

Development Control Committee – 23 July 2018

Application Number:	CM/0006/18
Title:	Operational development in respect of the introduction of concrete perimeter containment walls and changes to buildings 'A' and 'B', External lighting, Change of use to include outdoor waste processing, Increase in height of stockpiles, Removal of staff car parking, Increase in HGV vehicular movements to 50 in and 50 out per working day, Change of hours of operation From: 08.00–18.00 Mon-Fri and 08.00-13.00 Sat To: 06.30-18.30 Mon-Sat
Site Location:	Chiltern View Nurseries Wendover Road Stoke Mandeville HP22 5GX
Applicant:	Mr J Bone Enterprise Skip Hire Chiltern View Nurseries Wendover Road Stoke Mandeville HP22 5GX
Case Officer:	Catherine Kelham
Electoral divisions affected & Local Member:	Wendover, Halton and Stoke Mandeville Steve Bowles
Valid Date:	11 th January 2018
Statutory Determination Date:	12 th April 2018
Extension of Time Agreement:	30 th July 2018

Summary Recommendation(s):

The Development Control Committee is invited to REFUSE application no. CM/0002/18 for the reasons set out below.

Reasons for Refusal

1. The proposal has not adequately demonstrated that the proposed development would not cause significant and detrimental harm to wildlife. A full and appropriate survey has not been evidenced for Great Crested Newts and other species. It has also not been demonstrated that the proposed layout can conserve or enhance the biodiversity of the area (and if necessary provide mitigation for Great Crested Newts) to ensure no net loss of biodiversity. (Contrary to Policies CS22 and CS23 of the Buckinghamshire Minerals and Waste Core Strategy and Paragraphs 14 and 118 of the National Planning Policy Framework 2012).



INVESTOR IN PEOPLE



Site Description

1. The proposed development site is part of the Chiltern View Nurseries complex and shares the same access from the A413 (Wendover Road).
2. It is located to the west of the A413 (Wendover Road), alongside the Amersham branch of the Aylesbury – London railway line. It is approximately 1.0km to the southeast of Stoke Mandeville, approximately 1.1km to the southwest of Weston Turville and approximately 4.8km to the south west of the centre of Aylesbury.
3. The Waste Transfer Station forms the north east part of the Chiltern View Nurseries Complex. To the southeast of the Waste Transfer Station is an area of land proposed to be used for the storage of empty skips, empty containers and skip lorries (CM/0002/18) and carpark. Approximately 100m to the southeast of the Waste Transfer Station across the carpark is the Triangle Business Park. Unit 1, Triangle Business Park, which is the closest building to the site, was recently granted planning permission for a change of use from B1(a) office use to C3 residential use (AVDC Planning Reference: 18/00510/COUOR). To the east is Chiltern View Nurseries glasshouses and retail area. The nearest residential property to the northeast of the site on Wendover Road is approximately 245 metres away from the site. To the west of the site is the railway line, and then fields. The nearest property in this direction is Stoke House, a Grade II listed building, approximately 700m away.
4. The proposed development site falls within the Southern Vale landscape character area. This area is characterised as a large area of low-lying vale landscape with limited topographic variation. It contains transport corridors and large villages that due to the open nature of the area and the urban edge of Aylesbury break-down the rural character of the area. It is not located in close proximity to any nationally recognised environmental assets. The edge of Chilterns AONB is approximately 1.4km to the south-east of the site and the nearest asset of recognised environmental value is Weston Turville Reservoir SSSI, approximately 1.5km to the east of the site. This site is located within flood zone 1.
5. The location of the site (with the approximate application area outlined in red) is below:



Site History

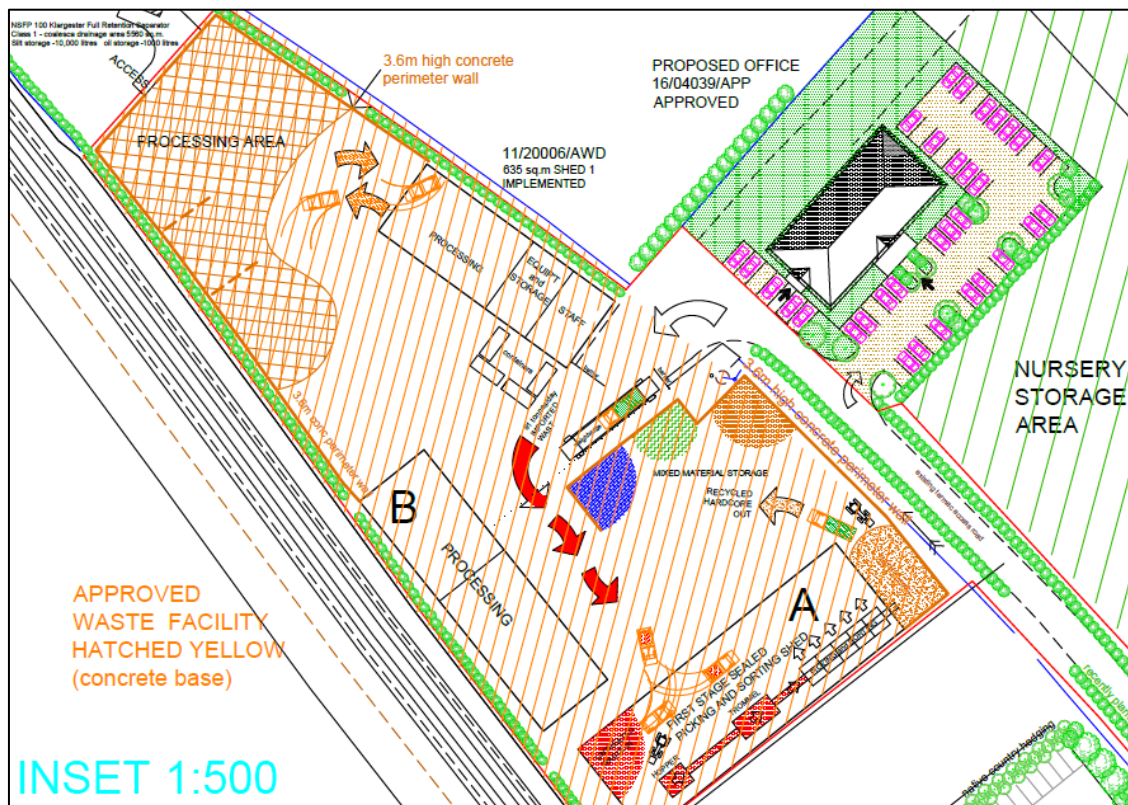
6. The most relevant planning history for the site and Chiltern View Nursery Complex is outlined below:

