

AGENDA MANAGEMENT SHEET

<i>Name of Committee</i>	Regulatory Committee
<i>Date of Committee</i>	21 August 2007
<i>Report Title</i>	The Former Shale Tip, Baxterley, North Warwickshire - Removal of 200,000 Tonnes of Shale, the Construction of a Biomass Power Plant, and the Creation of a Waste Recovery Park
<i>Summary</i>	This application seeks consent for the partial removal of an old shale tip and the construction of a resource recovery park on the site at the former Shale Tip, Baxterley, Planning Application No NW57/07CM001.
<i>For further information please contact</i>	Ian Grace Principal Planner Tel. 01296 412645 iangrace@warwickshire.gov.uk
<i>Would the recommended decision be contrary to the Budget and Policy Framework?</i>	Yes /No
<i>Background Papers</i>	174 letters from local residents objecting to this planning application. 4 Letters from local residents supporting this planning application. Letter from Advantage West Midlands Dated 15/3/07. Letter from the Campaign to Protect Rural England date 26/2/07. Letters from English Nature Dated 4/7/07. Letters from the Environment Agency dated 11/7/07, 26/3/07. Letters from the West Midlands Regional Assembly 14/3/07 and 12/2/07. Letter from Severn Trent Water dated 6/2/07. Letter from Defra. Letter from the Highways Agency dated 2/2/07. E-mail from Kingsbury Parish Council dated 25/3/07. E-mail from Shustoke Parish Council dated 20/3/07. Letter from Over Whitacre Parish Council dated 18/3/07.

**Background Papers
(continued)**

Letter from Baddesley Ensor Parish Council dated 15/3/07.
 Letter from Atherstone Town Council dated 18/4/07.
 Letter from the Baxterley Action Group dated 14/2/07 and subsequent power point presentations supplied by the group.

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

- Other Committees
- Local Member(s)
 (With brief comments, if appropriate)
- Other Elected Members Councillor R Sweet – see paragraph 2.4
- Cabinet Member
 (Reports to The Cabinet, to be cleared with appropriate Cabinet Member)
- Chief Executive
- Legal I Marriott – comments incorporated
- Finance
- Other Chief Officers
- District Councils North Warwickshire Borough council – Objection
 See paragraph 2.1.
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION

YES/NO

(If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

- Further consideration by this Committee

- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Regulatory Committee - 21 August 2007

**The Former Shale Tip, Baxterley, North Warwickshire -
Removal of 200,000 Tonnes of Shale, the Construction of a
Biomass Power Plant, and the Creation of a
Waste Recovery Park**

**Report of the Strategic Director for
Environment and Economy**

Recommendation

That:-

1. The Committee is minded (subject to the application not being called in for determination by the Secretary of State) to authorise the grant of planning permission subject to a satisfactory Section 106 agreement and the conditions detailed in Appendix B attached to this report.
2. The Statement of Reasons, Considerations and Measures required by Regulation 21 of the EIA Regulations and Article 22 of the GPDO be prepared for consideration by the Committee.

Application No: NW57/07CM001

Received by County: 3/1/2007

Advertised Date: 11/1/2007

Applicant(s): Merevale and Blyth Estates, The Estate Office, Merevale Hall, Atherstone, Warwickshire, CV9 2HG.

Agent(s): Mr M Walton (Associate Director), Alliance Environment and Planning, 14/15 Frederick Road, Edgbaston, Birmingham, West Midlands B15 1.

The Proposal: Reworking of former colliery spoil to create a stable landform for the construction of a sustainable resource recovery park comprising the renewable energy generation facilities of a biomass plant and an anaerobic digestion plant together with associated activities of green waste composting facility, wood

recovery facility, metal recovery and recycling facility, together with associated plant and buildings, hard-standing, access routes and landscaping on land on the corner of The Common and Merevale Lane, Atherstone.

Site and Location: 9.9 ha of land at former shale tip land on the corner of The Common and Merevale Lane, Atherstone, Warwickshire [Grid ref: 275.975].

See plan in **Appendix A**.

1. Application Details

- 1.1 The application site area consists of approximately 9.9 hectares of undulating land currently occupied by a former colliery spoil tip. The site is a roughly triangular/diamond shaped area of land bounded to the west by a road known locally as The Common and to the south by Merevale Lane (the B4116). To the north and east the site abuts agricultural land.
- 1.2 The planning application itself seeks planning permission for the excavation and recovery of approximately 200,000 tonnes of shale to be used as a secondary aggregate and the reworking of the previously deposited mining spoil to create a stable and redevelopable landform and the construction of a “sustainable resource recovery park comprising:-
 - (i) A biomass power plant generating electricity by combusting wood and green energy crops.
 - (ii) A green waste composting facility.
 - (iii) A wood recycling facility producing wood chip and pallets from a range of waste woods.
 - (iv) An anaerobic digestion plant.
 - (v) A metal recovery facility.
- 1.3 It is intended that the development of the site would be phased. The first phase of the development would involve the working and removal of the shale and the use of the material as a secondary aggregate and as fill in local construction projects. The shale would be worked in four phases with a new access constructed on to The Common to provide access and egress to the site during the mineral extraction phase of development.
- 1.4 A new access road would be constructed to the north east of the site to serve the second phase of development on the site.
- 1.5 The second phase development would involve the construction of a biomass power plant fuelled by a mixture of wood wastes, forestry products, chipped timber waste and purpose grown miscanthus. The building would occupy a

floorspace of 2800 square metres and be of dimensions of 7 metres x 40 metres x 10 metres tall to the eaves and 12 metres tall to the ridge. The building would be fitted with a chimney stack to expel flue gasses in compliance with the Waste Incineration Directive (WID) Directive.

- 1.6 In addition to the power plant a green composting facility would be provided handling up to 40,000 tonnes of compostable green waste. Initially it is intended to process 20,00 tonnes of material in open windrows but to develop the facility to provide a purpose built building at a later date. The final compost would be exported as a soil improver. The construction of a composting building would allow surplus heat from the biomass plant to speed up the composting process.
- 1.7 Ultimately it is proposed to construct a composting building to serve the site. That building would have a floorspace of approximately 2,800 square metres. Its dimensions would be approximately 70 metres long x 40 metres deep x 10 metres to eaves and 12 metres to ridge.
- 1.8 It is also proposed to construct a building to store bagged compost prior to its transportation off the site. This building would have a floorspace of approximately 1,800 square metres. Its dimensions would be approximately 60 metres long x 30 metres deep x 8 metres to eaves and 10 metres to ridge.
- 1.9 The wood recovery facility proposed for the site would secure wood from a variety of sources including a pallet storage and repair business operating elsewhere which would relocate to this site. The waste wood from these activities would feed into the biomass power generation process. It is proposed to construct a building to accommodate the wood waste processing. That building would have a floorspace of approximately 2,800 square metres. Its dimensions would be approximately 70 metres long x 40 metres deep x 10 metres to eaves and 12 metres to ridge.
- 1.10 The anaerobic digestion plant would be contained within a building and would be fuelled by waste organic material supplied by hotels, supermarkets, restaurants, catering establishments together with collections from farms. The process of anaerobic digestion would produce an organic compost and methane which would be used to generate power. The building proposed for this process would cover some 1,800 square metres and measure 60 metres x 30 metres x 8 metres to eaves and 10 metres to the ridge.
- 1.11 In total this proposal seeks consent for the construction of five large buildings with a total floorspace of 12,000 square metres (129,000 square feet). In design terms these buildings would appear as large warehouse structures.
- 1.12 The application is also seeking consent for the provision of a metal recovery and recycling facility on the site. Waste metals would be brought onto the site and scrap would be sorted bulked up for onward transport to a metal recycling facility. It is proposed that this activity would be carried out on a concrete pad with suitable drainage installed. It is also intended that this facility should be operated by a local small business which would relocate to the site.

