



### Planning Committee

Report of Head of Planning and Building Control on 07 October 2021

Plans List Item Number: 2

#### Reason for bringing to committee

Called in by Councillor Coughlan

#### Application Details

**Location:** UNIT 1, FORMER, MAGNET PLC, ROSE HILL, WILLENHALL, WV13 2AR

**Proposal:** RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM BUILDERS TRADE CENTRE (MAGNET) TO COLLECTION AND SORTING OF SCRAP METALS.

**Application Number:** 21/0526

**Case Officer:** Leah Wright

**Applicant:** Collier Metals Ltd and London & Cambridg

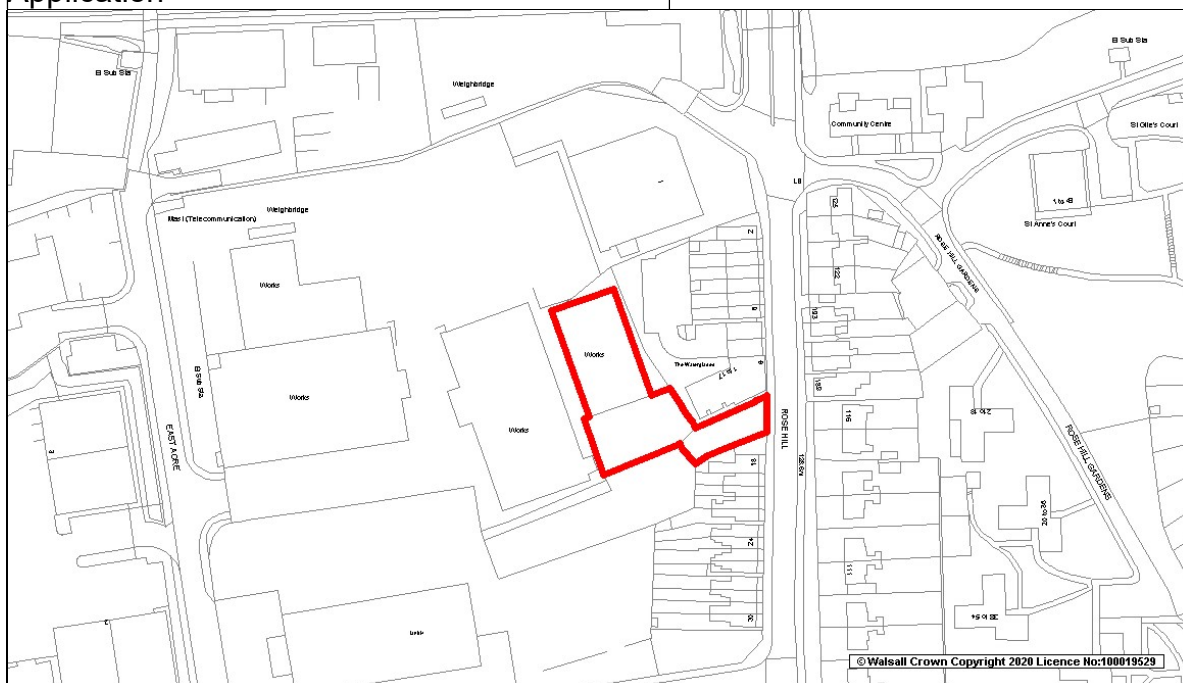
**Ward:** Willenhall South

**Agent:** D2 Planning Limited

**Expired Date:** 26-Jul-2021

**Application Type:** County Matters: Waste Application

**Time Extension Expiry:** 11-Oct-2021



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## 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

This application retrospectively (as of December 2020) proposes the loss of 770sqm storage or distribution (Class B8) former Magnet builders trade centre and replacement with 770sqm gross new internal floor space for scrap metal collection and sorting by Collier Metals Limited, along with the retention of 10 no. parking spaces.

The following have been submitted in support of the application:

- Noise Survey
- Planning, Design and Access Statement
- Additional Statement on Use of Premises

The applicant states that the facility will operate from 8am to 4pm Monday to Friday and 8am till 1pm Saturday; there is no work on Sundays or Bank Holidays. The company currently employs 2 members of staff.

The premises deal in non-ferrous metals. The metals are stored and sorted into bins and then collected and taken off site for recycling. No specific processes are undertaken apart from sorting of metals into various bins. This process is carried out inside the existing building.

