

---

<b>APPLICATION NO.</b>	17/0112/STMAJW	<b>DISTRICT REFERENCE</b>	S.17/2832/CM
<b>DATE VALID AGENT</b>	20th November 2017	<b>CASE OFFICER</b>	Linda Townsend David Jarvis Associates Ltd.
<b>APPLICANT</b>	M C Cullimore (Gravels) Ltd.		
<b>SITE</b>	Netherhills, Perry Way, Frampton On Severn, GL2 7HS		
<b>PROPOSAL</b>	Retention of aggregate recycling facility and associated stockpile areas		

#### PLANNING HISTORY

	<b>Proposal</b>	<b>Decision</b>
12/0005/STMAJW	Temporary Change Of Use for five years of Warehouse units 3 and 4 from B2 and B8 Industrial use to operate as a Waste Transfer Station (sui generis) for the storage and bulking of dry recyclables and the construction of a surface mounted weighbridge.	Consent 15.06.2012
11/0031/STMAJW	Variation of condition 4, 5, 13, 24 and 26 of consent S.06/2103 for the renewal of permission for an inert waste material recycling facility.	Consent 05.10.2011
11/0030/STMAJW	To regularise mineral storage, associated processing operations and to incorporate recycled aggregate related stockpiling	Consent 24.10.2011
06/0074/STFUL	Renewal of existing permission S.02/2283 for an inert waste material recycling facility (MRF) for the production of recycled aggregates	Consent 13.10.2006
02/00108/COUNTY	Inert recycling facility (MRF)	Consent 18.08.2003

#### PUBLICITY

<b>Site Notice</b>	<b>Date Posted</b>	29th November 2017	<b>Expiry Date</b>	20th December 2017
<b>Advert</b>	<b>Date Published</b>	29th November 2017	<b>Expiry Date</b>	20th December 2017

No. of Neighbours consulted	26	No. of Objectors	0	No. of Support	0	No. of Reps	0
-----------------------------	----	------------------	---	----------------	---	-------------	---

## CONSULTATIONS

### Stroud District Council

Stroud District Council has no objection.

### Parish/Town Council

Frampton on Severn Parish Council resolved to support this application but requests that consideration be given to the visibility of sight lines on the Perryway A38 Junction if hedge planting is agreed.

### Environment Agency (Lower Severn)

Having reviewed the details submitted and visited the site the Environment Agency has no objection to continued processing of aggregate on site in line with current operations.

### County Highways Development Management

The Highway Authority recommends that no highway objection be raised. There has been 2 recorded personal injury collisions recorded within the last 5 years at the Fromebridge Lane / Perry Way junction. The causation factors were attributed to driver error and unrelated to the highway configuration. No personal injury collisions have occurred within the immediate vicinity of the site access. The proposed landscaping, as demonstrated on drawing ref. 1977/PA/2 Revision A will not obstruct the visibility on the Perry Way / A38 Claypits Hill junction. The proposal would not be considered detrimental to highway safety or result in severe harm to the highway network.

### Flood Risk Management

The site is within Flood Zone 1 and at low risk of surface water flooding. The LLFA has no objection to this application. Drawing No. 1977/PA/2 incorporates the existing drainage for the site which comprises drainage ditches on the north and eastern boundaries, draining eastwards via the existing land drains to the River Frome.

### Principal Landscape Architect

The application is for permanent retention of the recycling facility and as such it is important that, as far as possible the site fits into the surrounding landscape, is adequately screened and that the screening is maintained to maturity. The current boundary treatment of the facility does not meet those criteria, appearing temporary and, for the large part, unmanaged. In its current form the landscape advisor would recommend refusal of the application on landscape and visual impact grounds.

Following initial concerns about the level of screening around the site and proposed hedge planting to the A38 boundary (already undertaken) using whips and small nursery stock which will take a number of years, certainly in excess of 5 years, before it starts to function as a hedge and longer before it forms a suitable screen, the landscape advisor requested further consideration of the landscape screening and the shape of the bund. The bund is an angular, engineered profile, out of keeping with natural landform. It is bare/very sparsely vegetated and out of keeping with the general roadside landscape to the A38 in that area. The bund is relatively low and does not fully screen stockpiled materials and plant the visual impact of the scheme will be improved by reprofiling the bund and by planting both bund and the gap between bund and hedge albeit that a gap is left for maintenance access to the hedge. The northern boundary is not adequately

screened. Consideration must be given to both winter and summer views and there are significant elements of plant visible for almost their full height in views south from the A38 in winter.

