

PLANNING APPLICATION NUMBER: P20/1801

Type of approval sought	Full Planning Permission
Ward	Lye and Stourbridge North Ward
Agent	Rawdon Gascoigne
Case Officer	Richard Stevenson
Location:	PEGASUS GRAB HIRE, BOTT LANE, LYE, STOURBRIDGE, DY9 7AW
Proposal	THE CONTINUED USE OF LAND AS AN AGGREGATE SORTING AND RECYCLING FACILITY AND THE INSTALLATION OF NEW AGGREGATE WASHING FACILITY (RETROSPECTIVE)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

This application was withdrawn from the Development Control Committee agenda on 2 June 2021 following the late submission of Counsels opinion by the applicant and to allow time for the Local Planning Authority to assess the additional information and obtain its own Counsel opinion.

SITE AND SURROUNDINGS

1. The application site consists of the western and part of the northern area of the former Helix stationery factory site. Since 2018, when a temporary, three year approval was granted, this site has been used as an aggregate recycling facility, with onsite structures and plant including portacabins, a weigh bridge and an aggregate screener. There is also an area of aggregate storage mostly to the western end of the site. Access to the site is presently from Bott Lane.
2. To the north of the application site is Bott Lane, which also provides access to the Vanguard Foundry premises, a vacant storage site and six small industrial units. Bott Lane, for part of its alignment beyond the application site is a public footpath rather than a road, which runs towards Timmis Road.

3. To the south west of the site is a large electricity transformer station, with the Worcester-Birmingham railway line running along the southern boundary of the application site in a cutting.
4. Beyond the eastern boundary of the application site is the remaining open area of the former cleared Helix site, which has planning permission for open storage. On the opposite side of Engine Lane are numerous residential properties and some remaining industrial uses that face toward the site. Two waste transfer operations are located off Engine Lane before the junction with Bott Lane.
5. 140 metres to the north of the application site is an allocated housing site located within the Stour Valley where there is a current planning application for the residential development of 132 houses.

PROPOSAL

6. This application seeks approval to continue the use of the application site on permanent basis, as an aggregate sorting and recycling facility beyond August 2021, when the temporary planning permission is due to expire. The temporary permission had been granted for a period of three years, due to the planning policy aspiration to redevelop the wider area to for housing, being closely associated with the allocated Caledonia housing site and being in close proximity to a sustainable transport node at Lye railway station.
7. In addition to seeking permanent planning permission for the use, the applicant is seeking to reconfigure the internal layout of the site, so that a new aggregate washing facility can be installed. From a site visit undertaken on the 14th of May 2021 was apparent that the aggregate washing facility had been installed, but not then commissioned.

8. The new washing facility is located in the north western corner of the site and consists of structure of some 10m high with an overall length of some 84m that will include tanks and conveyors.
9. The supporting planning statement outlines that 80 employees are based at the application site, with wider business employing around 160 people, and states that the proposed investment would create an additional 30 to 50 jobs.
10. Principal clients are noted to include a number of utility companies, which require aggregates and excavated materials from their operations to be cleaned, sorted and recycled so that they can be reused within their respective businesses.
11. The applicant states in their supporting statement that they are seeking a permanent permission and assert that they have looked at relocating the business to other sites. Such sites are stated to have been ruled out as being too far from their current base and primary customer base, or that such sites are not currently available.
12. In addition to the planning statement, the application is supported by a coal mining risk assessment, a flood risk assessment, an air quality assessment, a noise assessment and transport statement. The latter three of these submissions have been updated in response to comments made by consultees
13. Following the publication of the agenda for the 2 June 2021 Development Control Committee the applicant submitted a letter dated 28 May 2021 direct to the Head of Planning and Regeneration and members of the Development Control Committee. This letter requested that at least a five-year temporary planning permission be granted, or that the use of the site should terminate if an outline planning permission is granted upon or on an adjoining site for residential development. In addition, the applicant requested changes to proposed Condition 4 (lighting), Condition 5 (opening hours) – requesting longer operational hours, Condition 7 (dust management) and Conditions 8 and 9 (coal mining).