## Site and Surroundings

The application site comprises an industrial unit comprising some 770sqm with a secure gated yard. The building is constructed of brick with grey metal cladding.

The unit is located off the B4484 Rosehill, the A454 Keyway provides access to the Black Country Route to Junction 10 of the M6 motorway.

Adjacent to the site is a variety of industrial units which are occupied by D J Smith Plc for the recycling and reclamation of paper and plastics. To the east are a number of residential occupiers along Rose Hill.

## Relevant Planning History

### Rosehill Industrial Estate

05/1587/FL/W3- Demolition of existing Industrial Unit and Erection of 2 New Units providing Class B1 (Light Industrial) or B8 (Storage & Distribution) using existing access/egress to East Acre- Permission refused 30.11.2005 for the following reason:

- The proposed development area is shown to lie partially within Flood Zone 3 (the 1 in 100 year floodplain), and (flood zone 2 (the 1 in 100 to the 1 in 1000 year floodplain) of the nearby watercourse and therefore there is a risk of flooding on the site. Secondly, the proposed development site may present a significant flood risk from the generation of surface water run-off but is not

accompanied by a flood risk assessment (FRA) as required by GP2 and 3.7 of the Walsall Unitary Development Plan PPG25.

06/0492/FL/W3- Demolition of existing Industrial Unit and erection of 2 new units providing Class B1(Light Industrial) or B8(Storage & Distribution) using existing access/egress to East Acre. Re-submission of 05/1587/FL/W3- Granted subject to conditions 03/07/2006

14/1074/FL – Partial demolition and recladding of building to include offices, erection of boundary wall, amended access arrangements, retention of two roller shutter doors and extension with ancillary works. Granted subject to conditions 17/9/14

15/1410- Amendment to planning permission 14/1074/FL for partial demolition, installation of roller shutter doors, provision of one way access, alterations to parking layout and additional weighbridge- Granted subject to conditions 10.11.2015.

D S Smith, Eastacre, Rose Hill Industrial Estate

19/0176- Planning application for minor building works and operations associated with existing paper and plastic recycling and reclamation facility (B2 use) including installation of weigh bridge, vehicle barrier, site layout and 24 hour operation. Site Affecting the Public Rights Way Will102- Granted subject to conditions 19.08.2019.

## **Unit H2 Rosehill Business Park**

13/0311/FL - Retrospective: Re-sheeting of roof and vertical cladding to two bays. Granted subject to conditions 8/5/13.

## **Unit H3 Rosehill Business Park**

13/0471/FL - Re-sheeting of roof and vertical cladding, including relocation of roller shutter and pedestrian doors. Granted subject to conditions 15/5/13

13/1067/FL – Extension to existing industrial building. Granted subject to conditions 25/9/13.

## **The Waterglade P.H. Rose Hill**

07/1264/RM/W5- Proposed Residential Development Comprising 7no House & 16 No Apartments & Associated Works- Permission Refused 30.08.2007.

07/2161/RM/W5- Proposed residential development comprising 7 no. houses and 16 no. apartments and associated works- Approve reserve matters subject to conditions 26.11.2007.

15/0424/NMA- Non-Material amendment to permission 07/2161/RM/W5 (erection of houses and apartments at former Waterglade Inn P.H) to change the materials on part of the front elevation of the apartment building- Grant 10/06/2015.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

**[www.gov.uk/guidance/national-planning-policy-framework](https://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 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**

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](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Walsall Site Allocation Document 2019**

IND1: Existing High Quality Industry  
IND2: Potential High Quality Industry  
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

### **Supplementary Planning Document**

## Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability

## Consultation Replies

**Coal Authority** – No comments to make. Standard guidance to be included on any approval.

**Local Highways Authority** - No objection subject to a condition requiring a plan showing staff parking and turning areas.

**Pollution Control**- No objection subject to conditions.

### Strategic Planning Policy:

No policy objection to the principle of the development provided there is further clarification and additional details are requested on overall compliance with development plan policies (02/08/2021).

No concerns on the basis that the additional information for the scrap metal collection and sorting now provides the requested details required by the policies and for waste monitoring. It has also clarified that no waste will be sorted outside which reduces concerns over noise mitigation (21/09/2021).