Following the submission of a revised landscape plan the landscape advisor was satisfied with landscape proposal and recommended approval with standard landscape conditions and also recommended that condition 5 of planning permission 11/0030/STMAJW is reviewed in the light of my request for additional screening as the 5 metre maximum stockpile height does seem high relative to the existing screen mound.

### **County Ecology**

The continuation of an aggregate recycling facility and associated operations including stockpiling would in my view have no significant effects on biodiversity. However it is stated at the end of the planning agent's letter (page 5) that because restoration would be to areas of hardstanding there would be no beneficial ecological consequence of not allowing the retention of the current development. The site was to have a two stage restoration process. Firstly to hardstanding plus a section for ancillary uses. Once this usage had ceased, including mineral storage and processing, then restoration would proceed to HGV parking plus an agricultural pasture (see Section 3.2 and Appendices 1 and 2). This is a confusing restoration scenario and the opportunity to simplify this should be taken unless there are good reasons not to do so. This would make the current application more acceptable in this countryside location. In my view the Planning Authority should consider seeking via a condition to have just a one step restoration scheme as depicted in drawing 1977/HP2 dated October 2010.

It is noted in the email from the agent that my suggestion of having a condition to have just a one step restoration scheme as depicted in drawing 1977/HP2 dated October 2010 is agreed to. I also welcome that a new hedge with native species has now been planted alongside the A38 boundary and infill planting is being progressed on other hedge boundaries too. I have no comments on the revised 'Proposed Site Layout and Planting Plan' drawing 1977/PA/2 Revision C except it should be adopted for site landscaping purposes in any consent granted.

## **REPORT**

### **1.0 SITE DESCRIPTION**

- 1.1 The 2.3 ha application site is located approximately 7 kilometres west of Stonehouse, 12 kilometres south of Gloucester and 2.2 kilometres south-east of the village of Frampton-on-Severn. The site is a short distance to the west of Junction 13 of the M5 motorway. The application site is situated to the north of the A38, which runs roughly northeast to southwest between Gloucester and Bristol and to the north of the junction with the B4071 known as Perry Way, running northwest towards the village of Frampton. Perry Way forms the southern boundary of the site.
- 1.2 This generally level site forms part of the applicant's main transport and aggregates depot which lies immediately northwest of the application site. Access to the site is through the transport depot and Fromebridge Lane to the north. The application site is bounded on the south and eastern sides by a 3 metre high engineered earth bund. A substantial mature mixed species hedge and trees with areas of mature willow trees provides some screening for the site along the southern and eastern boundaries. An agricultural field is located immediately to the northeast of the site. Two storage lagoons are located in the middle of the site and close to the north-eastern site boundary.

- 1.3 The nearest residential properties lie approximately 150 metres to the north-east of the application site, on the eastern side of the A38. A petrol filling station lies approximately 100 metres to the east of the site, on the opposite side of the A38. Further residential properties lie approximately 500 metres to the north of the application site in the hamlet of Fromebridge.
- 1.4 The application site is not located in the AONB or in the Green Belt. There are no public rights of way either on the site or close to its boundaries. The site is considered to be at low risk of flooding and is located within Flood Zone 1 of the Environment Agency's Flood Maps.

## **2.0 THE PROPOSAL**

- 2.1 The applicant is proposing to permanently retain aggregate recycling on part of the site located in the southerly corner of this application site and integrate these activities with mineral storage and recycled aggregate stockpiling on the contiguous 1.57 hectare site. A temporary consent under 11/0031/STMAJW was granted on 27<sup>th</sup> October 2011 which was a renewal of planning permission 08/0022/STMAJM granted 2<sup>nd</sup> March 2010. Aggregate recycling was permitted for a maximum of 10 years or until the restoration of the applicant's mineral extraction site, to the south of Perry Way was completed, whichever date was sooner. As the restoration of the mineral site was completed before 10 years had elapsed, the temporary consent has expired although the waste recycling operations have continued and the applicant seeks retrospective consent.
- 2.2 The agent's supporting statement of the 3<sup>rd</sup> November 2017, explains that, "*The extent of the recycling facilities has expanded beyond the application site area indicated in the 11/0031/STMAJW submission, essentially due to the increase in stockpiled materials waiting to be recycled and the need to relocate the mobile recycling plant; the submitted site plan 1977/PA/1 indicates the current arrangement. Therefore the applicant is seeking planning permission to permanently retain all existing uses on the southern portion of the Netherhills site, as described above in order to regularise the situation and allow all operations to continue.*"

### **Environmental Impact Assessment**

- 2.3 The proposal for an installation for the disposal of waste falls within development detailed in Schedule 2 Section 11(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and exceeds 0.5 hectare site area threshold. The use of part of the site for an inert waste recycling was screened under the EIA Regulations in 2011 but was found not to require environmental assessment. There has not been any significant change in the nature of the local environment of this application site since that time. It is considered that the location of the waste recycling operation would not have by itself or in combination with the nearby uses have a significant effect on the environment to warrant the production of an Environmental Impact Assessment. The Waste Planning Authority adopted this negative screening opinion on the 13th November 2017 following the submission of the planning application.