- 1.13 In addition to these structures and activities the application is also seeking consent for two water treatment plants, weighbridge facilities, a site office and new power lines linked to the 11kv supply that passes along the boundary of the site.
- 1.14 As originally submitted the application sought consent for the extraction of 400,000 tonnes of shale and the construction of an additional 1,800 square metre building to allow the processing of waste electrical equipment (termed WEEE). The scheme has since been amended to reduce the quantity of shale extracted from the site to 200,000 tonnes and to delete the WEEE building.
- 1.15 This planning application is also supported by an Environmental Statement prepared under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. That statement demonstrates that this development will have an environmental impact within acceptable limits as regard to emissions, noise pollution and traffic generation and that the development will have a limited and acceptable visual impact and impact upon biodiversity.
- 1.16 The applicants have supplied a legal opinion to support their submission prepared by Peter Goatley of No 5 Chambers who advises that from his inspection of the site and the assessment of the planning history that it is his view that the site 'clearly satisfies the definition within Annex B to PPS3' and as such constitutes previously developed (brownfield) land.

2. Consultations

- 2.1 **North Warwickshire Borough Council (NWBC)** - Object to this planning application on the grounds that:-
- (i) NWBC is not convinced of a need for the shale and are therefore not satisfied that the terms of Policy M6 of the Minerals Local Plan has been met.
 - (ii) There is no evidence to confirm that the designated RIGS site or that the volume of traffic would not have an adverse impact upon the amenities of occupiers of residential properties and other road users contrary to policies M6 of the Minerals Local Plan and ENV3 and ENV11 of the North Warwickshire Local Plan.
 - (iii) The scale and scope of the Phase Two development has not been justified for an exception to be made to the Policies of the Development Plan. Particular reference should be made to policies ER1,4,8 and 9 and I.2 of the Warwickshire Structure Plan , Core Policies 2 and 3 and Policies ENV1, 3, 4, 10, 11 and TPT3 of the North Warwickshire Local Plan and M5 and M6 of the Minerals Local Plan.

- 2.2 **Merevale Parish Council** - No Comments received.
- 2.3 **North Warwickshire Borough Council (Environmental Health)** – No objections in principle but would ask to be consulted and involved in the preparation of any planning conditions should planning permission be granted.
- 2.4 **Councillor R Sweet** - Comments to be reported.
- 2.5 **County Museum** – No objections to the application. The development will have an acceptable impact upon ecology and nature conservation.
- 2.6 **Environment Agency** – has no objections to this planning application provided planning conditions are imposed upon any consent granted to minimise flood risk from the site and to prevent pollution of the water environment (conditions 8, 9 and 10 as recommended in **Appendix B** of this document).
- 2.7 **English Nature** have no objections in principle and advise that the development will not have an adverse effect upon nature conservation interests.
- 2.8 **Defra** has no objections to this development as it does not result in the loss of agricultural land and it is not proposed to restore the site to an agricultural use.
- 2.9 **The Highways Agency** has no objections to this development.
- 2.10 **West Midlands Regional Assembly** advises that this application is in General Conformity with the West Midlands Regional Spatial Strategy.
- 2.11 **Severn Trent Water** has no objections.
- 2.12 **Baxterley Parish Council** unanimously objects to this application and urges Warwickshire County Council (WCC) to reject this application because:-
- (i) The quantity of waste required to maintain output will be considerable.
 - (ii) The anaerobic digestion plant is eight times larger than the maximum size recommended by Defra.
 - (iii) More suitable sites exist with better road connections further away from residential properties.
 - (iv) Tuttle Hill already burns methane, De Mulders process animal waste and have been given permission to burn their waste and the few local dairy farms left process their own slurry and use it as a nutrient.
 - (v) The biomass burner will require 50,000 tonnes of material. This will have to be transported long distances by road as prices for energy crops are relatively low and farmers are reluctant to commit to long term supply.
 - (vi) The composting facility will process 40,000 tonnes. There are already six sites in the area and this proposal will put them out of business or be unsustainable if it cannot secure supplies.

- (vii) Scrap metal processing and electrical recovery facilities should be on industrial estates where close monitoring of pollutants can be achieved.
- (viii) The energy supply claims are hugely misleading. The plant will only provide enough power to allow 4,500 homes to boil a kettle.
- (ix) Defra advise that energy from waste complexes should be built near their source of waste. If this were built it would be so large that huge volumes of waste would have to be transported all over the West Midlands causing more ecological harm than good.
- (x) The removal of the shale will be hugely damaging and the material has virtually no commercial value.
- (xi) The site is greenfield land in the open countryside and should be allowed to revert to its original use Baxterley Common.
- (xii) Although the highway authority consider otherwise, some of the routes for vehicles are not capable of handling traffic of the volume proposed. It is impossible for HGVs approaching from opposite directions to pass safely.
- (xiii) These roads are used by horse riders, cyclists and pedestrians. There are no footpaths so conflict is inevitable.
- (xiv) The CPRE estimate traffic movements would be 360 (this figure includes the 120 already allocated to the car distribution site). This extra traffic would affect many hundreds of residents on all approach roads as far away as Furnace End, Coleshill, Shustoke, Bentley, Hurley and many more.
- (xv) The huge increase in traffic and pollution will erode the quality of life in Baxterley and Baddersley, communities whose quality of life are appreciated by both local residents and visitors from nearby larger urban areas.
- (xvi) North Warwickshire is promoted as a tourist destination and this initiative will be seriously damaged if this were to be approved.
- (xvii) The development is contrary to Structure Plan Policies ER.1, ER.2, ER.4, t.2, and I.2.
- (xviii) Smells and diseases from vehicles carrying waste food and slaughterings cannot be avoided. This is a real concern with the recent outbreaks of bird flu.
- (xix) On site stockpiling, emissions from the processes and leaching of ammonia and methane from spent material is inevitable.

(xx) The applicant has tried to over-ride the usual planning considerations by skilful use of government targets and Directives in order to make use of a piece of land at present generating no income.

(xxi) There is no need for the development and it would be unsustainable.

2.13 In addition Baxterley Parish Council have commissioned advice from a Planning Consultant (Mr John Steedman) who comments upon the application as follows:-

- (i) That the previous use of the site has been abandoned and that the site, having regenerated, should be treated as land with no current use and therefore normal countryside protection policies should apply.
- (ii) The site is not the subject of restoration conditions and in any case does not need further restoration to render it safe.
- (iii) If it were considered by the Minerals Planning Authority that some enabling development to restore the site was necessary, then that development should be minimal, short lived and respect the existing habitat. There is no justification for permanent development of the site, of any scale, based on the limited amount of restoration that might be necessary.
- (iv) The site, under the Government's own definition, cannot be regarded as previously developed land because it has regenerated. There is therefore no presumption in favour of the development of the land.
- (v) Even if the land were to be regarded as previously developed, this does not automatically make the site a sustainable location for development. Proposals of this nature should be the subject of a sequential evaluation of alternative sites to establish the best and most sustainable location for such a facility in terms of need, transportation links and amenity. There is no evidence that such an exercise has been carried out and in the absence of any demonstration that this is a unique location for such a facility, it would be reasonable to refuse the application on the basis that it should be located in an identified industrial location.

In conclusion, therefore, we consider that the policy background for this development should not be influenced by the previous, abandoned, use of the land and that the development should be considered in the same fashion as any other development located in the open countryside. The applicant would have to prove that the site was unique and produced benefits which could only be provided by the development proposed. In our opinion, the proposed site is neither unique nor in need of any benefit.

2.14 **Baddesley Ensor Parish Council** advises that it is particularly concerned about the increase in traffic serving this site on the local routes in what is essentially a rural area.

