should there become an issue in the future.

The Environment Agency have reviewed the application and not objected to the proposal. They advise Environmental Permitting process should ensure the proposed operations do not pose a risk of pollution to either the groundwater or wider water environment. A note to applicant is recommended in relation to information on Environmental Permitting process.

Pollution Control have reviewed the details within the application and consider the location is appropriate for a waste transfer unit.

Concerns raised by local businesses in relation to fires on site and the burning of waste. Bonfires on site are covered by third party Environmental Protection Act 1990 legislation and/or Clean Air Act 1993. If fires are burning on site, this should be reported to Environmental Protection to investigate.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and views of neighbouring occupiers, it is considered and on balance the proposed development is acceptable.

On balance any economic and social benefits in this instance will not have any detrimental impact on the environment.

Taking into account all of the above matters, it is considered the proposals will not be in conflict with the aims and objectives of the National Planning Policy Framework, policies CSP4, WM1, WM2 of the Black Country Core Strategy, policies, W3, of the Walsall SAD document and policies GP2 and ENV32 of saved Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall SPD and on balance is considered acceptable.

Taking into account the above factors, it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to ...

- The amendment and finalising of conditions;

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

Block Plan submitted 13/07/21
Proposed Elevations submitted 13/07/21

Proposed Ground Floor and Site Plan 13/07/21
Supporting Statement submitted 13/07/21
Design and Access Statement submitted 13/07/21
Statement Regarding Application submitted 13/07/21
Transport Note submitted 13/07/21
Coal Mining Risk Assessment submitted 08/09/21
Noise Impact Assessment Report submitted 19/10/21

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3i) Prior to the commencement of the development hereby permitted, a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. *(see Note for Applicant CL1)*

3ii) Prior to the commencement of the development hereby permitted, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted in writing to and approved in writing by the Local Planning Authority. *(see Note for Applicant CL2)*

3iii) Prior to the commencement of the development hereby permitted, a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted in writing to and approved in writing by the Local Planning Authority. *(see Note for Applicant CL2)*

3iv) The development hereby permitted shall not be carried out otherwise than in accordance with the remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the approved timetable and shall thereafter be retained for the lifetime of the development.

3v) If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and approved in writing by the Local Planning Authority.

3vi) Prior to the occupation of the development hereby permitted, a validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information shall be submitted in writing to and approved in writing by the Local Planning Authority. *(see Note for Applicant CL3)*

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

4a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

4c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Notwithstanding the details as submitted and prior to the commencement of development hereby permitted until details of hardstanding including its extent, details of surface water drainage, details of the position and number of interceptors to prevent oil and contamination entering the drainage system shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To minimise future land contamination from the waste transfer activity.

6. Prior to the development hereby approved first coming into use, all parking and vehicle manoeuvring areas shall be laid out and clearly demarcated on the ground and thereafter retained and used for no other purpose for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the development.

7. No external waste storage, sorting or processing shall take place at any time during the lifetime of the development hereby permitted in the open air on the site

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with the saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.

8. The development hereby permitted shall not be carried out otherwise than in accordance with all of the access/egress points and any open sides of the waste handling building having plastic flap coverings with the building openings and the plastic flap coverings shall thereafter be retained for the lifetime of the development.

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with the saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.

9. Notwithstanding the details as submitted the development hereby permitted shall not be carried out otherwise than in accordance with the boundaries of the site and vehicular gates being 2.5 metre high powder coated black weldmesh paladin fencing and gates. The gates shall be designed and installed so they cannot open outwards onto a highway, plus the positioning of the gates and fencing shall not impede any visibility splays. The boundary treatments shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

10. Notwithstanding the submitted details of the development hereby permitted there shall be no access at any time to the site, vehicular or otherwise, from Whitworth Close for the lifetime of the development.

Reason: Whitworth Close is not suitable for the type of vehicles expected to serve the development, and it would be difficult to achieve an acceptable access in highway safety terms. Pedestrian access may encourage indiscriminate parking on Whitworth Close.

Notes for Applicant

Environmental Permitting Regulations

This development will require an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12. Further information is available here <https://www.gov.uk/guidance/waste-environmental-permits> In circumstances where an activity/operation meets certain criteria, an exemption from permitting may apply, more information on exempt activities can be found here: <https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits> The applicant is advised to contact 02030253898 or psc@environment-agency.gov.uk to discuss the issues arising from the permit application process.

Contaminated Land

Notes for applicant

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

END OF OFFICERS REPORT