## **Revised Plans**

- 2.4 Following comments relating to the lack of surface water drainage information from the Lead Local Flood Authority and insufficient visual screening of the activities on the site from the County's Landscape Advisor, the Applicant submitted revised plans 1977/PA/2 Rev A – Proposed Site Layout and Planting Plan, dated January 2018 on 18<sup>th</sup> January 2018.
- 2.5 A revised version C of the Proposed Site Layout and Planting Plan, dated February 2018 was received on 28<sup>th</sup> February 2018 and shows new planting to the reprofiled and grassed bund with a mix of native trees and hedgerow species (1.5 m to 2 m high whips).
- 2.6 Revised version D of the Proposed Site Layout and Planting Plan 1977-PA-2 and Section through Southern Bund drawing reference 1977-PA-4, both dated March 2018 were received on the 12<sup>th</sup> March 2018. The Section drawing shows the appearance of the bund at completion and after 2 to 10 years. The planting schedule shows native tree and hedge mix of 60-90 cm whips chosen for the best chance of successfully establishing in this location.

## **3.0 PLANNING POLICY**

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

- 3.1 The National Planning Policy Framework (NPPF), published on the 27<sup>th</sup> March 2012, constitutes guidance for Local Planning Authorities and is a material consideration in determining the application. In assessing and determining planning proposals, Planning Authorities should apply the presumption in favour of sustainable development, which is the main focus of the NPPF in relation to both the plan-making and decision making process. However, the presumption in favour of sustainable development does not apply where development requires an appropriate assessment under the Conservation of Birds Directive and the Habitats Directive.
- 3.2 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. Specific waste policies are not included in the Framework but are to be found in the National Planning Policy for Waste.

### **National Planning Policy for Waste (NPPW)**

- 3.3 The Waste Management Plan for England sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management.

3.4 Within the NPPW it states that waste planning authorities should assess the suitability of sites and/or areas for new or enhanced waste management facilities against each of the following criteria:

- i) The extent to which the site or area will support the other policies set out in the NPPW;
- ii) Physical and environmental constraints on development, including existing and proposed neighbouring land uses;
- iii) The capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking where practicable and beneficial to use modes other than road transport; and
- iv) The cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.

3.5 Furthermore, Chapter 7 of the NPPW states that when determining waste planning applications, waste authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

3.6 On the issue of pollution control the NPPW clearly states that waste planning authorities should 'concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities.' For the purpose of this application the pollution control authority is the Environment Agency, which has no objection to the proposal. The NPPW goes on to say that 'waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.'

3.7 The relationship between planning and other regulatory regimes is also addressed within the National Planning Practice Guidance, where it states:

*'The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste.'*

*'There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body.'*

### **Gloucestershire Waste Core Strategy (adopted November 2012)**

3.8 The Waste Core Strategy (WCS) was adopted by Gloucestershire County Council on the 21<sup>st</sup> November 2012 and provides the most up-to-date policy context against which waste applications should be considered. The WCS explains how the County Council and its

partners will address the issue of planning for waste management in Gloucestershire in the period 2012 to 2027.

3.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the Adopted Development Plan status must be considered. The following policies are relevant to the proposed development:

### **WCS1 – Presumption in Favour of Sustainable Development**

*In determining waste applications the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Council seeks to work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy WCS1 states that planning applications that accord with the policies in the WCS (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.*

### **WCS4 – Inert Waste Recycling and Recovery**

*In order to help reduce the impact of landfill and achieve the requirements of the Waste Framework Directive (2008) the Council will aim to divert around 85,000 tonnes/year of inert waste from landfill through recycling and recovery operations.*

*Proposals for inert waste recycling and recovery facilities will be permitted where it can be demonstrated that:*