- 2.15 **Kingsbury Parish Council** objects to this application because it will add 34,000 lorry movements to the local road network potentially bringing traffic to the rural roads of the parish.
- 2.16 **Atherstone Town Council** advises that whilst it initially supported this application, the Council has since reconsidered the application and has the following comments to make:-
- (i) There is a concern that there will inevitably be a need to store waste near the site as the site offers no storage facilities on the site and the lack of parking facilities within the site will result in a significant backlog of traffic on the access road leading to traffic congestion locally.
 - (ii) The Town council still supports the idea of a recycling plant but suggests that the site is not suitable and that an existing industrial estate elsewhere would be more suitable.
- 2.17 **Shustoke Parish Council** objects to this application because it will add further traffic to local roads which already have to cope with heavy commuter traffic.
- 2.18 **Over Whitacre Parish Council** objects to this application on the following grounds:-
- (i) Approval of the proposal would result in the desecration of a large area of natural woodland and a greenfield area with the resulting loss of visual amenity.
 - (ii) The traffic generated by this development would put an intolerable burden upon the residents of this parish, particularly those living in Furnace End and adjacent to the B4114.
 - (iii) The B4116 is unsuitable to sustain any additional HGV traffic due to its narrow and winding nature. It is impossible for HGVs to pass in many areas particularly the near Stonehouse farm or Epps farm.
 - (iv) The movement of AA Recycling onto this site will create extra traffic movements as new tenants will occupy the sawmill site.
 - (v) The effects of moving waste over long distances will far outweigh any gains made by recycling – for recycling to be carbon efficient waste should be dealt with locally and transport kept to a minimum.
 - (vi) It is incumbent upon the applicants to demonstrate the net gain in terms of carbon efficiency that would be achieved by this development before approval should be contemplated.
 - (vii) The operation of such development cannot be controlled by planning conditions as restrictions on preferred routes, working hours, are seldom monitored and enforced and can be amended by later applications.

- (viii) In view of the above Over Whitacre Parish Council view that this application must be refused.

3. Representations

- 3.1 **Advantage West Midlands (AWM)** - AWM advise and state that the scheme offers the opportunity to regenerate a brownfield site and boost the local economy. The project provides the potential to enhance the regions business base in a sustainable manner. Thus in principle AWM wish to welcome the scheme.
- 3.2 **The Warwickshire Wildlife Trust** advises that this site potentially affects the Birch Coppice Potential Site of Importance for Nature Conservation and therefore requests that full weight is given to the provisions of policy ENV3 of the North Warwickshire Local Plan in considering this application.
- 3.3 **Nuneaton and District Friends of the Earth** objects to this application because:-
- (i) The proposed location is a green field site. PPS 3 clearly notes that “previously developed land.....excludes.....land that has been developed for minerals extraction.”
 - (ii) Due to 20 years of disuse large sections of the site are in an advanced state of natural regeneration such that they provide an extremely beneficial landscape feature both in the surrounding area and over long distance.
 - (iii) We would emphasise that we would be likely to strongly support this application if it were proposed in a different location such as an industrial estate.
 - (iv) We support local use of biomass as an energy source but it not clear where the 50,000 tonnes of material is to come from.
 - (v) The anaerobic digester seems much larger than is necessary to deal with local food waste.
 - (vi) If the Council is minded to approve this application it would ask that conditions be imposed to restrict hours of operation, ensure a traffic management plan is in place to minimise vehicle movements, restrict noise and light pollution, ensure that landscaping screens the site and that waste processed at the site originates from within 10 miles of the site.
- 3.4 **The Campaign to Protect Rural England (CPRE)** objects to this application on the following grounds:-
- (i) It is contrary to WASP Policy ER.1. The site is open countryside beyond development boundaries but affecting a Regionally Important Geology site, sites of nature conservation, and historic buildings.

- (ii) It is contrary to WASP Policy ER.2. The proposal will have an adverse impact on residential amenity, particularly as a result of extra traffic movements.
- (iii) It is contrary to WASP Policy ER.4. This is an attractive landscape not at all despoiled.
- (iv) It is contrary to WASP Policy T.2. The site is not served by public transport. Anyone working there will need to use a car.
- (v) It is contrary to WASP Policy I.2. There is an over provision of employment land in North Warwickshire.
- (vi) It is contrary to WASP Policy I.8. The area is popular with walkers and day visitor from the conurbation. Tourism would suffer if this development were allowed.
- (vii) The CPRE consider that the Regional Conformity Panel were unnecessarily dismissive of the impact on the local environment.

3.5 **The Atherstone Civic Society** strongly objects to this application on the grounds that:-

- (i) The site is in the open countryside and in a designated Special Landscape Area.
- (ii) The site has regenerated and is now heavily vegetated with trees and shrubs. This site has blended into the landscape and therefore cannot be held to be "brownfield land" as defined by PPG3.
- (iii) The extraction of the shale is not the prime reason for this application. It is low quality material and it may not be cost effective to remove it.
- (iv) The site will generate traffic movements which will have an adverse impact on local amenity.
- (v) Merevale Lane is a highly dangerous road with a record of serious accidents including three fatalities.
- (vi) North Warwickshire has low unemployment and an overprovision of employment land. There is therefore no economic justification for the development, indeed WCC fought for the local plan commercial allocations to be reduced.
- (vii) North Warwickshire's nascent tourist industry will suffer as a result of this development.
- (viii) We are not convinced that there will be no harm to local residents from emissions, particularly to residents of Bentley Rest Home.

- (ix) This application is too large and a development of 9 hectares will have a significant regional and local effect.
- (x) If the Council are minded to grant permission for this development then a land “swap” whereby a similar area of land with a commercial use is returned to countryside. We would suggest the extreme eastern end of the colliery site opposite. This would restore a rural setting to Baxterley.
- (xi) North Warwickshire has because of its history of mineral extraction become a target for un-neighbourly planning applications. We already have De Mulders rendering plant, Packington landfill site and a metals recycling facility at Kingsbury. To site a major waste disposal facility with all its traffic movements in one of the most visible sites in the borough would be a set back for the area.

3.6 The Baxterley Action Group objects to this application on the following grounds:-

- (i) Baxterley is a beautiful historic village which has a thriving community. This proposal will permanently change the character of the area.
- (ii) The site is Greenfield land and is in an unsuitable location for a large industrial complex. This view is supported by North Warwickshire Borough Council, The CPRE, the Atherstone Civic Society and John Steedman an independent planning consultant.
- (iii) The application contravenes central government planning laws, and local plan policies.
- (iv) The development would produce noise pollution and smells.
- (v) There is no need for this development because local recycling and waste disposal is already well catered for.
- (vi) The huge increase in HGV traffic would cause chemical and noise pollution and would be a traffic hazard.
- (vii) The development is contrary to Structure Plan Policies, ER.1, ER.2, ER.4, T.2, GD.1, and GD.5.
- (viii) This proposal flouts Warwickshire County Council's mission statement because the commitments to listening to the community, protecting the environment, investing in the areas economy and ensuring that development support the community are ignored.
- (ix) The site is a natural safe haven and is rich in wildlife.
- (x) The applicants have recently destroyed much of the growth in the central area to support their case.

- (xi) The application contains additional land shown as Area 2 why would the applicants want to screen this area off?
- (xii) North Warwickshire is promoted as an area for tourism, this initiative would suffer a massive set back if this development were allowed.
- (xiii) Anaerobic digestion is not new technology but has not been adopted because of the problems it causes. Research by Defra shows that this process causes pollution which will adversely affect Baxterley.
- (xiv) Anaerobic digestion produces waste not fertiliser. It cannot simply be spread on the ground and there is a limit to how much can be disposed of by this process. That means that thousands of tonnes of digestate would need to be stockpiled or put into landfill sites.
- (xv) Defra concludes that anaerobic digestion “is not a green process”.
- (xvi) The objections to composting include smell nuisance, liquid effluent causing pollution to the natural spring on the site which feeds into the water system and transportation issues which would produce at least 100 lorry movements per day.
- (xvii) Local farmers are not interested in growing fuel crops.
- (xviii) Chipping pallets is very noisy and as A & A Recycling demonstrates generates a large number of big vehicles.
- (xix) Scrap metal processing is unnecessary as Euro Metals already operate at Kingsbury.
- (xx) The removal of the shale has no commercial justification and will destroy a green field site causing much dust and noise pollution.
- (xxi) There has been no public consultation prior to the application being made, giving local people little time to assess the proposal, contrary to the advice in PPS 22.

3.7 174 letters received from local residents objecting to this application on the following grounds:-

- (i) The site is in the very heart of a beautiful landscape and a village community at the very highest elevation in the County with magnificent panoramic views over to Leicestershire.
- (ii) Approval of this proposal will have an adverse effect on local tourism initiatives, reducing visitor numbers and the sustainability of those businesses which rely on them.
- (iii) This proposal will greatly increase HGV and other traffic movements.