11/20002/AWD	Proposed change of use of former railway land and agricultural yard to waste and recycling transfer centre	Application permitted 16. September 2011
11/20006/AWD	Proposed waste recycling shed and revised layout	Application permitted 06. January 2012
12/20003/AWD	Proposed waste recycling shed	Application permitted 14 February 2013
	N.B. Development not implemented within three years of date of permission	
13/20002/AWD	Change of use of land from Agriculture to extension to waste transfer site	Application withdrawn 20. August 2013
13/20003/AWD	Extension to waste and recycling transfer station	Application permitted 03. February 2014
CM/69/14	Erection of Operational and Storage Sheds to serve Waste Transfer Station and Temporary siting of shipping containers.	Application permitted 02. December 2014
CM/63/15	Removal of Condition 10 of Planning Permission CM/69/14 (The Waste Recycling Process and Storage operation shall be undertaken solely under cover within the Operational & Storage Sheds and not elsewhere within open areas of the site.)	Application refused 07. April 2016
APP/P0430/W/16/3148503	Appeal against refusal of application CM/63/15	Appeal partially upheld 29. November 2016
CM/54/16	Retention of buildings as constructed with an extension to building B, erection of storage bays and the storage of skips.	Application withdrawn 11. January 2017
16/04039/APP	Erection of two storey office building and associated car park	Application approved 01. December 2017
16/04073/APP	Revisions to approved security gates (retrospective); extension to nursery car park; covered display area (retrospective) and proposed covered display area; storage area for pots, paving and fencing, proposed glass building; trees and shrubs growing and sales area and garden exhibition area	In the process of determination (AVDC)
17/03933/APP	Erection of team room building ancillary to the nursery	Application approved 12. January 2018
CM/0002/18	Use of land for storage of empty skips, empty containers and skip lorries	In the process of determination (BCC)

Description of the Proposed Development

7. This application seeks permission for a new waste transfer station on the site of the existing waste transfer station at Chiltern View Nursery. In essence, it seeks to regularise those parts of the existing waste which are not in accordance with the existing permission, permit new development on the site and change how the site operates.
8. Compared to the waste transfer station already permitted (APP/P0430/W/16/3148503) there would be a decrease in the site area. The wildlife area to the north of the site containing an attenuation pond, an area to the northeast of the site planted with trees and a landscaped area of land to the south east of the site (now adjacent to the south-east side of building 'A') have been excluded from the red line area.

9. The site plan is included below. The “Approved Waste Facility” label is believed to refer to the development permitted under application APP/P0430/W/16/3148503, though it excludes the three areas outlined above. The proposed office (16/04039/APP) has yet to be built.



10. The proposed development consists of:
- The erection of concrete permitted walls around the yard of the waste transfer station. This is partially already in place at the site.
 - The retention of the three buildings on the site (Shed 1, building ‘A’ and building ‘B’). Building A and B were built under permission CM/69/14 though not in accordance with the approved plans. Shed 1 was built under permission 11/20006/AWD.
 - The creation of new storage bays/changes to existing storage bays
 - Outdoor waste processing including concrete crushing in the northeast corner of the site
 - The retention/regularisation of external lighting on Shed 1, building ‘A’ and building ‘B’
 - The retention of the weighbridge
 - Alteration to the yard layout including the removal of the staff car parking area
 - An increase in stockpile heights from 2 metres to 3 metres, or the height of the perimeter walls
 - An increase in daily permitted HGV movements from 20 in and 20 out per day to 50 in and 50 out per day.
 - A change in the site’s operating hours from 08.00–18.00 Monday to Friday and 08.00–13.00 Saturday to 06.30–18.30 Monday to Saturday.
11. The building permitted under CM/69/14 was for an ‘L’ shaped building. The southern part of the building (equivalent to building ‘A’) was shown to be 69 metres long, 20.00 metres wide and 11.28 metres high at the apex. It was shown to be dark green with the side facing the yard only partially open. The western section of the ‘L’ shaped building, (parallel to the railway line and equivalent to building ‘B’) was shown as 60 metres long, 15 metres wide and 8.36 metres high at the apex. It was shown to be dark green with roller shutter doors.