14. Within the letter the applicant made reference to the environmental and employment benefits of the proposal as well as arguing that the development accords with the development plan. Additionally, the applicants state that no firm proposals for residential development have come forward in the locality.
15. On 1 June the applicant submitted a further letter with a Counsel opinion attached, the main points of which are summarised below;
- That the proposals for a permanent planning permission accord with the development plan (reference to Appendix 2 to the BCCS expressly includes 167ha of employment land within RC131, supporting the broad strategy that RC13 will comprise a mix of different uses including housing and employment. Indeed, the BCCS envisages the need for an additional 30ha of employment during the long term.)
 - An employment generating use accords with the spatial strategy for the area and the site's allocation under H13.26;
 - There is no evidence that a housing developer is likely to come forward to develop the site for housing in the short or medium term – there is no planning permission at the site, even if an application were prepared it would take some time to come forward. Reference is made to letter of support from Vanguard stating they were not looking to relocate.
 - There is no evidence that a suitable alternative location for the applicants' operations has been identified, or that one will be found in the short to medium term.
 - The site owner (the applicants landlord) is not currently willing to sell the site;
 - If a permanent planning permission is granted and the Council determines the site should be redeveloped, then the Council can use its CPO powers to acquire the land. In this regard the grant of a permanent planning permission would not frustrate the delivery of the Council's wider regeneration objectives. There would likely to be significant adverse consequences of limiting operations on site for a temporary period, resulting in insecurity for the applicant and ultimately the potential they may cease operations within the local authority area and relocate, preventing the Council from meeting their zero-waste growth target and the loss of jobs currently based in Dudley to another area.

HISTORY

16.

APPLICATION No.	PROPOSAL	DECISION	DATE
P14/1604	Prior approval under Part 31 for demolition of former Helix Site	Granted	03-Dec-2014
P16/1337	Installation of a Short Term Operating Reserve (STOR) to include fuel stores, generators, switchgear container, cabinets and 4.5m acoustic fencing	Withdrawn	28-Oct-2016
P18/0218	Change of Use of the land to allow for the recycling of aggregate material. Provision of a portacabin, parking and a 3m high earth bund	Granted (Temp until Aug 2021)	30-May-2018

17. P18/0218 was granted for a temporary period of three years, due to the planning policy aspiration to redevelop the wider area to for housing, being closely associated with the allocated Caledonia housing site and being in close proximity to a sustainable transport node at Lye railway station. The temporary permission was to enable the applicant to continue to operate and have time to find a permanent site, before planning policies for future housing in the area were progressed. It should be noted that the applicant had to relocate to this site from a nearby site to the north of Bott Lane. The site previously occupied by the applicant to the north of Bott Lane did not have the benefit of planning permission and was the subject of enforcement action, due to adverse impacts upon the Stour Valley and the future development of the allocated Caledonia housing site. The enforcement action was the subject of an appeal by the applicant to the Planning Inspectorate, which was dismissed for the above reasons. The Local Planning Authority, thereafter, assisted the applicant to occupy the current site for an appropriate temporary basis.

PUBLIC CONSULTATION

18. Following direct consultation with 34 adjoining neighbours, the posting of a site notice and the publication of an advert within a local newspaper, 14 letters of objection have been received. The main issues raised relate to:

- Site is not currently complying with planning conditions
- Vehicles are entering and leaving the site out of hours
- Noise and dust issues associated with the site
- Vehicles travel along streets with weight limits
- Vehicles turning onto Dudley Road are dangerous
- Work has started on installing the machinery at the site.
- Should not be located close to residential uses
- Trees should be planted to hide the site

It should be noted that one of the respondents lives close to the site, with a number of the other respondents living to the north of Caledonia, on the far side of the Stour valley, but with views to the site. Additionally, 12 further objection letters where no address, no full addresses or are anonymous have been received. These letters cannot be afforded any weight.

19. In addition 8 letters of support (including one via a ward member) have been received. Main issues raised.

- Provides jobs
- Supports local business
- Important facility for borough
- concerned about job security.

Twelve further letters of support were submitted but cannot be afforded any weight as no address was provided.

For clarification the supporters of application are from the following locations, 10– no address provided, 2 – Kingswinford, 2 – Lye, 1 – Manchester, 1 – Kidderminster, 1 - West Bromwich, 1 – Tividale, 1 - Cradley Heath, and 1 - Halesowen

20. One further letter has been received from a local ward Councillor stating they have been contacted by neighbours who have reported issues in relation to noise, dust and working hours. Residents are not confident that such issues can be resolved.

OTHER CONSULTATION

21. Head of Planning and Regeneration (Highway Engineer): No objection.
22. Head of Planning and Regeneration (Land Contamination Team): No objection
23. Head of Environmental Health and Trading Standards: Notes the joint regulation of the site with the Environment Agency. Satisfied that the additional proposed plant will not have an adverse noise impact and is likely to represent an improvement from a dust point of view. Requests the re-imposition of previous planning conditions.
24. Group Engineer (Highways) (PROW officer): No objection.
25. Lead Local Flood Authority: Acknowledge that the EA are the principle regulatory body. Applicants will need to demonstrate that any pollutants are retained within the site.
26. Environment Agency: Whilst the EA are the licensing/permitting body for the site, they only offer comments in relation to controlled waters only, and as such recommend a planning condition accordingly.
27. Network Rail: No response received.
28. Western Power Distribution: No response received.
29. National Grid: No response received.
30. Coal Authority: No objection subject to conditions.