- (iv) Defra have invested vast sums researching anaerobic digestion revealing that there are lots of technical problems. The preferred option is for small plants. The Merevale plant is vastly bigger than these plants.
- (v) The Country Landowners Association have investigated biomass power generation and concluded that they are best sited where the large amounts of heat energy they use can be harnessed ideally to heat nearby houses or workshops nearby.
- (vi) There is no need for further composting sites in the locality.
- (vii) The only reason for this application is for financial gain. The need for waste disposal and recycling is not disputed but this development is in the wrong place.
- (viii) The proposal is likely to need large areas of storage but these are not provided for. The development will therefore spill out onto farmland.
- (ix) The proposal does not comply with the County's or the Boroughs relevant local plans. I would therefore expect the planning permission will be totally rejected.
- (x) This is a huge industrial activity completely out of keeping with a rural area and will ruin the locality for ever.
- (xi) Over 34,000 heavy lorry movements per year will have an adverse impact upon the local road network and the environment.
- (xii) Noise, dust, smell, traffic and light pollution will have an adverse impact upon nearby houses and the nearby Woodside Primary School adversely affecting the health of local residents and their children.
- (xiii) High voltage power lines will have an adverse visual and health impact.
- (xiv) The continuous release of harmful emissions such as nitric acid, sulphur oxides and particulates will occur adversely effecting health.
- (xv) We chose to live in a rural area for peace and quiet. That peace will be seriously eroded by traffic disruption.
- (xvi) The B4116 is unsuitable for further heavy traffic as it has a poor safety record, in particular at Furnace End where the crossroads is a complete accident black spot and there are already long queues at peak times.
- (xvii) The A5 is very busy and operates at above acceptable capacity.
- (xviii) I enjoy walking with my family but already the quantity of HGV traffic makes this an unnerving experience. This proposal will make matters much worse.

- (xix) These rural roads are not suitable for HGV traffic. They are narrow, do not have separate pavements and have several sharp bends. On these roads drivers ignore speed limits and safety instructions.
- (xx) If approved this development will affect the structural integrity of my house which already shakes as HGVs pass.
- (xxi) The shale has no market value in the construction industry. If it proves unsaleable will the planning permission be revoked? Will the applicants be able to landfill this material thereby removing the environmental premise for the application?
- (xxii) Anaerobic digestion is an unproven technology with health risks for the local community. It will also attract vermin and cause smell nuisance.
- (xxiii) It is a sad state of affairs but I am sure that the recovery park will go ahead no matter how many objections WCC receive as nobody seems to listen to the local point of view.
- (xxiv) There is no need for this facility and even if there were planning permission should be refused and a more suitable site found.
- (xxv) In the 1800's Merevale Estate opened a coal pit and for the next 100 years Baxterley had the full benefit of industrial pollution. Now the need is for recycling and Merevale Estate would like to open a super tip. Once again Baxterley villagers will have the full benefit of industrial pollution whilst the estate profits.
- (xxvi) At one time smoking was considered safe, there were no worries about asbestos and according to the experts Chernobyl and Union Carbide factories were considered to be safe. The same applies here, why take the risk, it is much too close to existing residents.
- (xxvii) The development should be sited on a planned industrial estate such as Birch Coppice.
- (xxviii) The traffic generation figures supplied by the applicants are a significant under estimate as many deliveries would be by small vehicle. A realistic figure would be at least 330 movements per day or 33 per hour or one every 2 minutes.
- (xxix) I can hear AA Recycling shredding wood even though it is half a mile away from my home so to move such an activity to 200 yards from my home would be intolerable. There is no doubt that the activities will be seen, smelled and definitely heard.
- (xxx) For safety reasons vehicles would need to be fitted with reversing beepers. Operation of these and other equipment on site would inevitably mean that the locality would suffer noise pollution from the development, particularly as background noise levels are very low in the vicinity of the site.

- (xxxix) The character of the village would be changed by this development and house prices adversely affected – who would want to live here with this on their doorstep.
- (xxxii) The site should be developed for recreation purposes to benefit the local community.
- (xxxiii) I would be very loath to let such a project be a legacy for my children and future generations.
- (xxxiv) The existing quarry is not really an eyesore overdue for redevelopment.
- (xxxv) The “save the world” card (i.e. power generation from rubbish) is being played to try to ease the application through. Surely the petrol / diesel fuel wasted transporting the wood on 64,000 lorry movements will more than offset the power generation benefits.
- (xxxvi) Do we really want North Warwickshire to become the dustbin for the County and beyond.
- (xxxvii) I find it hard to believe that WCC would even consider this proposal. When the coal pit closed this area improved dramatically , now you want to turn the clock back and destroy the peace and tranquillity that we all enjoy.
- (xxxviii) I am not opposed to renewable energy but to quote the Countryside Agency – the governments countryside watchdog - “ I do not feel that it makes sense to tackle an environmental problem by creating another one”.
- (xxxix) The assessment submitted to support this application is biased and too positive. This is hardly surprising as the applicants paid for it. WCC should read between the lines and assess the needs and wishes of the community – your customers in effect.
- (XL) If permission is considered WCC should commission there own Environmental Impact Assessment before any consents are given to test the truth of the applicants submission.
- (XLi) It is recognised that emissions from a biomass facility include carbon monoxide, volatile organic compounds (some are carcinogenic) harmful particulates, sulphur dioxide (a component of acid rain and deadly ozone) lead and carbon dioxide. To do this only 950 metres from a school and only 20 metres from housing is most regrettable and unacceptable.
- (XLii) We live only 200 metres from this site. Our daughter is asthmatic and has been hospitalised twice. We are very concerned about this development and will have upon the health and welfare of our family.

- (XLiii) Composting can cause health problems from bio-aerosols and smell nuisance and waste food processing will attract flies and vermin.
- (XLiv) We visited the scrap metal operators current site and it was an absolute disgrace. This does not bode well for the management of this site.
- (XLv) Baxterley is used as a short cut by vehicles and has already seen an increase in traffic from MJC's recently opened offices.
- (XLvi) When the traffic generated by this proposal is added to the traffic generated by the approved car storage use then the extra traffic on the local road network will be enormous.
- (XLvii) Baxterley is a beautiful village with a Norman Church, historic inn, beautiful duck pond and a lively community life. This would be seriously harmed by this development by traffic pollution and visual intrusion from large chimneys and plumes of water vapour. The development would ruin this lovely village forever.
- (XLviii) We fully support the enhancement of Atherstone, the book town initiative, the new restaurants, the farmers market all of which will enhance tourism. This proposal will damage this trend – would you visit an area known as the waste recycling centre for the Midlands.
- (XLix) If this scheme does get approval and falls short of the promises made then the weight of responsibility will fall heavily on those who approved such a project. We will not tolerate the incompetence of officers and elected members who may reduce the quality of life for local residents.
- (L) It would be immoral and obscene to allow a development which would profit a handful of individuals at the expense of an entire community and future generations.
- (Li) This proposal warrants a thorough public debate to enable all views to be heard and considered. We consider that public consultation meetings should be organised as soon as possible to ensure that all of the implications of this development can be explained to local residents. It is not acceptable for the County to come to a decision without having made every effort to consult the public.
- (Lii) In view of the serious nature of this development and its long term effects the development should be put before a public inquiry.
- (Liii) Our councils and central government have a moral duty to protect the environment.
- (Liv) Basically the people of Baxterley do not want this resource recovery park.