12. The as-built building 'A' is a 60.21 metres long, 20.00 metres wide and 11.68 metres high at the apex. The lower part of the building is reinforced concrete walls while the upper portion of the building and roof are dark green. The side of the building facing into the yard is open. The as-built building 'B' is 54.21 metres wide, 15 metres wide and 11.01 metres high at the apex. The lower part of the building is reinforced concrete walls while the upper portion of the building and roof are dark green. The side of the buildings facing into the yard is open. The buildings are not connected and as such, do not form an 'L' shape as permitted under CM/69/14.
13. The concrete perimeter walls are indicated to be 3.6 metres on the site plan and in the design and access statement. The additional information submitted to provide specific details on the wall however suggests they are 3.75 metres in height.
14. No changes to the site drainage or the access on to the public highway are proposed.

Planning Policy and Other Documents

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
16. The development plan for this area comprises of:
 - Saved policies of the Buckinghamshire Minerals and Waste Local Plan (BMWLP)
 - Buckinghamshire Minerals and Waste Core Strategy (BMWCS)
 - Adopted Aylesbury Vale District Local Plan (AVDLP) 2004
17. Other documents that need to be considered in determining this development include:
 - National Planning Policy Framework (NPPF)
 - National Planning Policy for Waste (NPPW)
18. The draft **Vale of Aylesbury Local Plan (2013-2033)** underwent "Publication Version" (Regulation 19) consultation between November and December 2017. The plan has been submitted to the Secretary of State for Communities and Local Government and examination commenced on 10th July. Whilst the draft plan is a material consideration, as it has not been though examination or been adopted by the council, it is still considered to carry little weight
19. The draft **Buckinghamshire Minerals and Waste Local Plan (2016-2036)** underwent "Publication Version" (Regulation 19) consultation between 5th March and 19th April 2018. The plan was submitted to the Secretary of State for Communities and Local Government at the beginning of June 2018 and it is anticipated that public examination will take place in September 2018. Whilst the draft plan is a material consideration, as it has not been though examination or been adopted by the council, it is still considered to carry little weight. I do however consider the strategic policies 11 (Spatial Strategy for Waste Management) and 14 (Developing a Sustainable Waste Management Network) are of relevant to this development.
20. I consider the following policies are relevant to the proposed development:

Adopted Buckinghamshire Minerals and Waste Core Strategy (BMWCS) 2012

- CS14 (Safeguarding Existing and Potential Sites)
- CS21 (The Chilterns Area of Outstanding Natural Beauty)
- CS22 (Design and Climate Change)
- CS23 (Enhancement of the Environment)

Saved Policies of the Buckinghamshire Minerals and Waste Local Plan (BMWLP)

- Policy 28 (Amenity)

Adopted Aylesbury Vale District Local Plan (AVDLP) 2004

- GP.8 Protection of Amenity of Residents
- GP.24 Car Parking Guidelines
- GP.38 Landscaping of new development proposals
- GP.45 “Secured by design” Considerations
- GP.95 Unneighbourly uses

Consultation Responses

21. The **Local Member**, Steve Bowles, has not commented on the application.
22. **Aylesbury Vale District Council** has no objection to the proposed development.
23. **Stoke Mandeville Parish Council** opposes the proposed development. They consider there is no adherence to existing planning conditions for indoor processing and that traffic movements are greater than stated in application 13/20003/AWD. They also consider the containers are concealing unauthorised operations from view and the traffic plan is out of date leading to car parking problems.
24. **Weston Turville Parish Council** objects to the proposed development. They consider the current operations are generating noise and pollution which is disturbing local residents and increasing the scale and hours of operation would adversely impact local residents.
25. **BCC Highways Development Management** have no objection to the proposed development subject to the parking and manoeuvring area being laid out in accordance with the approved plans.
26. BCC as **Lead Local Flood Authority** has objected to the proposed development due to a lack of information. They are concerned that surface water from the site is un-attenuated and is discharging into a watercourse un-restricted. This could contribute to downstream flooding. They are also concerned that the surface water would be contaminated.
27. The **Aylesbury Vale District Environmental Health Officer** has commented that she is aware there is likely to be a change of use to residential dwellings at Unit 1 Triangle Business Park which could be adversely impacted by this proposal and has requested further information with regard to noise from the site. This additional information has been submitted and sent for consultation. No additional comments have yet been received. A verbal update will be provided to the committee on this matter.
28. The **BCC Ecology Officer** advises that an inadequate up to date survey has been provided to allow Buckinghamshire County Council to confidently discharge our duty of due diligence with respect to the application. In particular, she considers there are a number of points, including Great Crested Newts, other protected species, the impact to habitats of importance (e.g. hedges) which have not been addressed and comments that mitigation and enhancement measures have not been identified.
29. The **Environment Agency** has provided standard advice relating to potential polluting activities and foul drainage.
30. **Natural England** is concerned about the potential impact of the proposed development on the purpose of designation of the Chilterns AONB. They consider that existing screening

vegetation on the site should be retained and new vegetation should be provided to screen the new concrete walls.

31. **Network Rail** are concerned about the impact of noise from the site on the nearby level crossing workers accessing the railway, and the potential for ground works or surface water drainage and attenuation from the site impacting the railway line.
32. The **Chilterns Conservation Board** consider that weight should be given to the AONB Management Plan 2014-210 as regards the setting of the Chilterns AONB and point to the guidance given in the NPPF regarding conserving the landscape and scenic beauty of AONB. Although the proposed development site is outside the AONB, they consider it sits within the wider landscape view and has potential to impact on the view from Coombe Hill. They are concerned about the impact the floodlighting may have, and believe ground mounted or column mounted lighting may provide the same safety and security aspects but with reduced light spill. They also consider the proposed walls are substantial and if they are to proceed would require mitigation through landscaping.
33. No comments have been received from **HS2 Safeguarding** or **Chiltern Railways**.