RELEVANT PLANNING POLICY

- National Planning Guidance

National Planning Policy Framework (Revised 2018)

Technical Guidance to the National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

National Planning Policy for Waste (2014)

- Black Country Core Strategy (2011)

CSP1 The Growth Network

CSP3 Environmental Infrastructure

CSP4 Place Making

DEL2 Managing the Balance Between Employment Land and Housing

RC13 Regeneration Corridor

TRAN2 Managing Transport Impacts of New Development

ENV 2 Historic Character and Local Distinctiveness

ENV 3 Design Quality

ENV 8 Air Quality

WM1 Sustainable Waste and Resource Management

WM2 Protecting and Enhancing Existing Waste Management Capacity

WM4 Locational Considerations for New Waste Management Facilities

MIN2 Production of Aggregate Minerals

- Dudley Borough Development Strategy (2017)

S1 Presumption in favour of Sustainable Development

S4 Flood Risk

S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)

S6 Urban Design

S13 Areas of High Historic Landscape Value (AHHLV)

S14 Registered Parks and Gardens and Designed Landscapes of High Historic Value (DLHHV)

S17 Access & Impact of Development on the Transport Network

S27 River Stour and its Tributaries

L8 Protecting the Viability and Integrity of Industrial and Business Uses

D2 Incompatible Land Uses

D3 Contaminated Land

D5 Noise Pollution

- Supplementary Planning Guidance/Documents
Parking Standards Supplementary Planning Document (2017)

ASSESSMENT

31. The main issues are

- Principle
- Amenity – Noise and Dust
- Visual Appearance
- Highway Safety
- Drainage
- Nature Conservation and Trees
- Response to Request to Alter Proposed Planning Conditions
- Other Issues

Principle

32. The site lies within a housing growth area within Regeneration Corridor 13 in the Black Country Core Strategy Policy CSP1 which seeks, inter alia, in Regeneration Corridors “a sustainable mix of modern, strategic high quality employment land and new residential communities well supported by community services and local shops, set within and linked by comprehensive networks of attractive green infrastructure with cycling and pedestrian routes”. In appendix 2 to the Black Country Core Strategy (p109) the key diagram for RC13 seems to indicate the site as being “Opportunity for around 225 new homes near to Lye centre and station”.

33. The Dudley Borough Development Strategy builds on the strategy in the Black Country Core Strategy Policy and “provides the detailed land use allocations and designations within these broad areas to meet the Borough’s housing and employment land requirements up to 2026”. Page 106 of the Dudley Borough Development Strategy provides “This corridor will be consolidated as a housing corridor through the development of outdated or obsolete areas of industrial land and the exploitation of the excellent main-line rail links.” The application site is part of allocation H13.26 “West of Engine Lane, north of the railway, Lye” described on p112 as “Range of options considered including industrial, residential or mixed uses close to Lye centre.” 90 dwellings on 6ha are identified for the period 2016-21.
34. Moreover, the wider area within Lye is identified to deliver housing led regeneration. Underpinned by ‘Garden City’ principles, and with the particular advantages of the River Stour corridor running through the area, the aim is to create new housing development with an attractive environment, and where health and wellbeing are paramount considerations. The Council is therefore working with the West Midlands Combined Authority towards achieving this vision.
35. The Council continues to promote the site as part of a housing-led regeneration scheme in the emerging Black Country Plan although other uses compatible with neighbouring residential use are not excluded. It is expected that by the date of the Development Control Committee this will be out for its first round of public consultation.
36. The previous planning permission which expired on 1 August 2021 was granted temporary planning permission on the basis it allowed three years for the applicants to find a permanent site, following their need to relocate from the unauthorised site on the north of Bott lane which was unsuitable given the proximity of an allocated housing site and due to its position on elevated land which had been the subject of two enforcement notices, both upheld at appeal.
37. Additionally, whilst it was accepted that a recycling of aggregate material (sui generis) use is an important process which is to be encouraged, it was the location

which raised concerns from a permanence point of view. At that point it was considered that if the recycling use on this site were to be granted permanent permission, it would seriously undermine the ability to achieve the aims of a comprehensive housing regeneration project, as the use has great potential to adversely affect residential amenity. A recycling plant not only requires on-site noise mitigation, but it also generates dirt and dust and by its nature, requires the frequent movement of large vehicles into and out of the site through the surrounding road network which would be clearly incompatible with housing.