3.8 Four letters received from local residents supporting this application on the following grounds:-

- (i) There is a great need in this country for our population to use resources sensibly and reduce the impact which we have on the environment.
- (ii) The Baxterley Action Group do not represent all locals and cannot see the big picture of climate change, global warming, and the need for recycling.
- (iii) The activities within this site cannot be seen, heard or smelt which must be good news for neighbours and the large amount of tree planting around the site can only improve the local environment.
- (iv) The re-use of industrial brownfield sites should take precedent over greenfield sites.
- (v) There are very few sites in the locality where the impacts of this development on the surrounding area will be as little as the proposed site.
- (vi) Here in North Warwickshire we are without any renewable power generation or significant recycling facilities. This proposal will provide both energy generation and a sustainable recycling facility for North Warwickshire.
- (vii) We live some distance from the site but do use Merevale Lane and the road to Baddesley on regular occasions. Having lived locally for some time we are aware that the roads were considerably busier when the coal mine was in operation.
- (viii) We would expect any planning approval to be conditional upon the provisions of all relevant legislation being met.
- (ix) We feel that it would be hypocritical for us as conservationists to object to a scheme which is designed to recycle our waste and to reduce the impact which we have upon the environment. As a nation we are currently way off our own set targets for recycling.
- (x) Recent reports suggest that we are on course for gradual apocalypse with ice caps melting, rain forests disappearing and inland lakes drying up. We cannot ignore these facts and adopt a "not in my back yard" approach and resist proposals which will help to solve these problems.
- (xi) This project could be an example to the rest of the country by demonstrating that recycling and making use of renewable energy is the way forward.

One letter received from the Manager of Bentley House Nursing Home objecting to this development on the grounds that this development is totally out of keeping with the area. The nursing home is occupied by very elderly clients who enjoy the gardens and fresh air. On still days this may be compromised. In addition the presence of the site may be off-putting to potential future residents.

One letter received from the Manager of Dobbies Garden World and Plantazia objecting to this development on the grounds that:-

- (a) The development is unsuitable for this location.
- (b) The development would have a detrimental impact on the local environment.
- (c) The impact on the local road network would be detrimental to the business of Dobbies Garden World and Plantazia.

4. Planning Policy and the Development Plan

4.1 Section 54A of the 1990 Planning Act (now incorporated in to Section 38(6) of the 2004 Planning and Compensation Act) requires that planning applications are determined in accordance with the provisions of the Development Plan “unless material considerations indicate otherwise”.

4.2 The reason that the legislation is so worded is to enable local people to have knowledge of and confidence in the planning system and how it regulates change within their locality and communities and how they will develop. Thus approval of planning applications which are not in accordance with an up to date development plan should be a relatively rare occurrence.

4.3 Paragraph 2(1) of Schedule 4 to the Waste Management Licensing Regulations 1994 requires Planning Authorities to have regard to the following objectives when determining planning applications relating to the recovery or disposal of waste:

a. ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without:

- i) risk to water, air, soil, plants, or animals, or
- ii) causing nuisance through noise or odours, or
- iii) adversely affecting the countryside or places of special interest:

b. Implementing so far as material the National Waste Strategy (which in this context means PPS10).

4.4 Paragraph 2(1)(b) is effectively a statutory duty to have particular regard to PPS10. For this reason, and because the development plan policies pre-date and in some respects have been superceded by PPS10 relevant extracts from PPS10 have been included in Appendix C.

4.5 In relation only to the disposal of waste, the 1994 regulations also require regard to be had to the following objectives:

- i) establishing an integrated and adequate network of waste disposal installations taking account of the best available technology not involving excessive costs; and

- ii) ensuring that this network enables waste to be disposed of in one of the nearest appropriate installations by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.
- 4.6 The Development Plan against which this application must be judged consists of the following documents:-
- (i) The Regional Spatial Strategy for the West Midlands (RSS11).
 - (ii) The Warwickshire Structure Plan 1996 – 2011, adopted by Warwickshire County Council in August 2001.
 - (iii) The Minerals Local Plan for Warwickshire, adopted by the County Council in February 1995.
 - (iv) The Waste Local Plan for Warwickshire, adopted by Warwickshire County Council in August 1999.
 - (v) The North Warwickshire Borough Local Plan.
- 4.7 Planning case law (R (Cummins) v Camden LBC) has established that determinations have to be in accordance with the broad direction of the development plan but not with each relevant policy of the plan. It might be necessary in cases where policies pull in different directions to decide which policy is the dominant policy. Thus a development may be in breach of one policy but that fact may not mean that the entire development constitutes a departure from the development plan. The plan must be read in its entirety.
- 4.8 This is a complex analysis for a development of this scale made more complex by the fact that the Development Plan consists of five separate documents. The relevant policies against which the development must be judged are therefore listed in Appendix C attached to this document so that they may be read in full and a full analysis and comparison made.
- 4.9 Some elements of this proposal accord to the development plan and some do not. Thus the entire development has been treated as a departure from the development plan, particularly as the site is specifically not allocated for development in the North Warwickshire Borough Local Plan and with the exception of the shale extraction and composting activities all other elements of this development could potentially be accommodated on industrial estates or on land allocated for commercial purposes in the local plan (although not necessarily all in the same location).
- 4.10 Treating this application as a departure from the development plan means that if the Regulatory Committee are minded to approve the application then the application will have to be referred to the Secretary of State who must then decide whether or not to “call in” the planning application for determination by the Secretary of State himself after the pros and cons of the development are debated at a public inquiry organised by the Planning Inspectorate.

5. Site Appearance, Characteristics and Landscape Character

- 5.1 The application site is set in attractive undulating countryside to the east of the village of Baxterley. The site has been used for the dumping of mineral spoil from the adjacent colliery and has developed the external appearance of a steep sided but flat topped hill. The external slopes of the feature are now heavily vegetated with self seeded trees, mostly consisting of birch trees which are probably 20 to 30 years old. The interior of the site now has the appearance of a large open crater with limited vegetation growth and large areas of exposed bare shale. The interior of the site is largely screened from external view except from Folly Lane where the interior of the site may be seen over long distances. Other than from Folly Lane development within the application site would be largely screened from external view.
- 5.2 Representations have been made to the effect that the interior of the site has been subject to vegetation clearance with the specific intention to produce a site which looks bare and derelict and therefore developable. Evidence has been supplied which indicates that the interior of the site was more vegetated in the recent past but as may be seen from the planning history section of this report this may have more than one explanation.

6. Planning History

- 6.1 The planning records held by Warwickshire County Council indicate that the shale tip which currently occupies the application site predates the introduction of planning controls in 1947. The tip was created as a spoil mound generated by the operation of Baddesley Colliery which was located immediately to the west of the shale tip, and immediately to the north of Baxterley village.
- 6.2 On the 2 July 1953 planning permission was granted for the creation of a new spoil tip to the north of Baddesley Colliery and from approximately that date the use of the application site for the tipping of shale seems to have ceased.
- 6.3 On the 7 May 1970 a temporary (5 year) planning permission was granted for the construction of a pre-cast concrete building at the entrance to the appeal site. This building was intended to act as the site offices for a firm called "Road and Building Supplies Ltd" who stated as part of the application that the building was intended to be used as their site office to enable them to extract 10,000 tons of shale from the site every year.
- 6.4 The extraction of the shale from the tip on this scale would have required planning permission in its own right but this matter does not seem to have been formally addressed at the time.
- 6.5 Subsequently in response to a request to reactivate the shale tip made on behalf of Baddesley Ensor Parish Council the National Coal Board stated in a letter dated 9 May 1979 that "the old tip comprises mainly burnt shale, which is economically usable and this is being extracted, albeit sporadically by Leonard Leigh and Sons..... As far as I know the Coal Board have no plans to re-use the old tip in view of the lease to Leonard Leigh."

- 6.6 Subsequently control of the tip seems to have passed to Merevale Estate (the applicants for the current application) who wrote to the County Council on the 9 February 1994 stating that it was their wish to screen out and remove red shale from the tip and to use it to make improvements to farm tracks and forestry roads. The Estate advised that they considered these activities to constitute permitted development (that is development not requiring planning permission).
- 6.7 On 25 February 1994 the County Council replied to the Estates letter advising that the County Council were of the view that the use of the shale as suggested would indeed constitute permitted development however the extraction of the shale from the tip would require planning permission. Despite this advice a formal planning application seeking consent to extract shale from the tip was not submitted.
- 6.8 In late June 2007 the County Council received complaints from local residents about vegetation destruction and shale extraction occurring on the application site. In response to these complaints the applicants stated that they were advised by Warwickshire Fire Brigade that forestry tracks in Bentley woods required resurfacing to allow fire engine access and excavations were carried out to meet that request. The estate contends that such excavations have been carried out intermittently for many years and that these works in any case constitute permitted development.
- 6.9 From the information detailed above it would seem that some form of intermittent and relatively low key shale extraction has occurred at the site for some considerable years. This fact may explain both the current topography of the site and to some extent its vegetation cover.
- 6.10 The use of the shale to resurface farm and forest tracks constitutes permitted development (it is defined as such by Parts 6, 7 and 9 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995) (the GPDO) but the question of shale extraction is less clear. Shale extraction to improve farming efficiency, by for example making tracks more easily usable, could potentially constitute permitted development under the provisions of Class C of Part 6 of the GPDO, but perhaps not for forestry improvement and definitely not if the material were to be made available for general resale.