## Representations

6 representations were received from five different households which can be summarised as follows: *Officer comments are in italics.*

- The site is too small- *Not a material planning consideration.*
- Lots of Heavy goods vehicles parked in a busy street which already has parking problems
- A yard for this use should be on an industrial estate.
- Yard is an eyesore.
- Conditions in the noise assessment are not being adhered to- processing outside the warehouse
- Lorries call outside specified operating times
- Access for lorries is limited and they have to reverse in which is a dangerous manoeuvre
- Different metals are being delivered, including girders, not part of business which is only aluminium.
- Reference to plastic recycling firm is irrelevant as it is accessed from Long Acres industrial estate, not the Rose Hill entrance.



- Stress and noise nuisance for residents. Not a suitable business in residential area.
- Don't know where the yard got their permission- *This current planning application seeks retrospective consent.*
- Council is more concerned with getting business tax than protecting their residents- *Business tax generation is not a material planning consideration and all representations received will be taken into account in the overall planning assessment.*
- Instances of loading and unloading on the highway.
- Constant thuds like thunder disturbing peace during the day.
- Information provided in application is inaccurate - *the LPA considers sufficient overall information is available to make the necessary planning assessment.*
- Noisiest actions are when large containers of metal are dropped into huge bins.

## Determining Issues

- Principle of Development
- Design, Layout and Character
- Impact on Amenity of surrounding occupiers
- Highways
- Pollution Control
- Other Matters

## Assessment of the Proposal

### Principle of Development

The site falls within SAD Policy IND1 Existing High Quality Industry and IND2 allocation for High Quality Industry as IN78.1 Longacres, Willenhall and part of IN28.12 Rose Hill, Willenhall. These sites are allocated and safeguarded for this use. The provisions of BCCS policy EMP2 and UDP Saved Policy JP8 also apply. Non-high quality industrial uses will be discouraged except where they can be shown not to impinge adversely on the overall quality of the area.

Constraints identified for these sites in Part (a) as outlined in Chapter 2 of the SAD include 'f2, f3 (northern edge), mi, MSA, NO2, PROW and waste', the relevant policies for which are detailed below.

UDP Policy JP8: Bad Neighbour Industrial Uses applies to ensure that bad neighbourly uses are sufficiently mitigated against by satisfying a number of criteria outlined in part (a) I-VI and conditions imposed to limit harm on adjacent sites, as outlined in part (b) including:

- I. Height of open storage.
- II. Location, within the site, of activities with a potentially adverse impact.
- III. Hours of operation.
- IV. Boundary treatment to include fencing of an approved standard, native trees and shrubs, and earth mounding as required.
- V. Proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material.

Therefore, appropriate conditions to mitigate the impact of the use on nearby residential dwellings will be necessary.

The proposal may be considered a B2 industrial use class waste operation capable of being located on a high quality employment site as indicated by BCCS Policy WM4 and considered below.

BCCS Policy WM1: Achieving Sustainable Waste Management outlines the Black Country's aims to achieve zero waste growth by 2026. Sustainable waste management will be delivered through 7 measures, including :

'2. Setting targets for landfill diversion and encouraging provision of recovery, recycling and composting facilities to reduce reliance on landfill and move waste up the "waste hierarchy";

3. Providing guidance on the number, type and capacity of new waste management facilities needed by 2026, for the Black Country to achieve "equivalent self-sufficiency" and minimise the export of wastes that can be managed locally;

It is noted that this proposal includes a facility that collects and processes scrap metal. This supports targets for landfill diversion under point (2) above. The minimisation of export of waste that can be managed locally is a key aim, to which aim in point (3) this proposal would support.

BCCS Policy WM4: Locational Considerations for New Waste Management Facilities attempts to steer waste management facilities towards the most suitable locations where they are likely to generate maximum benefits in terms of co-location, provide supporting infrastructure for other uses, and minimise potentially harmful effects on the environment and local communities:

This policy also outlines what enclosed waste management facilities and specific types of operation are likely to be suitable on different types of employment land, including any waste operations falling within Use Class B1 (b) or (c), B2 or B8 on all employment land. This policy also sets out various uses that are likely to be suitable on local quality employment land only (including transfer stations, small scrap yards and open storage facilities). Careful consideration will be necessary regarding the potential impacts of such uses on the high quality employment site if any of these uses are proposed but are ancillary to the main enclosed waste management process.