Representations

34. Seven public representations, all objecting to the proposed development have been received. The planning matters raised are:
 - Visual impact of shipping containers
 - Impact of lighting for residential properties along Wendover Road
 - Increased vehicle movements leading to additional traffic along Wendover Road
 - Mud on the road
 - Change in hours of operation leading to unacceptable noise impact
 - Noise impact (bangs and clangs) from machinery moving about
 - Effect on health associated with dust and air pollution
 - Visual impact of litter dropped from lorries leaving the nursery site
 - Loss of greenspace
 - Disposal of surface water drainage discharging into an existing stream or ditch causing contamination
 - Concerns over the safety and suitability of the site

Discussion

35. Permission for the principle of the use of this area of land for waste transfer purposes has already been granted and implemented. The committee should therefore be aware that should this application not be granted, the use of the land for waste transfer would continue. Under the most recently granted planning permission (APP/P0430/W/16/3148503), the waste transfer station operates between 8.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm on Saturdays. It has an annual maximum throughput of 25,000 tonnes and a maximum permitted HGV movements of 40 per day (20 in, 20 out). Waste processing must take place inside the buildings and concrete crushing is limited to no more than 5 days in any month. The outdoor siting of shipping containers and outdoor storage of waste is also permitted. In addition, although the principle of lighting was accepted as part of most recent planning permission (APP/P0430/W/16/3148503), the pre commencement condition was not discharged and therefore we consider there is no authorised lighting at the site.

36. The overarching principle of this development, collecting and sorting waste for re-use or recycling (i.e. moving waste up the waste hierarchy) is supported through the BMWLP, BMWCS and NPPW.
37. I consider the key policy matters are:
- Principle of the proposed development
 - Traffic and Highway Safety
 - Noise
 - Landscape and Visual Impact
 - Drainage and Contamination

Principle of the proposed development

38. The proposed development is on the site of an existing waste transfer station and there would be no change of use as a result of the proposed development. This is in accordance with policy CS14 of the BMWCS *safeguarding existing waste management sites for waste management purposes*. In addition, the emerging Buckinghamshire Minerals and Waste Local Plan also lists Aylesbury as an area of focus for sustainable waste management. I therefore consider there is in-principle policy support for the development. There are however a number of site specific factors which must also be considered.
39. There is some discrepancy over the terminology used to describe the types of waste processed at the site. Condition 8 of the most recent permission for the site (APP/P0430/W/16/3148503) prevents any waste other than construction, demolition, excavation, commercial and industrial wastes being imported to and deposited at the site. In comparison, the application form for the proposed development states that solely municipal waste would be managed at the site.
40. In actuality, waste arrives at the site in skips which have been hired out to households. According to the business website, these can be used for any general waste with the exception of hazardous items (for example fridges, freezers asbestos or florescent lights). This is in accordance with how the Environment Agency classifies the site (A16 - Physical treatment of non-hazardous waste facility).
41. Control of the nature and type of waste managed and processed by a site falls within the remit of the Environment Agency rather than planning control, and is determined through their Environmental Permitting regime. It is not usually the case that the Local Planning Authority would place duplicate controls on the management of waste. Paragraph 122 of the NPPF states that planning authorities should focus on whether the development is an acceptable use of the land and not the control of processes or emissions where these are subject to pollution control regimes. This is echoed by paragraph 7 of the NPPW which states that LPAs 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. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced”.*
42. As no change to the site’s throughput is proposed, I do not consider that the discrepancy over the terminology used to describe the waste currently treated at the site has a substantial impact on the overall application. That said, all waste currently coming in to the site is non-hazardous. It is understood this would not change should the proposed development be permitted. No assessment has however been undertaken as part of this recommendation as to whether the development would be an acceptable use of the land if hazardous waste were to

be imported or processed. I therefore suggest that should the proposed development be permitted, the importation and processing of hazardous waste is prevented by condition.

Traffic and Transportation

43. I consider there are two main aspects to the impact of the proposed development in regard to traffic and transportation. The first is the impact on highway safety and road capacity. The second is the impact of the traffic associated with the proposed development on the amenity of the local area, for example its impact on litter, noise, dust, air pollution and vibrations.
44. Policy CS22 of the BMWCS seeks to minimise greenhouse gas emission and pollution. Policy 28 of the BWMLP seeks to protect the amenity of all those who may be affected by minerals and waste development proposals both near the site and on routes to and from it, from various factors including noise, vibration, dust, fumes and gases. Similarly, policy GP.8 of the AVDLP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of amenity when considered against the benefits arising from the proposal and policy GP.95 seeks to protect the amenity of existing occupiers and not exacerbate any adverse effect of existing uses.
45. Policy GP.24 of the AVDLP requires that new development provides vehicular parking in accordance with the Council's operative guidelines. In Aylesbury Vale, the parking guidelines suggest that for industry (none Class B1); one space per 55m² of gross floor area is required. Based on the gross floor space of the three buildings on the site, this would suggest that approximately 48 spaces are required.
46. The proposed development seeks to increase the daily HGV movements from 40 trips per day (20 in, 20 out) to 100 trips per day (50 in, 50 out). Concern has been raised by local residents over the increase in traffic, and the associated increase in pollution and deterioration in air quality along Wendover Road.
47. These concerns over the impact of the additional HGV movements are not supported by the BCC Highways Development Management officer. As part of another application on the site, the site was assessed with 40 in and 40 out HGV movements, and while this application proposed an additional 10 in and 10 out, he does not consider this addition would have a material impact on the operation of the adjoining highway.
48. No parking is proposed as part of this development, so in isolation from the Chiltern View Nursery Complex Site, the proposed development cannot be considered to be in accordance with policy GP.24 of the AVDLP. There are however several parking areas throughout the Chilterns View Nursery complex and it is proposed that the staff working at the waste transfer station will park in these areas. The BCC Highways Development Management officer has acknowledged the removal of the car parking area but has not raised concern over its removal from a highway perspective.
49. Concern has also been raised over litter being dropped from vehicles. To minimise litter on routes to and from the site, I recommend that all loaded HGV entering and leaving the site are sheeted or otherwise contained and covered. To minimise litter being dislodged from vehicles and blowing away once the vehicle is off the public highway, I also suggest measures are imposed to ensure the access road is maintained free of potholes, mud and debris. I consider these measures could be controlled by condition.
50. Overall, subject to the conditions recommended above and a limit on the daily HGV movements to those proposed (50 in and 50 out per day), I consider the proposed development would be in accordance with policy 28 of the BWMLP, policies GP.95 and GP.8 of the AVDLP and policy CS22 of the BMWCS.