38. With this application, the applicant is now seeking permanent use of the land for the recycling of aggregate material, together with the provision of new processing plant within the site, in addition to, or to replace the more traditional screening equipment which has been used up to now.
39. The questions to assess here, based on the current application before the Council are;
- Is it appropriate to grant a permanent planning permission?
 - Is it appropriate to refuse the application?
 - Are there circumstances that imply a time limited permission instead or some other restriction, based up of the adopted Development Plan and any other relevant material considerations?
40. From a policy perspective the same Development Plan policies are still in place at this point in time, as they were when the last planning application was considered. The only difference is that the emerging Black Country Plan is now a consideration.
41. Para 48 of the NPPF (revised July 2021) states that, *Local planning authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.

42. With regard to a) and b) as the plan is still at a very early stage, given that it is only at its first round of public consultation, secondly objections to the plan are currently not known given that consultation is still been undertaken. Therefore, these considerations cannot be given any weight.
43. However, arguably there is some consistency between both the adopted Development Plan and the emerging Plan due to continued emphasis on housing growth along the wider corridor but also in the wider Lye area. As such some weight could be attached to this.
44. However, setting aside as to how much weight the emerging policies and allocations, the existing policy context is relatively clear. In that the emphasis in relation to the adopted Black Country Strategy, where there is clear and stated desire for housing led regeneration near to Lye centre and station in accordance with the key diagram for RC13 in accordance with Regeneration Corridor 13.
45. Moreover, the Dudley Borough Development Strategy supports housing growth along Regeneration Corridor 13 through the redevelopment of outdated or obsolete areas of industrial land such as the application site. In particular it should be noted that the application site is a housing allocation within the adopted Development Strategy (ref H13..26), although mixed uses and industrial options could be considered. There is, however, nothing to imply that the recycling facility, with its associated dust, noise and heavy vehicle movements would be an appropriate mixed use or industrial in the context of the policy.

46. As such it is considered that for reasons previously stated at Paragraph 37 above, the proposed development would prejudice the delivery of the wider area for housing and as such it would be not be appropriate to support a permanent planning permission as requested by the applicants. As such, the only obvious conclusion would be to recommend refusal of the application on that basis.
47. However, this has to be balanced against making best use of land, the need to protect jobs and allow the applicant to find a more appropriate site which would not undermine the stated aim of housing regeneration in and around Lye. Moreover, given that in the short term there is a low prospect of the site coming forward for housing, it would be appropriate to grant a further temporary planning permission for a period of up to three years, subject to appropriately worded conditions to control operations, together with other conditions requested by statutory consultees.
48. It is noted that the applicants state there is no evidence that the site is likely to be promoted for residential use and that the owner has no intention of so doing. Nor, the applicants say, is the Vanguard Foundry site (to the north) likely to be available for residential development. However, it is reasonable to have regard consideration that in the event that the current use of the site were to cease, then the site owner would be likely (as a matter of commercial reality) to promote the site for housing rather than leave it "idle". Even if the owners of the Vanguard site have no current intention or need to move or make their site available as part of a wider regeneration scheme, as a matter of common sense, that does not mean they never would if the opportunity arose.
49. Moreover, there are examples within the Borough where there were sites for which there was little prospect of them coming forward for housing in the short term, to then be proven wrong. Such examples are apparent to the north of Brierley Hill where this happened within a short period.
50. The applicants refer to a letter of support of May 2020 from Vanguard Foundry which was included within the applicants planning statement. It is not known if the letter

reflects current circumstances, in that it is known that author of the letter which provided support, no longer works for the company in question.

51. The applicants Counsel seems to suggest that the Council might be motivated to grant only a temporary permission in order to reduce the potential compensation payable, in the event that it becomes necessary to use Compulsory Purchase Order powers to bring forward the site for regeneration. This was not a consideration, with consideration being solely based on a Development Plan desire to seek the wider regeneration of the area for residential purposes.
52. The applicants Counsel also infers that there is not alternative site to which the applicant could move to the short to medium term. This is considered to be somewhat disingenuous given that at any time, sites which were of appropriate requirements could come forward in the short to medium term to which the Council could be party to positive discussions.
53. It is noted that the applicant has recently invested at the site. However, this was done without the express grant of planning permission and such was done at the risk of the applicant. However, given the modular nature of the equipment it is understood that it is capable of relocation within a relatively short timeframe.

Amenity – Noise and Dust

54. The applicants recycle excavated material by crushing, screening and blending to produce aggregate for construction and highways maintenance schemes and has operated at the site since 2018, under a temporary planning permission which is due to expire in August. This temporary permission followed on from the relocation from an adjoining site following an unsuccessful enforcement appeal and was allowed to enable the applicants time to find a permanent site.
55. The current operation is controlled through a number of planning conditions, in conjunction with the Environment Agency, through operating conditions contained in a bespoke Environmental Permit. The investigation and enforcement of issues around noise and dust are primarily the remit of the Environment Agency.