'All proposals should demonstrate compatibility with the uses already present within / adjacent to the area and with future aspirations for the area, for example, if it is a Strategic High Quality Employment Area (see EMP2). Proposals involving the management of hazardous wastes should demonstrate that the proposed use would not cause harm to the environment, human health or neighbouring uses.

Proposals should be compatible with adjoining uses and provide justification for the location chosen, such as demonstrating that they complement or provide a service to adjacent uses.

Open air operations should include mitigation for visual impacts and other potentially harmful effects on adjoining uses through appropriately-designed landscaping, appropriate proximity boundaries and screening.

In the Design and Access Statement submitted that 'some open storage' will be included in the development proposal, it is therefore recommended that a condition be applied in order to limit the amenity impacts of external operations.



The proposal also needs to be assessed against the list of criteria for new waste management facilities. The first two criterion relate to how the proposal addresses the 'proximity principle' and addresses national and local waste management objectives. As part of the justification for the development further details should be provided to clarify whether the proposal is well-located in relation to the sources of waste it will be managing

SAD policy W3: New Waste Management Development – Waste Treatment and Transfer. Part (a) of this policy seeks to ensure new waste management facilities to be appropriately located, and to demonstrate compliance with the relevant guidance in BCCS Policy WM4 and national policy guidance on waste. Planning applications for such developments are also be expected to demonstrate that the proposed operations would not have unacceptable effects on health, the environment, amenity or infrastructure, and that any potentially harmful effects or land use conflicts likely to arise will be effectively managed, while part (c) identifies potential sites for waste transfer.

The strategic policy team had no objection to the principle of the development provided the above points were clarified. They requested a further detailed design and access statement outlining information sought in the above policies with regards to throughput capacity of the proposed operations; HGV movements, boundary treatment, demarcation of areas, tonnages involved, specific types of waste to be transferred, and transfer source and destination (or likely sources and destinations where unknown). Details must be provided as to how these activities will be undertaken to ensure compliance with the relevant BCCS, UDP and SAD policies outlined above, with full mitigation for unacceptable effects, especially on the nearby residential dwellings along Rose Hill and demonstrating mitigated impact on neighbouring uses, particularly disruption to High Quality Employment uses and 'Bad Neighbour' policy. These details can be secured by condition.

The additional design access statement has provided the following details:

- The facility will operate from 8am to 4pm Monday to Friday and 8am till 1pm Saturday; there is no work on Sundays or Bank Holidays.
- The company currently employees 2 members of staff.
- There are a total of 6 deliveries to the site each day and 2 collections are made each day. The deliveries and collections are in 3.5 ton vans and pick ups.
- The premises deal in non-ferrous metals. The metals are stored and sorted into bins and then collected and taken off site for recycling. No specific processes are undertaken apart from sorting of metals into various bins. This process can be undertaken within the building.
- Tonnage – approximately 15-20 tons weekly.
- Source of Metals – Midlands area from construction sites, demolition and decommissioning industrial and manufacturing. Local trades people and contractors.
- Collection – metals when sorted are taken to larger dealers of scrap metal in the immediate area e.g. EHR Metal Recycling.
- The premises have a clear definable boundary including timber and brick walls (photographs were provided and a site visit was undertaken by the case officer which confirmed this was the case).

In regards to UDP Policy JP8, it has been discussed in the below section of the report (impact on amenity of surrounding occupiers and pollution control) that any additional impacts arising to nearby residents could be mitigated and minimised through planning conditions. There are no immediate schools, facilities for sport and recreation or

sensitive land uses in the immediate vicinity. As above, the premises have a clear definable boundary which includes timber and brick walls and it is also noted that the facility is set back approximately 38m from the main road.

In regards to the proximity principle, as referred to in the UDP, the source of metals has been stated to be from the midlands area from construction sites, demolition and decommissioning, industrial and manufacturing and from local trades people and contractors. The application conforms with reference to the waste hierarchy in that it is operating as a sorting facility which would reduce the reliance on landfill.

It is considered that this is an acceptable location for such use given the adjacent uses to north, west and south of the site are industrial in nature and that conditions could be imposed to protect the amenity of nearby residents. The use will not be an open air operation and it has been explained as above that the sorting can be undertaken within the building. The hours of operation for the proposal are not excessive being within the realm of a normal working day, reduced on Saturday and notably there will be no operation on Sundays or Bank Holidays. It is considered that the proposal would contribute towards the positive environmental transformation of the Black Country, through the reduction of waste to landfill and the handling of local waste within the area. The proposal would be compatible with neighbouring uses subject to conditions and in addition would not have a detrimental impact on the local/strategic highway network.