- 1. The impact on the environment and neighbouring land uses is acceptable including detailed assessment of the impact of noise and dust and attenuation measures.*
- 2. Where viable, the proposal incorporates the use of alternatives to road transport such as rail and water and that where road transport is used the highway access is suitable for the proposed vehicle movements and is supported by a transport assessment and travel plan setting out measures to encourage employees to reach the site by foot, cycle or public transport.*
- 3. The proposal contributes towards providing a sustainable waste management system for Gloucestershire.*
- 4. If the proposal is permanent and of a 'strategic' scale (>50,000 tonnes/year) it is located in the area defined as 'Zone C' (see Key Diagram) except where located within an existing or disused mineral working.*

*Developments may be acceptable on existing waste management sites and mineral workings where it can be demonstrated that the minimum amount of materials are being used for restoration/engineering purposes and that the use will not unduly prejudice the agreed restoration principles and timescale for the site. Temporary developments may be acceptable where the material is recycled and re-used on site.*

*Proposal for new or extended landfill will need to indicate that it is for Gloucestershire's waste needs unless it can be demonstrated, through a supporting statement, to be the most sustainable option to manage waste arisings from outside of the county at that facility.'*

## **WCS12 – Flood Risk**

*In order to reduce the likelihood and impact of flooding both on and off-site there will be a general presumption that all waste-related development will be located in areas of low flood risk, (Flood Zone 1) unless it can be demonstrated that there are no suitable, alternative sites available.*

*Only if no suitable sites are available in Flood Zone 1 will consideration be given to sites within Flood Zone 2 and only if no suitable sites are available in Zone 2 will consideration be given to sites within Flood Zone 3a. Proposals which are classified as 'less vulnerable' may come forward in Flood Zones 1, 2 and 3a although the sequential approach will still apply.*

*Proposals for 'more vulnerable' waste development including landfill/land raise and hazardous waste treatment and disposal will only be permitted in Flood Zone 3a where it can be demonstrated through application of the 'exception test' that:*

- The development provides wider sustainability benefits to the community that outweigh flood risk having regard to the Gloucestershire Strategic Flood Risk Assessment (SFRA); and*
- The site is previously developed or if not, that there are no reasonable and available alternative sites on previously developed land; and*
- The development will be safe without increasing flood risk elsewhere and where possible, will reduce flood risk overall.*

*Proposals for waste-related development within Flood Zone 3b (the functional floodplain) will not be permitted other than 'water compatible' proposals such as sewage transmission infrastructure and pumping stations and, subject to the exception test, development which is classified as 'essential infrastructure'.*

*A Flood Risk Assessment (FRA) will be required for all development of 1 hectare or more and for any proposal located within Flood Zone 2 and 3a. The FRA should consider all sources of potential flood risk.*

*The design of all new development will be required to take account of current and potential future flood risk from all sources both on and off-site including in particular the use of Sustainable Drainage Systems (SUDS).*

## **WCS14 – Landscape (Extract)**

### General Landscape

*Proposals for waste development will be permitted where they do not have a significant adverse effect on the local landscape as identified in the Landscape Character Assessment or unless the impact can be mitigated. Where significant adverse impacts cannot be fully mitigated, the social, environmental and economic benefits of the proposal must outweigh any harm arising from the impacts.*

## **WCS15 – Nature Conservation (Biodiversity & Geodiversity)**

*Sites of Special Scientific Interest (SSSI) and National Nature Reserves (NNR) will be safeguarded from inappropriate waste management development.*

*Planning permission for waste management development within or outside a Site of Special Scientific Interest (SSSI) or National Nature Reserve (NNR) will only be granted where it can be demonstrated that:*

- The development would not conflict with the conservation, management and enhancement of the site unless the harmful aspects can be satisfactorily mitigated; and*
- The benefit of the development clearly outweighs the impacts that the proposal would have on the key features of the site; and*
- The proposal complies with other relevant policies of the development plan; and*
- In the case of a SSSI, there would be no broader impact on the national network of SSSIs.*

*Local nature conservation designations will also be safeguarded from inappropriate development and planning permission will only be granted for development affecting such designations where it can be demonstrated that the impact of the development can be satisfactorily mitigated and that the benefit of the development clearly outweighs any impact.*

*Development proposals will be required to assess their impact on the natural environment and make a contribution to local nature conservation targets to ensure net gain for biodiversity.*

*Proposals that incorporate beneficial biodiversity or geological features into their design and layout will be favourably considered particularly where the proposal would result in a positive contribution to a Strategic Nature Area (SNA) as identified on the Nature Map for Gloucestershire.*