Landscape and Visual Impact

51. Policy CS22 of the BMWCS requires that waste development proposals demonstrate how a high standard of design would be achieved and how any adverse effects on and from climate change have been minimised though certain criteria. It places particular importance on ensuring the scale of the development is sensitive to the surrounding environment when it is located within or adjoining a settlement or designed area including the Chilterns AONB. It also seeks to integrate development into the landscape, and where appropriate maximise opportunities to increase the potential for biodiversity and improve or provide new landscape or tree planting areas to enhance the environment in accordance with policy CS23. Similarly, policy GP.35 of the AVDLP seeks to ensure development proposals respect and complement their settings and surroundings while policy GP.38 of the AVDLP requires applications for new development schemes to include landscaping proposals to help the buildings fit in with and complement their surrounding and conserve existing natural and other features of value as far as possible.
52. As well as regularising buildings 'A' and 'B', the proposed development would involve the erection a 3.6 metre high concrete wall around the majority of the boundary of the site and an increase in stockpile heights from 2 metres to either three meters, or the height of the boundary wall. The supporting documents however indicate the wall would be 3.75 metres in height and attached to the underlying surface using mortar or bolts rather than being free-standing. It is also indicated on the site plan that the vegetation which currently forms the site boundary would be retained on the outside of the perimeter walls. The area of the site would not increase as a result of this development.
53. Concern has been raised from Natural England over the potential impact of the development on the setting of the AONB. Representations have also been received from the Chilterns Conservation Board on this matter.
54. Building 'A' (the southern section of the 'L') is 9 metres shorter in length and 40 cm taller in height than permitted. Building 'B' (the western section of the 'L') is 6 metres shorter in length and 2.65 metres taller in height than permitted. Both buildings are both dark green. I am most concerned about the increase in height of building 'B' as it is noticeably taller– the increase in height is comparable to an additional storey. In addition, the location of this building is parallel to the railway line meaning it is easily visible when looking east from Wendover Road. I do not consider the impact of the other changes regarding size of buildings 'A' and 'B', or the change from one 'L' shaped building to two separate buildings significantly differs from the development already permitted at the site.
55. With regard to the increase in building height, I am mindful that planning permission has been granted for an office building between the waste transfer station site and Wendover Road. If built, this would reduce the views of the waste transfer station from Wendover Road.
56. Although there is planning permission for the siting of shipping containers within the site under planning permission APP/P0430/W/16/3148503, none were present at the time of the site visit. There are however several shipping containers stored outside the waste transfer station and application site which are clearly visible from Wendover Road. The current siting of these shipping containers is considered to be a district enforcement matter. If the committee is minded to approve the proposed development, the siting and stacking of shipping containers within the site could be controlled via conditions.
57. The proposed concrete perimeter wall would also exceed the height of a standard shipping container measured from the ground level (approximately 2.59 metres). I consider the perimeter wall would break the view of the waste transfer station from Wendover Road,

particularly if the existing perimeter vegetation was retained, enhanced and maintained for the duration of the development. This accords with the view of Natural England who considers it would be possible to mitigate the visual impact of the concrete wall by planting.

58. I do not consider the 15 cm difference in height of the perimeter wall as shown on the submitted plans would have significant impact on the nature of the overall development. Due to the difference between the submitted plans, I do however recommend a condition preventing the wall from exceeding 3.75 metres in height.
59. Provided the stockpiles do not exceed the height of the concrete perimeter wall, I do not believe they would be visible from outside the boundary of the waste transfer station. Should the development be permitted, I propose a condition similar to the one suggested by the applicant to prevent stockpiles exceeding 3 metres in height if they are free standing, or the top of the perimeter walls if they are located adjacent to the walls is applied. Preventing stockpiles from exceeding the height of the walls would also reduce the spill of material outside over the walls, and make it clear for both the operator and the County Planning Authority that if the top of the boundary wall is hidden by the stockpile, it should be reduced in size.
60. Overall, I do not believe the proposed development would greatly impact the wider landscape, or views from the AONB and in particular from Coombe Hill which is over 3km from the site. Subject to the conditions recommended above, and a condition requiring the retention and maintenance of a planting around the perimeter walls, I am satisfied the proposed development would be in accordance with the design, landscape and integration aspects of policy CS22 and CS23 of the BMWCS, and policies GP.35 and GP.38 of the AVDLP.