As such, it is considered that the development is acceptable in principle.

### **Design and Layout**

The premises comprises a pitched roof building with a set of doors and windows to the front elevation. Internally, the floor is indicated to be a factory with a tea preparation area and two WCs sited to the rear corner of the building.

There are no changes proposed to the design of the building; the application only seeks consent for the retrospective change of use. As such, the application is acceptable from a design and layout perspective.

### **Impact on the amenities of the surrounding occupiers**

The nearest residential properties are located approximately 13m from the site along Rose Hill.

This application does not propose any external changes to the existing building and as such there would be no impact to amenities of surrounding occupiers through overlooking, overshadowing or development that is overbearing.

The concern in regard to impact on the amenities of surrounding occupiers is with the noise impact arising from the proposed use of the site. It is considered that whilst some activities will adversely impact surrounding amenity, there are only six deliveries and two collections per day (on average), the opportunity for excessive adverse impact from tipping of materials is therefore reduced.

The majority of operations take place within the building and no industrial processing takes place outside. As such, it is considered that conditions could be applied to any permission in line with Pollution Control advice to minimise any additional impacts on neighbours' amenity.

On balance, and taking into account the surrounding existing industrial uses which are already likely to result in a higher level of noise and disturbance to nearby residential occupiers than other predominantly residential locations in the Borough, this proposal is considered acceptable subject to the proposed conditions.

## **Highways**

Based upon the submitted information on how the proposal operates in terms of vehicle sizes and number of movements, the Highway Authority has no objections.

The site has a wide, well established commercial access onto Rose Hill which would be acceptable to serve the new use, as well as sufficient existing turning and parking space.

A condition would be included in line with the Local highway Authority comments to require a site layout plan showing the staff parking and turning areas to be submitted for approval so it can be conditioned to be kept clear of any outside storage of materials or other paraphernalia associated with the operation.

## **Conclusions and Reasons for Decision**

The principle of development is considered acceptable and the information provided by the applicant shows compliance with relevant BCCS, UDP and SAD policies. There are no external changes proposed, there is no detriment to the highway network and it is considered that the noise arising from the use can be mitigated and minimised by planning conditions as set out in the report. As such, the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised by the Strategic Planning Policy Team, a further design and access statement was submitted setting out compliance with the relevant BCCS, UDP and SAD policies which enables full support to be given to the scheme

## **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. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development shall not be carried out other than in conformity with the following plans and documents: -

-Block Plan- REC 10.05.2021  
-NOV19/SU/001- Existing plans and elevations REC 10.05.2021  
-Location Plan REC 10.05.2021  
-Noise Survey by Braiden Acoustics- dated 07.04.2021, REC 10.05.2021  
-Planning, Design and Access Statement- REC 10.05.2021  
-Additional Statement- REC 10.09.2021

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).

3a. A site layout plan showing details of the staff parking and turning areas shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. The development hereby permitted shall not be carried out other than in accordance with the agreed details and thereafter retained for the life time of the development.

Reason: To ensure the parking and turning areas are kept clear of any outside storage of materials or other paraphernalia associated with the operation and in accordance with UDP Policy GP2, T7 and T13.

4. The sorting and processing of materials shall only take place inside the building, the unloading of deliveries by tipping shall only take place inside the building with the doors closed and the external yard shall not be used other than for the storage of full or empty skips or other containers, storage of sorted or processed materials and the parking of vehicles and plant. No transfer of materials between skips, containers or vehicles, sorting or processing of materials is permitted in this area.

Reason: In order to safeguard the amenity of neighbouring occupiers in compliance with policies GP2 and ENV10 of the UDP.

5. The development hereby approved shall only operate during the following hours:

Monday to Friday – 8:00 am to 4:30 pm

Saturday – 8:00 am to 1:00 pm

No operations shall take place on any Sunday Bank or Public Holiday\*

\*Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and Summer Bank Holiday Monday.

Reason: In order to safeguard the amenity of surrounding development in compliance with policies GP2 and ENV10 of the UDP.

#### **Notes for Applicant**

None

#### **END OF OFFICERS REPORT**