#### **WCS19 – Sustainable Transport:**

*The most pertinent requirement of Policy WCS19 states that ‘Development that would have an adverse impact on the highway network which cannot be mitigated will not be permitted.’*

#### **Gloucestershire Waste Local Plan 2002 – 2012 (Adopted October 2004) (GCC WLP)**

3.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the Adopted Waste Local Plan’s Development Plan status must be considered. The following saved policies are relevant to the proposed development:

#### **Policy 33 – Water Resources – Pollution Control**

*“Proposals for waste development will only be permitted where there would be no unacceptable risk of contamination to surface watercourses, bodies of water or groundwater resources.”*

This policy is in conformity with the Planning Principles detailed in the NPPF.

#### **Policy 37 – Proximity to other land uses:**

*“Proposals for waste development will be determined taking into account such matters as the effect on the environment, occupants’ and users’ amenity and health, the countryside, the traditional landscape character of Gloucestershire, the local highway network, any*

*hazardous installation or substance and any adverse cumulative effect in combination with other development in the area. Where appropriate, suitable ameliorative measures shall be incorporated in the proposals to mitigate, attenuate and control noise, dust, litter, odour, landfill gas, vermin, leachate and flue emissions.”*

This policy is in conformity with the Core Planning Principles detailed in paragraph 17 of the NPPF.

#### **Policy 38 – Hours of Operation:**

*“The Waste Planning Authority will where appropriate impose a condition restricting hours of operation on waste management facilities to protect amenity.”*

This policy is in conformity with the Planning Principles detailed in Chapters 11 and 12 of the NPPF.

### **4.0 Planning considerations**

- 4.1 The application has been made to retain the southern part of a larger mineral processing and storage operation used for an aggregate recycling facility with associated storage area. The part of the site to be retained in a waste management use had a temporary planning permission under reference 11/0031/STMAJW which has now expired. A temporary planning permission for a maximum of 10 years was granted on the 27<sup>th</sup> October 2011 by virtue of the recycling operation being linked to the restoration of a nearby mineral extraction site, off Perry Way, which was in the applicant's ownership. As the associated mineral site restoration has been completed before the expiration of 10 years, the inert waste recycling permission has lapsed but the applicant wishes to retain the ability to recycle inert wastes for secondary aggregate. The adjacent and larger part of the site which is used for mineral processing and storage already has full planning permission granted under reference 11/0030/STMAJW but this part of the site has been included within the application site boundary because the recycling activities have expanded beyond the original application site boundary and the smaller part of the site is effectively part of the main site. Access to the application site continues to be from the north, via land which is within the applicant's ownership, which is used for a combination of mineral processing, industrial and transport uses including the applicant's offices.
- 4.2 The main considerations in the determination of this proposal to retain the waste recycling use on this site now that the associated mineral restoration has ceased are the impact on the environment and neighbouring land uses as required by the policies of the Development Plan for Gloucestershire.

#### **Development Plan**

- 4.3 In order to meet the objective of the waste strategy for Gloucestershire to divert 85,000 tonnes per year of inert waste from landfill through recycling and recovery operations, Policy WCS4 of the Waste Core Strategy requires proposals for inert waste and recovery to demonstrate the impacts on the environment are acceptable. The throughput of the site being less than 50,000 tonnes per annum is not strategic scale but the site is located within Zone C of the Key Diagram of the Waste Core Strategy. The 30,000 tonnes per annum of aggregate recycling does however contribute towards the County's waste management

objectives. The National Planning Policy for Waste also requires new and enhanced waste management facilities to be assessed against physical and environmental constraints on development, including existing and neighbouring land uses and the cumulative impact of existing and proposed facilities on the well being of the local community.