Biodiversity

61. For this application, there is particular concern with Great Crested Newts. The BCC ecologist has highlighted the potential for Great Crested Newts in the vicinity of the site, though not within the current application area. She is concerned that creating an impenetrable barrier around the site (the concrete wall) may cut off the pond from the newts' terrestrial habitat. She considers the surveys submitted (dated 2011 and 2013) are out-of-date and the further response submitted does not satisfactorily address her concerns.
62. The application site contains refuges (rubble) for Great Crested Newts and there is grassland and scrub between the identified pond and the site. The previous study in 2011 indicated there was a small population of Great Crested Newts in the pond to the northwest of the site, the other side of the railway line. This is linked to the site by way of a culvert under the railway line and ditch. A second study in 2013 looked at the attenuation pond, approximately 85 metres to the northwest of the current application site. This was formally included within the red line area of the waste transfer station. At the time of the survey in 2013, the attenuation pond was reported to have been recently constructed and dry. The survey concluded that the attenuation pond may offer future opportunities to support aquatic foraging or potentially oviposition, if and when the pond retains enough water to allow aquatic vegetation to develop and survive. A site visit in June 2018 confirmed aquatic vegetation was present in the attenuation pond. There is also no permitted activity on the site or between the site and the ponds which creates a physical barrier that newts cannot cross.
63. Great Crested Newts are a European Protected Species which benefit from protection under both The Conservation of Habitats and Species Regulations 2010 (EU Habitats Directive 92/43/EEC) and the Wildlife and Countryside Act 1980 (as amended) in which it is illegal to capture, injure, disturb habitats or kill European protected species. Paragraph 119 of the

NPPF removes any presumption in favour of development where the development would require an appropriate assessment under the Habitats or Birds Directives.

64. Furthermore, Section 99 of the ODPM Circular 06/2005 states:

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision....”

This is caveated with an acknowledgement of the delay and cost that may be involved when carrying out ecological surveys. The circular states that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

65. The BCC Ecologist undertook a site visit following receipt of further information and has made her comments on this basis. In her professional judgement, further information is needed to allow Buckinghamshire County Council to confidently discharge our duty of due diligence. I therefore cannot recommend the application is approved without this information.

66. There is some confusion about how the concrete perimeter walls would be attached to the ground, whether they would be ‘dug in’ or free standing and how this might impact Great Crested Newts. The applicant has re-assured the Planning Authority that the walls would not be dug-in. Nevertheless, we still do not know what that impact of the development on protected species might be and we consider this information about the walls does not substantially change the situation.

67. Aside from these matters regarding protected species, there is also policy support for minimising the impact on biodiversity and increasing the potential for biodiversity. Taken together, policies CS22 and CS23 of the BMWCS support the NPPF in this regard.

68. The BCC ecologist has commented that impact to habitats of principal importance and associated wildlife, including the impact of the development on hedges in close proximity to the perimeter walls, has not been taken into account.

69. I am also mindful that the extension to the concrete yard area of the waste transfer station (permission reference 13/20003/AWD) was judged to be acceptable with an area of land to the north of the site as wildlife area containing the attenuation pond, an area to the northeast of the site planted with trees and an area of land to the south east of the site (now adjacent to the south-east side of building ‘A’) as a landscaped area. These three areas were retained when the ‘L’ shape building received planning permission (permission reference CM/69/14), and the same site plan (CVN.SHED 3 SP500/2 – Site Plan Scale 1:1250) forms part of the approved documents for the extant permission on the site (planning reference: APP/P0430/W/16/ 314 8503).

70. All three areas have been excluded from the current application area, though are still in control of the applicant. At this current time, the wildlife area to the north west of the site containing the attenuation pond has become a dense area of grasses, thistles, nettles and teasels wild rushes and several other aquatic plants have grown in and around the pond. It is this pond referred to in the 2013 study on Great Crested Newts. The area to the northeast of the site expected to be planted by trees appears likely to be lost should the permission for the office building (permission reference: 16/04039/APP) be implemented. The landscaped area to the south east of the site was planted with a mixture of oak, beech, lime, alder and silver birch. Although small, these were in leaf at the time of the site visit in June. In addition, a variety of other vegetation including grasses, teasels and members of the daisy family have grown

between the trees. The landscaping was provided in the interests of the visual amenities in the local area, though I consider it also has an ecological value. This area is currently also the subject of a separate application to Buckinghamshire County Council. I question whether the development remains acceptable with the loss of these areas.

71. The applicant has been made aware of these issues, and that a Preliminary Ecological Appraisal is required. This document would establish baseline conditions, determine the importance of ecological features present (or those that could be present) within the specified area, establish any requirements for detailed/further surveys and identify mitigation measures. I consider this is a proportionate approach and, if necessary, it can be expanded to include additional surveys on specific species and habitats. These additional surveys may however be time limited – all methods for surveying Great Crested Newts for example are time limited to between March and September.
72. Under paragraph 118 of the NPPF, if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The ecological base line for the site has not been established and it not been demonstrated that the proposed layout can conserve or enhance the biodiversity of the area and if necessary provide mitigation to ensure no net loss of biodiversity. This is also contrary to policies CS22 and CS23 of the BMWCS.