56. The current application proposes a continuation of the aggregates recycling operations at the site, but significantly, the proposal goes on to change the mode of operation to a wet aggregates system. The ramifications of this would be to install a significant, engineered item of plant that will wash and screen the incoming material in such a manner that almost all of the solid material can be recycled. From an environmental perspective, the proposed wet processing methods preclude many of the dust emission risks presented by current and traditional methods, including that the processed material will be damp throughout. This is a matter that seems to be surprisingly understated in the accompanying Air Quality Assessment, however, the Head of Environmental Health and Trading Standards is inclined to request that we retain the current condition No. 7 (appropriately worded to suit) relating to dust suppression and dust management schemes in order to safeguard the wider site in general (e.g. tracked material around the site).
57. Turning to potential noise impacts, the Head of Environmental Health and Trading Standards generally concurs with the findings of the submitted Noise Impact Assessment. The early draft of the report focused only on the current situation, whereby the amended version includes calculations to demonstrate the impact of introducing the proposed wet system; the consequence of which is a calculated reduction in noise in the order of 2 to 3 dB LAeq at the nearest noise sensitive receptors on Caledonia and Engine Lane. This is partially a function of both the current screeners being desisted with, whilst the current Crusher will remain and operate 2 to 3 days a week.
58. The Head of Environmental Health and Trading Standards has discussed the hours of operation with the applicant, and is advised that the wet aggregate processing will take place in approximately two, four hour blocks daily throughout the week, which can be accommodated within the current restricted hours, which officers consider should remain in place.

59. In summary, the Head of Environmental Health and Trading Standards has no objection to planning permission being granted, subject to a similar suite of conditions to those attached to the current planning consent:

Highway Safety

60. The applicants have submitted an updated and revised Transport Statement which has clarified changes proposed to vehicle trips. The statement implies that increased HGV movements are expected to result in only 2 additional trips per day, together with the net potential increase of up to 15 members of staff. The Highways Officer considers this will have a negligible increase on the total volume of vehicles using the classified road network (A4036, Dudley Road) adjacent to the site and as such, no objection is raised.
61. It is noted that residents have raised concerns about vehicles associated with the site using weight restricted highways in the vicinity of Caledonia to access the site. Unfortunately, the planning process is not able to directly control or condition vehicle movements over the public highway.
62. The Highway officer has noted that improvements to the wheel wash facilities may be required given photographs recorded on Google Streetview dated October 2020, which indicate material transfer from HGV's beyond the extent of the site and to the junction of Bott Lane with the classified road network. However, it should be noted that an operational management requirement covering this issue will be contained within the Environment Agency, Environmental Permit for the site and such the Local Planning Authority should not replicate any conditions attached to the licence.

Visual Impact

63. As noted above and at the request of the applicant, submitted plans have been amended, with the overall height of the proposed plant reduced by around 4 to 5 metres from that originally proposed. The length of the plant has, however, increased with its various conveyor belts and sorting faculties to around 84m.

64. Whilst it is considered that there is some visual impact from the plant, views from existing dwellings are to Engine Lane limited by the positioning of the existing noise bund to the eastern boundary as well as existing stockpiles within the site, as such views are generally only available from Bott Lane, which is more industrial in character. There are views across the Stour Valley to the north. However, the development, is within a principally urban area, with taller adjoining industrial buildings and large substation, it forms part of wider townscape. Moreover, the operation is located away from the immediate edge of the Stour Valley which was a major concern regarding the previous site on the other side of Bott Lane. As such no objection can reasonably be sustained on grounds of visual impact. However, a condition in relation to the height of stored material on site is required as this would not assimilate into the general built environment given its form and appearance.

Drainage

65. The applicants advise that the proposed new plant will operate a closed system and as such there should be no issues directly in relation to drainage. Moreover, the operation of the plant and the wider site will be controlled through the Environment Agency permitting regime.

Nature Conservation and Trees

66. The site consists of an operational and previously cleared site with the concrete pad of the buildings retained. As such there are no concerns with regard to trees or nature conservation.

Response to Request to Alter Proposed Planning Conditions

67. The applicants letter submitted prior to the 2 June Development Control Committee requested changes to a number of conditions. In relation to condition 4 (lighting) the condition has been amended and is included as the condition at the end of this report.