### **Noise and Dust**

- 4.4 No change is proposed to the amount or method of processing of inert waste from the previous planning permissions for this site. The application site is described in the planning application as processing a maximum of 30,000 tonnes per annum of inert construction, demolition and excavation waste. The applicant uses a tracked heavy duty screen which is designed to work with a tracked jaw crusher used to pre-screen construction demolition debris and a front loading shovel to move material around the site. A dust suppression scheme pursuant to planning condition 20 of the planning permission 11/0031/STMAJW was approved by the County Council on 29<sup>th</sup> February 2012.
- 4.5 The nearest residential properties are a group of three houses that lie approximately 150 metres to the north-east of the application site, on the opposite side of the A38. Therefore the noise from this proposal needs to be considered against the existing, background noise levels of traffic using the A38. In addition, the nature of the operations is intermittent rather than continuous. In keeping with the operating hours of most waste facilities within the county, working will not be allowed on Saturday afternoons, Sundays and bank holidays. The existing bunding along the southern and eastern boundary of the application site provides an element of noise attenuation. No objections or representations have been received from local residents or businesses to the proposed retention of the recycling operations on the site. The Environment Agency has raised no objections to the continued recycling of aggregates on the site in line with their current operation.
- 4.6 Stroud District Council's Environmental Health Officer (EHO) has confirmed that the existing operation has not been the subject of complaints in respect of noise or dust emissions. Provided that the operations continue in the same manner, the EHO considers that existing conditions relating to these matters would be sufficient. A planning condition was attached to the temporary planning consent to limit the noise levels associated with the proposed operations. This requires that noise from the operations on site shall not exceed 55dB (A) Leq (1 hour) freefield, as measured or calculated from the curtilage of the nearest residential property. The proposals are considered to conform to Policy WCS4 of the Waste Core Strategy in that the activities on the site have demonstrated that impact on the environment and neighbouring land uses is acceptable and existing mitigation measures are operating effectively so as not to lead to complaints about the operations on the site.

### **Flood Risk and Surface Water Drainage**

- 4.7 As the site is in excess of 1 ha in area, the applicant submitted a Flood Risk Assessment which confirms that the site is at low risk of flooding and is located in Flood Zone 1 on the Environment Agency's Flood Maps. Revised plan: 1977/PA/2 Rev C shows the location of drainage ditches running around the site perimeter which drain eastwards towards the River Frome. The agent, in an email of the 18<sup>th</sup> January 2018, confirmed that the Netherhills site is lower than the surrounding road so that surface water runs into the site and collects in the existing on-site lagoons before draining away into the ground and drainage ditches shown on the submitted drawing.

4.8 The LLFA raises no objection and is satisfied the site is at low risk of surface water flooding. The proposed development is considered to comply with Policy WCS12 of the Waste Core Strategy and saved Policy 33 of the Gloucestershire Waste Local Plan as there is unlikely to be a risk of water pollution from activities on the site or off-site flooding resulting from the development.

### **Highways impact**

4.9 The application site lies adjacent to the A38 and is also near to junction 13 of the M5 which provides ready access to markets within Gloucestershire. There is no viable alternative to road transport but the highway access from the site is considered acceptable. No change is proposed to the throughput of the site in this application. Due to the scale of the proposal a traffic impact assessment was not required. The Parish Council was supportive of the proposals, but was concerned that landscape proposals did not obstruct visibility at the junction with the A38. No representations were received from members of the public in response to the publicity for this application. This proposal is considered to accord with Policy WCS4 of the Waste Core Strategy. The County Highway advisor was satisfied with the proposals and use of the existing site access and that the landscape proposals do not obstruct the visibility of the A38 junction. This proposal is considered to accord with Policy WCS19 of the Gloucestershire Waste Core Strategy in that there would not be an adverse impact on the highway network.

### **Biodiversity**

4.10 The application site currently has little if any ecological value although the surrounding hedgerows will act as a wildlife corridor. The Ecologist advises that the restoration of the site to a hard standing would have no beneficial ecological consequence. He considers that the restoration plans for both parts of the site resulting from there being two separate planning permissions are confusing. The current planning application gives an opportunity to consolidate both parts of the site and simplify the restoration scheme to a more acceptable solution in a countryside location.

4.11 The applicant agreed in an email of the 18<sup>th</sup> January 2018 from the agent, that the proposed restoration scheme could be simplified and considered it appropriate to impose a condition which required the submission of such a scheme within 12 months of cessation of the permitted use. However, the Waste Planning Authority considers a condition requiring the submission of the restoration scheme within 12 months of the date of the permission and implementation within 12 months of cessation would be more appropriate to secure a satisfactory restoration scheme in the event of cessation of waste recycling operations.

4.12 The County Ecologist is of the view that a continuation of the current recycling operations would not have a significant effect on biodiversity and the landscape proposals would not conflict with Policy WCS15 of the Waste Core Strategy.