Noise

73. Policy 28 of the BMWLP seeks to protect the amenity of all those who may be affected by mineral and waste development proposals, both near the site and on routes to and from it, from noise, vibration, dust, fumes, gases, odour, illumination, litter, birds or pests. Similarly, policy CS22 of the BMWCS seeks to minimise pollution from development, including noise, air and odour pollution. This is further supported by policies GP.8 and GP.95 of the AVDLP which seek to prevent development which would unreasonably harm any aspect of the amenity of nearby residents and prevent development that exacerbates any adverse effects of existing uses.
74. Concern has been raised over noise from the current development and how this may increase with external processing and longer operational hours. Further comments are expected from the District EHO and a verbal update will be provided to the Committee.
75. At the time the 'L' shaped building was permitted it was considered that placing the various recycling processes within buildings would result in a substantial reduction in levels of noise, dust emissions and other pollution generated from the recycling process escaping into the surrounding area from the site. It was therefore considered that the sheds would have a practical and material benefit in improving the amenities enjoyed by local businesses and residents compared the open-air operations taking place on the site at that time.
76. The change from indoor to outdoor processing was sought as part of the appeal on condition 10 of planning permission CM/69/14 (Appeal decision: APP/P0430/W/16/3148503). While this appeal was partially upheld, and the outdoor storage of material was permitted, the element of the condition which prevented external processing was retained. At this point in time, there was *"no dispute between parties that the sorting and processing of waste under cover is of benefit, in that it reduces noise and other sources of nuisance from sensitive receptors, including nearby residential properties"*.
77. It is difficult to comment on the change to outdoor processing with regard to noise. The noise assessment took place when much of the concrete perimeter wall was already in place at the site. As such, it would appear that the potential noise reduction from the concrete walls has

already been taken into account. I am also aware that the section of the permitted building equivalent to building A, where processing was expected to take place, should not have a completely open side facing into the yard. Although this matter needs to be addressed in full, and a verbal update will be provided to the committee, I do not consider this matter changes the recommendation.

78. Contrary to the statement in the noise assessment, the site is currently permitted to operate after 8.00am and not 6:30am. The noise assessment indicates that there is a significant adverse impact on Wendover Road between the background noise level (when the site is not operational) and the noise level when the site and the concrete crusher are operational. Although I agree that Wendover Road does become busier later morning, no consideration of the impact of the additional hours of operation have been made in the noise assessment. I therefore cannot conclude that there would not be a significant adverse impact with the extended hours of operation. Furthermore, due to the associated noise and proximity to residential properties, I do not consider 6.30am a reasonable time for the site to start processing, moving machinery or skips, or have HGVs leave the site. I am unable to recommend support for the extended hours. I therefore suggest should planning permission be granted, a condition is included to maintain the current hours of operation of 8:00am to 6:30pm Monday to Friday and 8:00am to 1:00pm Saturday with no working on Sundays or Bank and Public Holidays.
79. Since the site started operating as a waste transfer station, a change of use from offices to residential was granted for Unit 1 Triangle Business Park. This is approximately 100 metres to the south east of the waste transfer site, and separated from the waste transfer yard by building 'A'. As set out in the policies above, planning decisions should aim to avoid noise from giving rise to significant adverse impacts and mitigate and reduce adverse noise to a minimum. In accordance with paragraph 123 of the NPPF, decisions should also recognise that development will often create some noise, and existing businesses wanting to develop in continuance of the business should not have unreasonable restrictions put in them because of changes in nearby land uses since they were established. The use of the land for waste transfer was operational prior to the change of use at Unit 1 Triangle Business Park being granted and operations would not be moving closer to the business park as a result of the proposed development. I therefore do not consider that the change of use should prevent the development on the waste transfer station.
80. Network Rail is concerned about noise adjacent to or in close proximity to the number 4 Wendover level crossing. They consider that increase noise can impact upon the level crossing users' ability to hear approaching trains or hear any warning signals. The level crossing is located approximately 450 meters to the south-west of the site, at the far end of the Triangle Business Park. It is shielded by the buildings of the waste transfer station and the business park. Although no noise assessment has been made at this location, I am satisfied that due to its location and distance from the site, it is unlikely to be effected by proposed changes.
81. No comments have yet been received from the District EHO on the noise impact assessment. A verbal update will be provided to the committee on this matter. I also cannot conclude the proposed extension to the hours of operation would not result a significant adverse impact with regard to noise at nearby residential dwellings. I do not however consider the information would alter the existing recommendation for refusal.
82. Through the NPPW, Planning Authorities are required to give consideration the extent to which adverse air emissions, including dust, can be controlled through the use of appropriate

and well-maintained and managed equipment and vehicles. With the proposed return to outdoor processing, the benefit reducing the levels of dust by operating inside a building would be lost. The proposed concrete perimeter walls should help reduce dust being blown off site. In addition, dust from crushing operations is generally controlled through an environmental permit under the Pollution Prevention and Control Scheme. Such a permit provides controls on dust emission from plant as well as generally from the site (e.g. from loading and unloading vehicles). With these walls in place, I consider the proposed development is in accordance with the dust mitigation and amenity aspect of policy 28 of the BMWCS.