68. The applicants have asked for longer operational hours in addition to those proposed by condition 5. This condition replicates the existing one which is attached to the current temporary planning permission. Given the proximity of housing to Engine Lane this is not considered to be appropriate from an amenity point of view. The under enforcement of the condition which has been suggested would be unacceptable for the same reason.
69. A dust management plan has been submitted after the officer report for the 2 June Development Control was published in relation to proposed condition 7. However, given this relates to the existing operation and makes no reference to the new plant, the condition as currently proposed needs to be imposed to ensure adequate controls are maintained.
70. The applicant has asked for the proposed coal mining conditions (Nos. 8 and 9) to be removed. However, given the comments of the Coal Authority these need to be imposed, particularly given the scale of the new plant which is already in place, and difference to the light weight more mobile plant which was previously used. However, the wording of the conditions attached to the officer report is considered to provide significant flexibility if required. The applicant, in installing the plant without the benefit of planning permission which has currently been done is at the applicants own risk. Moreover, any matters arising from land stability in accordance with the NPPF is the land owner and developers responsibility.

Other Matters

71. The Local Planning Authority and the Head of Environmental Health and Trading Standards are aware that a number of the objections submitted, relate to current noise, dust issues and the possibility that the site is operating outside of it currently approved operating hours.
72. Whilst complaints have been received from time to time, the Head of Environmental Health and Trading Standards has been unable to verify such complaints. Such investigations with regard to noise, in co-operation with the Environment Agency,

have been particularly complicated due to the presence of many other industrial / commercial noise sources in the Stour Valley and generally there not being a clear line of site from noise sources to complaints which have been received from residents on the north side of the Stour Valley.

73. A number of such complaints have later been attributed to other noise sources. It must also be noted that whilst the Council has received complaints, other reports may have been made directly to the Environment Agency as the regulator for the site. The Head of Environmental Health and Trading Standards, having made an approach to the Environment Agency, is advised of no current regulatory issues and that the introduction of the proposed plant would require a variation to the current Environmental Permit to reflect changes in operation.
74. From a purely planning perspective, it should be noted that no formal planning enforcement complaint has been received in relation to the hours of operation from residents, despite numerous comments being made in relation to this application. However, based on the comments received in connection with this application, an enforcement file has been set up unilaterally, but presently there is no evidence currently before the Council, to demonstrate that there is regular breach of the hours of operation condition.
75. Irrespective of this, the applicants have been advised that the existing hours of operation condition would be re-imposed on the advice of the Head of Environmental Health and Trading Standards to protect residents from out of hours working. There has been no outward objection from the applicants to this approach.

CONCLUSION

76. The proposed development if given a permanent permission could undermine the stated Development Plan aims of delivering housing to the area around central Lye and its railway station, in that the use would be incompatible due to general nuisance. However, given the likelihood of a residential role coming forward in the short to medium term a temporary permission is considered appropriate which will give the

applicants further time to seek an appropriate and permanent location for the operation, which would not prejudice housing led regeneration benefits for the area. Consideration has been given to National Planning Policy Guidance, policies within the Black Country Core Strategy (2013); and the Dudley Borough Development Strategy (2017).

77. Moreover, the Local Planning Authority has given full consideration to the applicants supporting information, including their submitted Counsels opinion, as well the Local Planning Authority's own Counsels opinion.

RECOMMENDATION

It is recommended that the application be APPROVED subject to the following conditions:

Conditions and/or reasons:

1. The development/use hereby permitted shall cease on or before 1 September 2024 and the site reinstated to its previous condition within 8 weeks of development/use ceasing.
REASON: The development must be of a temporary nature as its long term retention would be inappropriate relative to Black County Core Strategy Policies CSP2 and RC13 and DBDS Policies D2, D5 and D6, as its long term retention would prejudice the residential based regeneration of the wider Lye area.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
200729_P01_R4
MGR111 - Pegasus 2021 Elevations -Layout
REASON: For the avoidance of doubt and in the interests of proper planning.
3. The acoustic barrier adjoining the access road into the site and the noise bund along the eastern boundary of the site as shown on the approved plans shall be retained for the life of the development.
REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.
4. No additional lighting shall be installed until a scheme for the minimisation of the effect of light glare on nearby properties is submitted to the Local Planning Authority for written approval. The works in the approved scheme shall be completed before any lighting equipment to which this approval relates is operated and shall be maintained during such operation for the life of the development.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

5. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 06.30 nor after 18.00 Monday to Friday; before the hours of 07.00 nor after 14.00 on Saturdays and not at all on Sundays and Public Holidays.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

6. Aggregate processing activities shall not be operated before 08.00hours or after 17.00 hours Monday to Friday; before the hours of 08.00 nor after 13.00 on Saturdays and not at all on Sundays and Public Holidays Saturday.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

7. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority) updated details of dust management, suppression and mitigation shall be submitted to and approved in writing by the Local planning Authority. These details shall include the provision of close-meshed netting to the boundary with the transformer site, -water sprinkler suppression system to boundary of processing areas, the provision of wet, wheel wash system and secondary jet wash to prevent mud tracking onto highways, plus the implementation and maintenance of visual observations record to monitor possible dust emission incidents