### **Landscape impact**

4.13 The Perry Way boundary hedge is a good strong mature hedgerow and, whilst a small amount of infill planting is required, it generally forms a suitable boundary for the application site. The A38 boundary has been worked on recently. The bund is engineered

and doesn't fully screen the operations on the site. The northern boundary is very sparsely vegetated and affords views into the site from the A38 southbound. While the visual impact of the plant and stockpiles in this semi-rural location has been mitigated to some extent by earth bunding and the hedgerow largely screening the site. The County Landscape advisor is concerned that the recent hedge planting is insufficient to establish a satisfactory screen for the site and has indicated where activity on parts of the site are clearly visible from the public highway. The change from temporary use to permanent use puts an additional onus on the need to integrate the scheme into the surrounding landscape and to the screening of the operation. The landscape advisor was not convinced that the proposed new hedge and the existing bund would give sufficient visual screening or landscape quality for a permanent site use.

4.14 The earth bund has an engineered appearance which would benefit from reprofiling and planting of trees on a shallower slope to better screen the site. Following the submission of revised landscape proposals and the applicant's agreement to reprofile the bund close to the A38, the bund should be given a more natural form and at an angle to support woodland planting. Rather than hedge to the northern boundary, structure planting would be implemented to give better long-term screening on that boundary. A reduction in the height of stockpiles from 5 to 3 metres would also assist in ensuring that the activities on the site are adequately screened until such time as new planting matures and provides a more effective screen for the activities on the site. Provided that a suitable landscape scheme is implemented on the site, this proposal is considered to accord with Policy WCS14 of the Gloucestershire Waste Core Strategy by providing appropriate mitigation through visual screening of the site.

#### **Other considerations:**

##### **Human Rights**

4.15 From 2nd October 2000 the Human Rights Act 1998 has the effect of enshrining much of the European Convention on Human Rights in UK law. Under 6(1) of the Act, it is unlawful for a public authority to act in a way, which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1), and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

4.16 The main Convention rights relevant when considering planning proposals are Article 1 of the First Protocol (the peaceful enjoyment of property) and Article 8 (the right to a private and family life). Article 1 of the First Protocol guarantees the right to peaceful enjoyment of possessions and Article 8 of the Human Rights Act 1998 guarantees a right to respect for private and family life. Article 8 also provides that there shall be no interference by a public authority with the exercise of this right except in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the freedom of others.

4.17 No objections from neighbouring residents or statutory consultees have been received relating to the application. For the reasons set out in 'Planning Considerations', it is not thought there would be any breach of the convention rights. Even if there was to be an interference with convention rights then, in this case, it is thought that the interference would

be justified in the interests of public amenity. Accordingly, it would not be unlawful to grant planning permission for this development.

### **Summary reasons for the grant of planning permission**

4.18 This application has been submitted to retain part of a larger site used for recycling and stockpiling of aggregates at Netherhills site which has been subject to a temporary and now expired planning permission. There are no objections from statutory consultees or members of the public to the proposed retention of the recycling of aggregates. The application site forms part of a larger mineral and inert waste processing operation run in tandem with the applicant's transport depot. This proposal accords with Policy WCS4 of the Gloucestershire Waste Core Strategy as the proposal does not involve any increase in the amount of material handled by the site, only the layout of the site since the original permissions were granted. The planning conditions of the previous planning approval appear to have provided adequate control over the way the site operates as there have not been any complaints about the operations on the site. I consider that provided the planning conditions from the previous planning permissions are reimposed there should be no adverse impact on the amenity of local residents, increase in traffic generated or risk of pollution to groundwater that this proposal is in accordance with Policies 33, and 37 of the Gloucestershire Waste Local Plan that seek to mitigate impacts on other land uses.

4.19 In determining this planning application, the Waste Planning Authority has worked with the Applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the Applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

<b>RECOMMENDATION</b>	That planning permission is GRANTED for the reasons set out in paragraphs 4.18 to 4.19 and subject to the following planning conditions:
-----------------------	--

1 The development to which this permission relates is deemed to have commenced on the date of this planning permission.

Reason: To comply with 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 operations hereby permitted shall be carried out in accordance with the scheme of working outlined in the application, supporting information, and plan references: 1977/PA/1 Rev A, Existing Site Layout, dated October 2017; 1977/PA/2 Rev D Proposed Site Layout and Planting Plan, dated March 2018; 1977-PA-4 Section through Southern Bund, dated March 2018 and 1977/PA/3 Location Plan, dated October 2017.

Reason: To define the nature of the planning permission and to ensure that the development is carried out in accordance with the details in the planning permission.

3 Nothing other than inert, uncontaminated material shall be imported to, and processed on, the application site.

Reason: In order to define the scope of this consent and prevent pollution of the water environment in accordance with Policy 33 of the Gloucestershire Waste Local Plan.