Lighting

83. It appears the principle of lighting was accepted as part of the existing development at the site (APP/P0430/W/16/3148503). This was however subject to a pre-commencement condition requiring details of the lighting scheme to be submitted to and approved in writing by the Local Planning Authority, then put in place and in operation prior to the first use of the shed buildings. As no details of the lighting have been received, we consider that the lighting currently at the site is unauthorised. This in itself is considered an enforcement matter rather than a material planning consideration. The planning matter to consider is whether the proposed lighting, despite it being a retrospective element of this application, would have an unacceptable impact on the amenity of local residents and wider area. As the lighting currently on site appears to not to benefit from planning permission, I consider the base line for assessing its impact is that there is no lighting on the site.
84. Policy 28 of the BWMLP seeks to protect the amenity of all those who may be affected by minerals and waste development proposals both near the site and on routes to and from it, from various factors including illumination. Similarly, GP.8 of the AVDLP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal.
85. A lighting plan has been submitted as part of this application. This indicates there would be eighteen 300 Watt swivel floodlights placed at a height of 8.5 meters above the ground level along the perimeter of all the buildings. No information on the hours of lighting operation or the lighting brightness (i.e. lumens) has been provided, though I believe a light requiring 300 watts of power is likely to produce a considerable output. The scheme submitted also indicates the light would stop at the site boundary. No information has been provided to explain how this would work. As such, I am uncertain what the light spill of such the scheme would be and what impact it would have.
86. No comments have been received from the District EHO Officer or Network Rail on this matter, though the impact of lighting on the amenity of local residents has been raised by the public and the Chilterns Conservation Board.
87. I cannot currently conclude that from a lighting perspective, the proposed development is in accordance with policy, or that it would not have a significant adverse impact on local residents. I therefore recommend that if the development proposed was to be permitted, a condition is imposed on the proposed development that no lighting shall be erected at the site until an acceptable lighting scheme has been submitted to and approved in writing by the County Planning Authority.

Drainage and Contamination

88. Policy CS22 of the BMWCS requires proposals to demonstrate a high standard of design and minimise any adverse effects on and from climate change. This includes seeks to reduce flood risk from all known sources and avoiding, or minimising adverse impacts on the water environment and the possibility of pollution.
89. The LLFA has objected to the proposed development due to a lack of information and concern over downstream flooding and contamination. Network Rail has also commented that surface water should be directed away from the railway and highlighted concern over the impact of surface water draining towards, or being attenuated in ponds close to the railway line. The Environment Agency has commented that proliferation of individual treatment plants can cause deterioration in local water quality. Concern has also been raised in representations regarding potential contamination from drainage into a stream. The applicant has declined to provide detailed drainage information for the site, citing that no changes to the surface water drainage strategy or to the impermeable area of the site are proposed.
90. The site drainage was assessed as part of application 13/20003/AWD for the extension to the waste transfer station. From documents supporting that application, it is understood that surface water from the site was proposed to drain into a Klargestor Full Retention Separator NS80 located in the south of the site. Any sludge and oil deposits would then be separated and the water drained into the existing water course. The drainage plan submitted as part of this application indicates the separator has moved to the north of the site and there are now two septic tanks. It is understood that some surface water does still drain into the watercourse. The LLFA advise that they have no record of a Land Drainage Consent being granted for the site, meaning that any drainage into the watercourse is done without permission. It should however be noted that the responsibility for enforcing this matter is outside the remit of Planning Control.
91. As part of this application, it is proposed that waste processing would take place outside. It is understood however that there is no difference between how the yard and open sided buildings drain. It would therefore seem that the risk of contamination to the watercourse would not change as a result of the outdoor processing. In addition, there would no change to the impermeable area of the site, and as such the flood risk would not substantially change should the proposed development be permitted. Furthermore, planning conditions cannot be imposed to remedy pre-existing problems. I therefore consider the proposed development is in accordance with CS22 of the BMWCS.

Other Matters

92. Both Stoke Mandeville Parish Council and Weston Turville Parish Council have commented that there is no adherence to existing planning conditions on the site. The committee is advised that this is considered to be an enforcement matter and not a material planning consideration.
93. Section 149 of the Equality Act 2010 states:
- 1) *A public authority must, in the exercise of its functions, have due regard to the need to-*
 - a. *Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - b. *Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - c. *Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

It is considered this proposal would not conflict with the requirements of the Equality Act 2010 or the Council's policy on equality.

Conclusion

94. This application seeks partially retrospective planning permission in respect to the introduction of concrete perimeter containment walls, changes to buildings 'A' and 'B', the erection of external lighting, an increase in stockpile height, the removal of staff car parking, a change to outdoor waste processing, an increase in daily HGV movements and a change in the hours of operation.
95. Local planning authorities are required to approach decision-taking in a positive way to foster the delivery of sustainable development. In this instance, the County Planning Authority has:
- Met the applicant prior to validation to clarify discrepancies between the description of the development and the submitted plan and supporting statement
 - Agreed several extensions of time to allow the applicant to provide additional information to overcome objections regarding ecology and concern regarding noise.
 - Communicated the reason for refusal to the applicant, outlined the information required to overcome this issue and provided information on when a withdrawn or refused application is eligible to be re-submitted as a 'free-go'.
96. I have little concern over the retrospective aspects of the proposed development with regard to the regularisation of the height and length of buildings 'A' and 'B'. Subject to conditions to limit the height of the perimeter walls, the height of the stockpiles and requiring the retention and maintenance of planting around the perimeter walls, I consider the proposed development would not have a significant landscape or visual impact. I also do not consider the change to outdoor processing would have a significant adverse impact with regard dust compared to the existing operation at the site with the concrete perimeter walls in place. I consider that further details are required with regard to the lighting proposed but I am satisfied this can be dealt with via condition. In all these aspects, I consider the proposed development is broadly in accordance with the Development Plan. A verbal update will be provided to the committee with regard to noise.
97. Due to the lack of information on protected species, particularly Great Crested Newts, and lack up-to-date survey information, I am unable to recommend support for the proposed development.
98. In accordance with paragraph 119 of the NPPF which states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined, I recommend the development is refused.