7. Observations

- 7.1 This application seeks consent for a complex mix of activities and land uses, some of which conform to the provisions of the local plan and some of which do not. In order to properly analyse this application it is necessary to consider a series of separate topic issues and to judge each proposed activity against the provisions of the local plan and then to judge each topic on their own individual merits before a comprehensive decision can be reached. However before looking at each individual part of the development package it is necessary to examine several individual topic areas which are common themes relevant to all aspects of the proposal.

The Status of the Site – Greenfield or Brownfield?

7.2 It has become an established principle to encourage the re-use of previously developed land (usually referred to as “brownfield” land).

7.3 At paragraph 27 (viii) PPS1 ‘Delivering Sustainable Development’ says that when preparing development plans authorities should:-

Promote the more efficient use of land through higher density, mixed use development and the use of suitably located previously developed land and buildings. Planning should seek actively to bring vacant and underused previously developed land and buildings back into beneficial use to achieve the targets the Government has set for development on previously developed land.

7.4 At para 1(v), PPS7: Sustainable Development in Rural Areas states as a general principle underlying all planning activity:

Priority should be given to the re-use of previously-developed ('brownfield') sites in preference to the development of greenfield sites, except in cases where there are no brownfield sites available, or these brownfield sites perform so poorly in terms of sustainability considerations (for example, in their remoteness from settlements and services) in comparison with greenfield sites.

7.5 At para 21(ii), PPS10: Planning for Sustainable Waste Management says in relation to both plan preparation and the determination of planning applications authorities should:

... give priority to the re-use of previously-developed land, and redundant agricultural and forestry buildings and their curtilages.

7.6 This preference for previously-developed land is reflected in Policy GD3 of the Warwickshire Structure Plan.

7.7 A definition of previously developed land is found in Annex B to PPS3 ‘Housing’ which states that:

“Previously developed land is that which is or was occupied by a permanent structure including the curtilage of the developed land and any fixed surface infrastructure”

The definition is further clarified by the statement that the definition includes defence buildings but excludes:

- (a) Land that is or has been occupied by agricultural or forestry buildings,
- (b) Land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through the development control process,

- (c) Land in built up areas such as parks recreation grounds and allotments, and,
 - (d) land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings).
- 7.8 The definition is further subject to the stated caveat that “ there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed”.
- 7.9 It could be argued that this definition is irrelevant to this proposal because the definition derives from a PPS which specifically relates to housing development and this is not a housing proposal. However the concept of “brownfield first” has become established in the English planning system and the definition in PPS 3 is often used as guidance in other contexts.
- 7.10 It could also be argued that the site, although used as a tip, was not occupied by a permanent structure and that it is therefore “greenfield”. This tends to ignore the existence of the large concrete roadway at the entrance and the reference in 7.7 (b) above where landfill sites and quarries are potentially accepted as “brownfield land” when there is no approved restoration scheme in place, even though on such sites the total area covered by permanent structures is frequently very small. It also treats the definition as if it was a statutory definition needing to be applied in a legalistic way.
- 7.11 This site is a former minerals site without an approved restoration scheme. It is therefore potentially brownfield land unless the caveat in paragraph (d) above applies. From many vantage points the site has indeed blended into the landscape but not wholly so. It is therefore considered that this site is previously developed land as that term is usually understood in planning terms.
- 7.12 Since the question of classification is controversial (i.e. the applicant and the objectors disagree) it is worth bearing in mind the purpose of preferring brownfield redevelopment, which is that redevelopment of brownfield land tends to be a more efficient use of land. Members will see the current condition of the site from their visit. It is clearly damaged land, not in beneficial use, yielding a re-useable secondary aggregate as part of the redevelopment process, and to this extent its re-use is more efficient than development of a pure greenfield site whatever its formal classification.
- 7.13 It should also be remembered that the fact that the land is brownfield does not automatically mean that it is developable. Similarly, even if the site were regarded as greenfield, that would not preclude the grant of permission. In either case, the land is in its present condition visually unattractive and not in beneficial use. Brownfield status attracts policy support for redevelopment but this does not diminish the importance of other material planning considerations; it is a factor which weighs in favour of the development but is not by itself decisive.

The Oversupply of Employment Land in North Warwickshire

- 7.14 The Structure Plan recognises that there is an oversupply of employment land in the Borough of North Warwickshire. There is therefore no justification for the provision of further speculative employment land. Thus if the biomass plant and other activities can be accommodated onto existing employment land rather than the shale tip this would be the preferred option. In theory this is possible, however many of the activities proposed are quite specialist and require relatively large sites. This tends to preclude their provision on planned industrial estates unless some form of subsidy is provided by public bodies or land is specifically reserved in local plans for their use. This latter situation has not occurred. These facts tends to support this application.
- 7.15 The danger exists however that if a permission is granted for this development then the opportunity will arise for this land to transfer into general industrial uses. This is a real possibility but that possibility can be reduced by requiring the applicants to enter into a legal agreement controlling the future use of the site.

The Scale of the Development/Serving a Local Need

- 7.16 Much of the concerns expressed by local residents relate to the scale of the proposed development and the fear that this facility is essentially intended to serve as a sub – regional facility accepting waste from many miles away. This is a relevant concern because accepting waste over long distances will increase the carbon “footprint” of the development, reduce the positive effects of recycling and increase traffic movements on local road networks with a potential adverse effect on amenity. It has been suggested that if accepted on this site then the facilities should be tailored to meet the needs of the local community and not be designed to serve a wider area.
- 7.17 Small facilities serving only a local community are a more sustainable pattern of development but waste facilities in the United Kingdom operate as free enterprise operations and regard must be had to the economic viability of any given proposal and the necessity for specialisation. It is not realistic to exclude all large facilities from the waste management network and national planning policy has not done. So PPS 10 does not demand that all new facilities must serve only a local catchment and such a requirement would seriously impede the development of the national network of facilities that is crucial to meeting modern environmental challenges. It must in any event be acknowledged that reasonably large centres of population are located close to the facility but outside the borough and county boundaries. In addition, some of the waste generated within Warwickshire is currently sent outside the county to be processed and/or disposed of; cross-border flows of waste are not an in principle objection to proposals for new facilities.

The Potential for Further Expansion

- 7.18 Serious concerns have been expressed by local residents that the approval of this development will set a precedent for the expansion of the site in a north

westwards direction over a large field which the applicants propose to enclose within new tree and hedgerow planting strips. (This area is referred to as Area 2 in the Baxterley Action Groups submission). The applicants contend that these planting strips are to integrate the development into the landscape and that if required they will delete the planting.

- 7.19 This land does not form part of the application site and is indisputably a green field in agricultural use. Whilst there may be site specific characteristics (primarily the condition of the site and its planning history) which indicate that the shale tip has potential for some form of re-use these characteristics do not apply to the agricultural land and it is therefore considered that this application will not set a precedent for an expansion of the site. Planning restrictions may be imposed to ensure that intermittent use of this land for storage or other activities does not occur should a consent be granted.