-provision of a dust management plan detailing the above and other management measures (e.g. onsite speed restrictions, complaint procedures) to eradicate / minimise dust emissions from the site and associated traffic

The development shall thereafter be operated in complete accordance with the approved management, suppression and mitigation works/strategy for the life of the development.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

8. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority);
 - a) a risk assessment and site investigation shall be carried out to establish the risks posed to the aggregate washing development by past coal mining activity utilising intrusive site investigations if necessary, and;
 - b) any remediation works and/or mitigation measures required to address land instability arising from coal mining legacy, as may be necessary, shall be implemented on site in order to ensure that the site is made safe and stable for the development proposed in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: In the interests of public safety and to comply with DBDS Policy D4

9. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority), a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the

methods and findings of the necessary site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

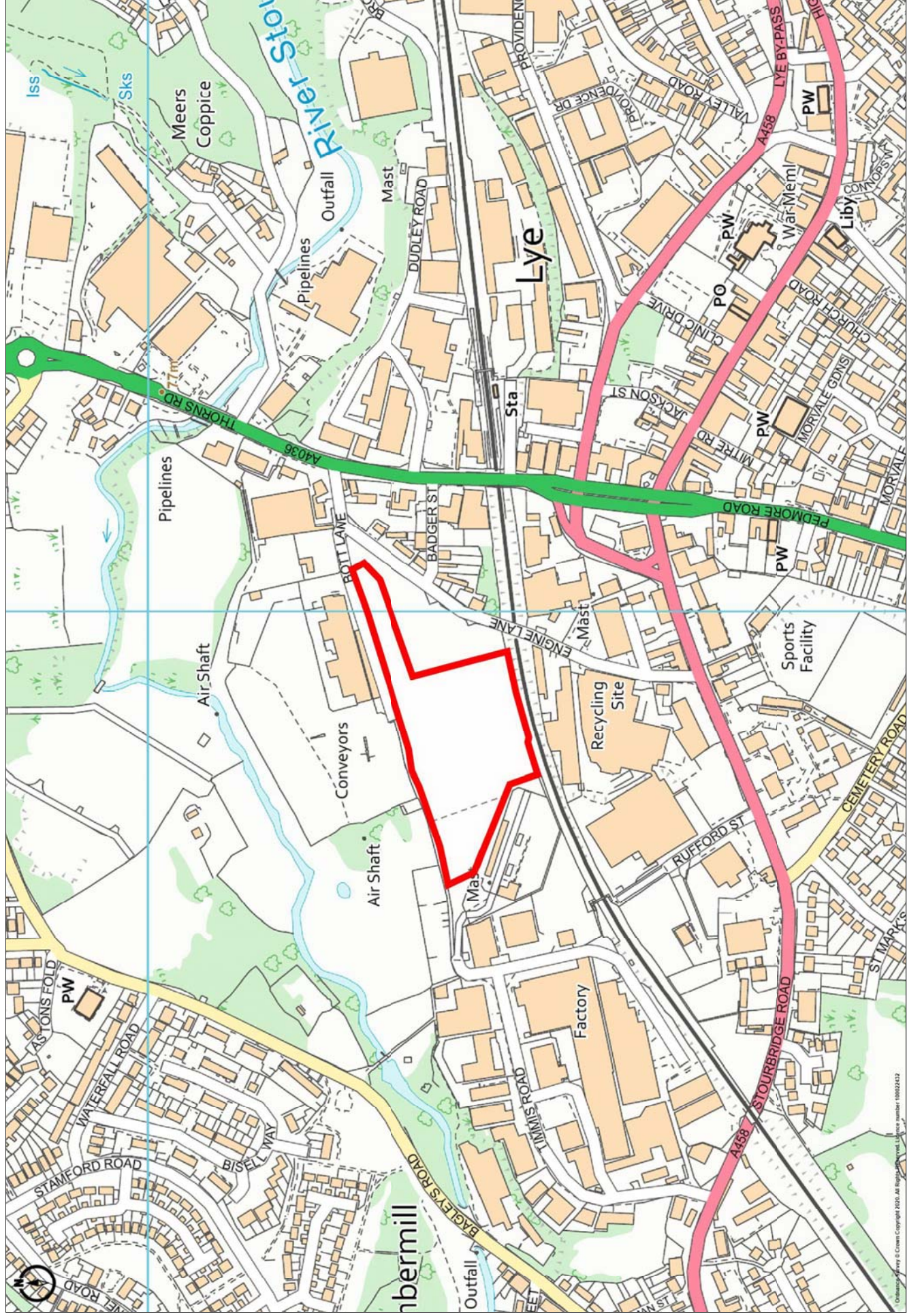
REASON: In the interests of public safety and to comply with DBDS Policy D4