4 Except in the case of emergency, which shall be communicated to the Waste Planning Authority as soon as possible after the event, no operations or activities authorised or required by this permission shall be carried out and plant shall not be operated on the site other than during the following hours:

07:30 - 18:00 Mondays to Fridays  
08:00 – 13:00 Saturdays

There shall be no materials accepted onto the site and no operations carried out on the site at any time on Sundays, Bank or Public holidays.

Reason: In the interests of the amenity of the area in accordance with Policy 38 of the Gloucestershire Waste Local Plan.

5 The operator(s) shall maintain written records of their monthly quantities of material imported on to the site and shall make these records available to the Waste Planning Authority at any time upon request. All records shall be kept for at least 3 years.

Reason: In order that the Waste Planning Authority can monitor the throughput of material at the site.

6 The height of any stockpiled material shall not exceed 3 metres above ground level.

Reason: In the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

7 No direct public sales operation shall be carried out from the site in association with the development hereby authorised.

Reason: In the interests of highway safety in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

8 The sign advising drivers of vehicle routes erected at the site exit approved on 28th February 2012 shall be maintained as approved for the duration of the development hereby permitted.

Reason: In the interests of highway safety and the amenities of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

9 The total maximum amount of material that shall be imported to and processed on the site, as edged red on the application site plan shall not exceed 30,000 tonnes per annum.

Reason: To define the scope of the application in the interests of highway safety and the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

10 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason: To prevent pollution of the water environment in accordance with Policy 33 of the Gloucestershire Waste Local Plan.

11 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment in accordance with Policy 33 of the Gloucestershire Waste Local Plan.

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order replacing, amending or re-enacting that order), no buildings or fixed or mobile plant shall be erected on any part of the site without the prior consent of the Waste Planning Authority.

Reason: There is a need to secure control over additional plant and machinery in the interests of the amenity of the area and in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

13 The noise from the site caused by the operations shall not exceed 55dB(A)Leq (1 hour) freefield, as measured or calculated from the curtilage of the nearest residential property.

Reason: To protect the amenity of local residents in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

14 All plant and machinery shall operate only in the permitted hours, except in emergencies (the details of which shall be communicated to the Waste Planning Authority as soon as possible after the event), and shall be silenced at all times in accordance with the manufacturer's recommendations.

Reason: In the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

15 Effective measures shall be taken at all times to ensure that no litter or other wastes are dispersed beyond the boundaries of the site.

Reason: In the interests of the amenities of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

16 No materials shall be burnt on site.

Reason in the interests of the amenities of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan

17 The dust suppression scheme approved on 28.2.2012 shall be implemented within the timescales detailed in the approved scheme and shall remain in place for the duration of operations at the site.

Reason: in the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

18 Planting and reprofiling of the screening bund shall be in accordance with the Proposed Site Layout and Planting Plan, drawing reference 1977/PA/2 Revision C dated February 2018. Prior to the planting of the bund, the Waste Planning Authority shall be notified within 7 days of the date when the reprofiling works have been completed. When the Waste Planning Authority has provided written approval that the bund profile is in accordance with the approved plan, the bund planting shall be carried out accordance with the agreed scheme within the first planting season following the date of written approval and at the latest within 12 months of the date of this planning permission.

Reason: To conserve and enhance the landscape character of the countryside in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

19 Within five years of planting, any trees, shrubs, or other plants that die or become diseased, are removed or damaged, or grassed areas which become eroded or damaged, shall be replaced in the first available planting season with others of a similar size and species in accordance with the details of the approved scheme.

Reason: In the interests of the visual amenity of the area in accordance with Policy WCS12 of the Waste Core Strategy.

20 Within 12 months of the date of this permission, a restoration scheme based on drawing 1977/HP2 dated October 2010 shall be submitted for approval in writing by the Waste Planning Authority. The approved scheme will be implemented within 12 months of the cessation of the development hereby permitted.

Reason: To conserve and enhance the landscape character of the countryside in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

#### INFORMATIVE :-

If a protected species (such as any bat, badger, reptile, great crested newt, otter, water vole or any nesting bird) is discovered using a feature on site that would be adversely affected by any operation or activity on site then a suitably qualified ecological consultant should be contacted and the situation assessed. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), and the Conservation of Habitats and Species Regulations 2017 and the Protection of Badgers Act 1992. Works taking place between 1st March and 31st August require special care as trees, shrubs or certain parts of buildings could harbour nesting birds unless it is reasonably determined by observation or survey by an experienced person that nesting bird activity is absent. This advice note should be passed on to any person or contractors carrying out or occupying the development.