Climate Change and Sustainable Development

- 7.20 Climate change has been recognised as the greatest threat facing modern humanity and one which we may not have very long to address. If we are to maintain our current lifestyles into the future then we must secure sustainable forms of development.
- 7.21 The biomass power plant, in particular, forms a potentially important component of this development which could positively contribute towards fighting climate change because such plants potentially contribute towards electricity provision without releasing fossil carbon into the atmosphere. This benefit only accrues however when the fuel source is acquired from a relatively local source. As biomass feedstock is traded internationally it is sometimes transported over long distances using significant quantities of fossil fuels.
- 7.22 Whilst this is a potential risk the fact remains that this technology potentially allows the generation of power without that power generation contributing to climate change and the potential exists to supply the feedstock from local sources.
- 7.23 At the moment approximately 8,500,000 tonnes of wood waste is sent to landfill in the UK. This is clearly a waste of a potentially valuable resource which could potentially produce carbon neutral energy.
- 7.24 The amount of power potentially produced by this development has been disputed by the objectors to the submission. The applicants figures have been checked and it can be confirmed that this development could potentially generate enough electricity to supply approximately 4,500 homes or to put it in other terms to provide enough electricity to meet the domestic needs of a town the size of Atherstone.
- 7.25 The government is committed to producing at least 20% of the United Kingdom's electricity requirements from renewable sources. Currently only 4% of our electricity needs are provided from such sources and the government is therefore committed to a significant expansion of this sector.

The Impact on Pollution and Local Amenity

- 7.26 Technical consultations have been carried out to ascertain the impact which this development would have upon pollution levels and local amenity. The Borough Council's Environmental Health Department and the Environment Agency have both been consulted and have raised no substantial objections to the development. Thus whilst there may be a significant level of public concern about emissions and nuisance resulting from this development those concerns are not substantiated by any technical consultees. In the absence such technical objections an objection on amenity grounds could not be sustained at appeal.
- 7.27 Traffic generated by the proposed development would undoubtedly have an adverse effect upon amenities enjoyed by the occupants of properties, particularly dwellings, along the "B" road network which will accommodate these traffic movements. However the advice from technical consultees is that this impact is not unacceptable. Given this advice an objection on these grounds would again be difficult to sustain at appeal.

Highway Safety

- 7.28 There are considerable local concerns about highway safety problems arising from the approval of a development on this scale. Those concerns centre upon three main areas of concern. Firstly there is a concern that the road network is unsuitable to serve a development on this scale. The local roads are too narrow and of contorted alignment and already congested at peak times. It is argued that to add further significant HGV movements onto this network would overload the network and result in a danger to highway safety. The second area of concern relates to the potential conflict between the HGV traffic using these rural roads and other users of the public highway particularly walkers, cyclists and horse riders. The third area of concern is that the applicants traffic generation figures have been significantly underestimated and that they do not take into account the cumulative effect of this proposal and other commitments in the locality (such as the car storage scheme proposed by the applicants on the other side of The Common) which will have a very significant effect upon the locality.
- 7.29 The matter of highway safety has been examined by both the Highways Agency and Warwickshire County Council as part of the processing of this application. The Highways Agency advise that the A5 and its associated roundabout junctions can accommodate the traffic generated by this development. The Highways Agency therefore raise no objections to this development. With regard to the rest of the road network (which comes under the jurisdiction of the County Council) it is concluded that whilst parts of the network are not ideal that network can accommodate the development proposed in highway safety terms. The applicants state that the development will generate no more than 120 traffic movements per day. This figure can be incorporated in to any consent as a vehicle movement maximum.

The Impact upon Ecology

- 7.30 The application site has been assessed for its ecological value. The assessments indicate that the site contains little of ecological value. That assessment has been analysed and confirmed by both English nature and the County Ecologist, both of whom have no objections to this application.
- 7.31 Thus whilst the site may be of value to local residents as a wildlife refuge it does not contain protected species or important habitat which would justify preventing development on ecology grounds.

The Impact of the Development upon the Local Landscape

- 7.32 The impact which the proposed development will have upon the local landscape has been carefully assessed. From most vantage points the development will be hidden from view by retained topography within the shale tip and by existing vegetation which has colonised the outer slopes of the shale tip. Clearly it will not be invisible as flues and water vapour plumes will be visible but they are considered to be visually acceptable. Middle distance planting is proposed to integrate this development in to its landscape setting.

Impact upon the Character of the Area and other Development Goals and Objectives

- 7.33 As recently as 25 years ago the locality close to application site was characterised by large intensive and quite intrusive industrial activities. The land to the west of the application site would for example have been dominated by a large working coal mine and its associated spoil heap.
- 7.34 Since that time however many of these industries have closed and the visual scars of that industrial past have been cleared away and character of the locality has begun to change from an industrial landscape to one of a quiet and visually attractive rural area. The locality has striven to establish a new economy based on light and service industries, the tourist sector and as commuter settlements.
- 7.35 Many of those who have made representations see this development as a retrograde step potentially returning the area to a heavy industrial past and damaging the areas attempts to attract tourist investment and new service sector employment.
- 7.36 These are legitimate concerns, however it is difficult to give a tangible measure to these concerns. If the new uses on the application site are not visually intrusive and do not have a significant impact on local amenity then it will be difficult to demonstrate that approval will prejudice the future direction that the locality has decided to take.

The Shale Extraction

- 7.37 Minerals Planning Guidance Note No.1 "Planning and Minerals" (MPS1) indicates a preference for the use of "secondary aggregates" in preference to primary aggregates. Primary aggregates are produced by quarrying virgin land whilst

secondary aggregates are produced by using a by product of some other mining or excavation process. The shale on the application site is a by product of the coal mining activities in the locality and is thus a potential secondary aggregate.

- 7.38 Paragraph 5.1 of MPS1 states that “ it is government policy to encourage the greatest possible use of alternatives to primary aggregates.” This positive statement is subject to a caveat (paragraph 5.2 of MPG1) that “where mineral or other wastes suitable for use as aggregates have been deposited in tips, without the benefit of planning permission for future use, and these have re-vegetated and blended in to the landscape, any applications for working of these materials should be dealt with in the same way and, if permitted, worked to the same standards as a successful new application for primary mineral extraction.”
- 7.39 The shale tip has significantly but not wholly blended in to the landscape when viewed from outside the site but not when the site is viewed internally. Thus it is concluded that the reuse of the shale does potentially fit the criteria specified in MPS 1.
- 7.40 Even if it does not the proposed shale removal must be judged against the policies contained within the Minerals Local Plan for Warwickshire adopted by the County Council in February 1995. Policy M1 restricts minerals extraction to preferred areas and areas of search. The shale tip falls into neither category however Policy M8 of the local plan supports the reuse of mineral spoil and thus potentially lends support to the proposed shale extraction, subject to the provisions of policies M6 and M7 of the Minerals Local Plan.
- 7.41 It is considered that MPS1 and M8 of the Minerals Local Plan are broadly supportive of shale extraction from this site.
- 7.42 If this position is accepted then an appropriate restoration and after use of the site must be agreed. It does not automatically follow that this will be development of an urban nature. These elements of the proposal must be assessed on its own individual merits.

The Green Waste Composting Activities

- 7.43 This element of the proposal must be judged against Policy 9 of the Waste Local Plan for Warwickshire adopted in August 1999. This policy is broadly supportive of composting activities in rural areas. It has been suggested that this site is not “removed from towns and villages” and is thus not in accordance with Policy 9. Distances are not specified in the policy but the policy is subject to compliance with Policy 1, the amenity policy contained in the plan. If the development is held to be contrary to Policy 1 then it will be contrary to Policy 9.
- 7.44 As there are no objections to this application from the technical consultees then it is considered that this application accords to Policy 9. The proposal accords to Policy 9 irrespective of the brownfield or greenfield status of the site.

Anaerobic Digestion

- 7.45 An anaerobic digestion facility forms an integral part of this submission. Anaerobic digestion constitutes the breaking down of biodegradable waste in the absence of oxygen. It takes place in enclosed vessels in controlled conditions. The activity is ideally suited to the processing of food waste and other potentially putrescible materials. Anaerobic digestion as a technology has three environmental benefits:
- (a) it diverts putrescible waste away from landfill sites,
 - (b) it captures the methane (a powerful greenhouse gas) produced by the decay of these materials and allows it to be converted into “carbon neutral” electricity by burning the gas, and,
 - (c) it produces a nitrate fertiliser which can be used on agricultural land in substitution for artificially manufactured nitrate fertilisers which can require substantial fossil fuel use in their manufacture.
- 7.46 The Waste Local Plan makes no specific reference to anaerobic digestion technology and therefore the proposal must be considered on its own individual merits, having regard to Policy 1 of the Waste Local Plan.
- 7.47 Anaerobic digestion plants can be located on industrial estates so there is no overriding justification for the installation of such plant on the application site, except perhaps that higher land values tend to exclude their provision on such estates, unless a degree of subsidy is involved.
- 7.48 In this case the anaerobic digestion plant has the advantage of being closely associated with the biomass power plant. The excess heat generated by the biomass power plant would be used to bring the biodegradable waste up to temperature to facilitate digestion.