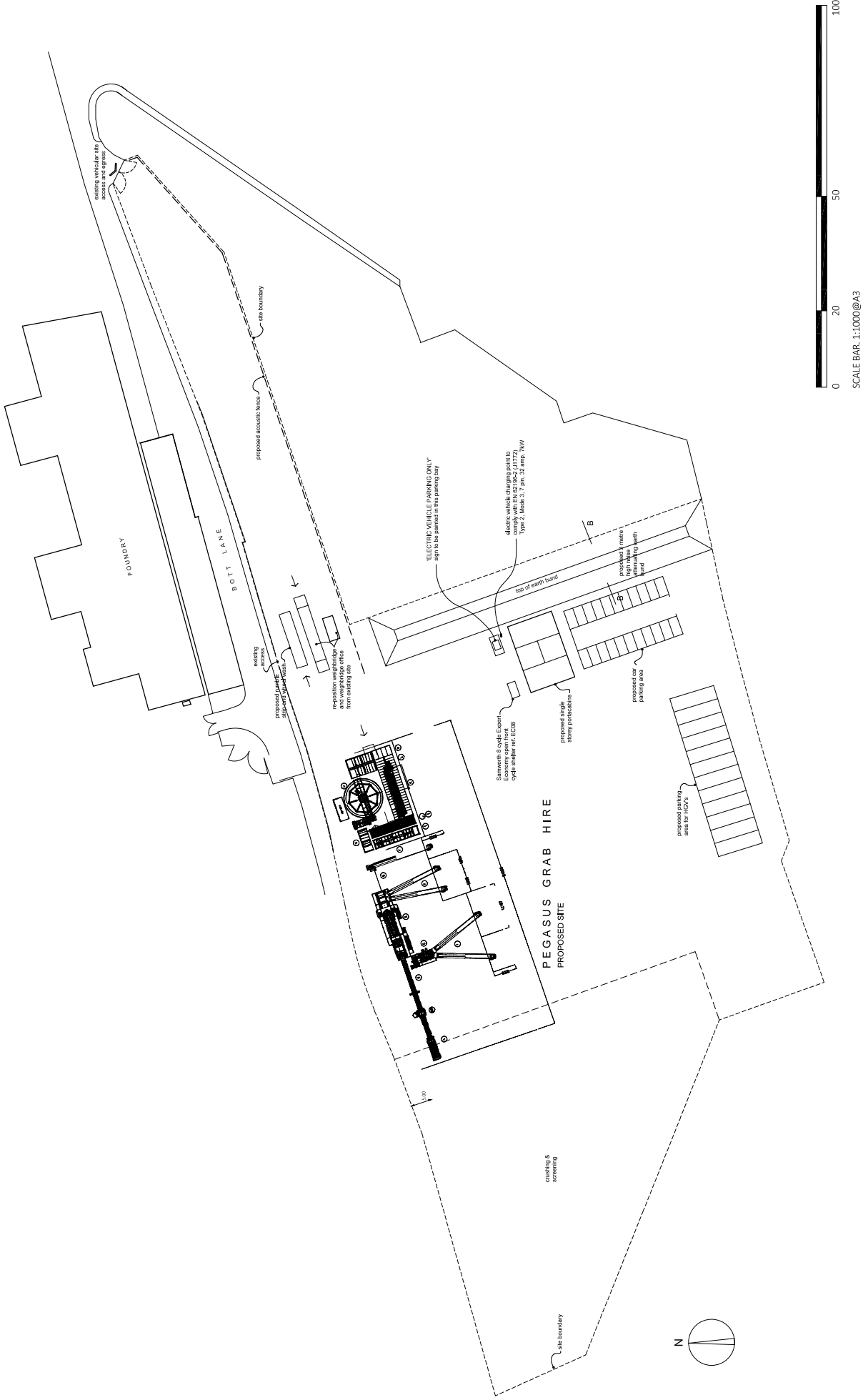
10. No materials shall be stored, stacked or deposited within 3 metres of the northern boundary of the site.

REASON: In the interests of visual amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and Policy L8 Protecting the Viability and Integrity of Industrial and Business Uses (in part) Policy D2 Incompatible Land Uses (in part).

11. No materials or goods shall not be stored, stacked or deposited to a height exceeding 4 metres.

REASON: In the interests of visual amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and Policy L8 Protecting the Viability and Integrity of Industrial and Business Uses (in part) Policy D2 Incompatible Land Uses (in part).





PROJECT	BOTT LANE, LYE, STOURBRIDGE	DRAWING NO*	P01	SCALE	1:1000@A3
PROJECT NO*	200729	REVISION			
TITLE	BLOCK PLAN - OPTION 1				
CLIENT	PEGASUS GRAB HIRE LTD.				
DATE	31.07.20				

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