The Biomass Power Plant

- 7.49 The location of the biomass power plant on the site is a source of considerable local concern. These concerns relate to potential pollution problems and more significantly to the large traffic volumes generated by the need to supply the plant with fuel. The fuel is high bulk and low energy and thus inevitably results in significant traffic movements.
- 7.50 Biomass power plants are also relatively “footloose” and can be located in a variety of locations including, potentially, on land allocated for industrial purposes. They should however be located close to their source of fuel and enjoy good transport links to that fuel source. They are also best sited in locations where the excess heat generated by the plant can be used by other buildings or processes. The applicants have sought to do that here by associating the biomass plant with the composting activity and the anaerobic digestion plant. This has however had the effect of concentrating essentially industrial activities in a rural location where speculative commercial development would not normally be permitted.

7.51 Policy ENV 10 of the North Warwickshire Local Plan, prepared and recently adopted by the Borough Council is broadly supportive of renewable energy projects and states that planning permission will normally be granted for renewable energy projects “where they do not have an unacceptable impact upon the environment”.

7.52 The Borough Council and many local residents conclude that the biomass plant fails to meet this test. However technical consultation replies currently indicate that the biomass plant does have an acceptable impact upon the environment. If this is the case then this element of the development will accord to the provisions of the development plan.

Wood Storage and Pallet Repair

7.53 This element of the scheme has important linkages to the biomass element of the proposal as it is intended to provide a significant element of the feedstock available to the power plant. However looked at in isolation there is little policy justification for the location of this activity in an isolated rural location. It is concluded that this element of the scheme in isolation is contrary to the provisions of the development plan.

7.54 Approval of this element of the scheme can however be justified because of the strong links to biomass power production. To separate the two activities would increase transport movements and increase carbon emissions resulting from the transportation of a bulky fuel feedstock.

The Metal Recovery Operation

7.55 This activity must be judged against Policy 7 of the Waste Local Plan for Warwickshire. Potentially the proposed relocation of this activity could accord to policy if the activity were causing significant environmental harm in its current location. Insufficient information has been supplied to judge whether or not this is the case, thus this development is considered to be contrary to Policy 7 and thus the provisions of the development plan. However, it is unlikely that the use would cause more harm than in its present location.

Central Government Advice

7.56 Central government advice is provided to planning authorities via publications such as circulars Planning Policy Statements, White Papers and other ministerial statements which indicate the direction which government would wish planning authorities to take.

7.57 The recently published Energy White Paper contains specific reference to the role of the planning system and states in paragraph 5.3.67 that:

“Recognising the particular difficulties faced by renewables in securing planning consent the Government is also:

- Underlining that applicants will no longer have to demonstrate either the overall need for renewable energy or for their particular proposal to be sited in a particular location;
- Creating the expectation amongst applicants that that any substantial new proposed developments would need to source a significant proportion of their energy supply from low carbon sources (including on and off site renewables);
- Encouraging planners to help create an attractive environment for innovation and in which the private sector can bring forward investment in renewable and low carbon technologies and,
- Giving a clear steer to planning professionals and local authority decision makers that in considering applications they should look favourably on renewable energy developments. “

This statement is potentially strongly supportive of this application.

7.58 Planning Policy Statement No.7 “Sustainable Development in Rural Areas ” provides Government advice against which all developments in rural areas should be judged. This document establishes a series of principles which relate specifically to this application. These principles include the government commitment to;

- Thriving inclusive and sustainable rural communities ensuring that people have decent places to live by improving the quality and sustainability of local environments and neighbourhoods;
- Good quality sustainable development which respects and enhances the intrinsic qualities of the countryside;
- Focussing most development in or next to existing towns and villages;
- Preventing urban sprawl;
- Discouraging the use of “greenfield” land and giving priority to the development of “brownfield” land;
- Strictly controlling developments away from existing settlements or outside areas allocated for development in development plans;

7.59 Planning Policy Statement No. 10 “Planning for Sustainable Waste Management” (PPS 10) provides planning authorities with the government’s view as to how matters relating to waste disposal should be dealt with. Central to the government’s approach is the principle of driving waste up the waste hierarchy. The first priority is to reduce the quantity of waste we as a society produce. The second principle of the hierarchy is to recover / recycle as much of the waste that we produce through recycling, composting or energy recovery. Only as a last resort is waste disposed of. Paragraph 23 says that pending production of an up-to-date development plan, proposals should be consistent with its policies. PPS 10 has specific reference to this application for the following reasons:

- The PPS encourages the establishment of new facilities in appropriate locations to encourage waste recycling,
- The PPS advises that in providing facilities local authorities should look at the cumulative effect of the development particularly upon community cohesion, environmental quality or economic potential,

- Where health concerns are raised they should be thoroughly investigated with relevant consultees, and,
- When the development is in accordance with an up to date development plan the applicants should not be expected to demonstrate need for the development.

7.60 Planning Policy Statement 22 "Renewable Energy" (PPS 22) provides planning authorities with the governments view as to how renewable energy matters should be dealt with. The biomass power plant and the anaerobic digestion plant are both classed as renewable energy technology by PPS 22. PPS 22 also has 5 points which are directly relevant to this submission. They are:

- The governments intention to reduce UK carbon emissions by 60% by 2050 with real progress by 2020,
- A commitment to generate at least 10% of UK electricity from renewable sources by 2020,
- That local authorities should not adopt a sequential test to apply to renewable energy proposals as to do so may preclude the development of sites although it should be recognised that some previously developed land whilst unsuitable other land uses because of its unsustainable location may provide opportunities for renewable energy projects (Paragraph 22 of PPS 22),
- Anaerobic digestion should not be located close to residential properties where odour is a problem,
- Biomass technology has the potential to increase traffic generation so such plants should be located as close as possible to their fuel source, although it should be accepted that other criteria may also influence location.

7.61 Although the PPS advice is open to a considerable degree of interpretation it is concluded that this development is supported by PPS 10 and PPS 22 and is also supported by PPS 7 if it is concluded that the environmental impacts of the development upon the locality are acceptable.

8. Summary and Conclusions

8.1 This is an extremely complex planning application to consider requiring the analysis of planning policy, central Government Planning Policy Statements and technical consultation replies and the considered views of local residents and other interested parties.

8.2 Put very simply the extraction of shale and the provision of a composting facility on the site conform to policy – although this conclusion is contested. If it is held that the biomass plant does not cause environmental harm then it will also accord to the development plan (Policy ENV 10 of the North Warwickshire Local Plan). It is the Borough Council's contention however that the development does not conform to the development plan

8.3 All other elements of the proposal are contrary to policy and therefore should be treated as a departure from the development plan. It could be argued that this planning application should be rejected for that reason and that should the applicants wish to pursue the development of the site then it should be promoted through the development plan process where the appropriateness of the

development can be tested against other competing sites and the need for the development can be fully established.

- 8.4 This process would however mean that the project would – if accepted through the local plan process – be likely to be delayed by some 5 to 10 years. Given the extreme urgency with which we must tackle the problem of climate change this timetable would if applied greatly delay a project which could make a significant difference. Perhaps in recognition of this urgency, PPS 10 makes available policies which can be applied to new proposals pending the updating of development plans.
- 8.5 Central government advice to planning authorities is to be as supportive as possible of renewable energy projects where they can be established without an unacceptable impact on local amenity.
- 8.6 A significant number of local residents are of the view that this development will have an unacceptable impact upon local amenity and that view is strongly represented in the relevant sections of this report. However this view is not supported by the technical consultees who advise that the proposal will have an acceptable environmental impact.
- 8.7 It would be possible to seek to secure the removal of the elements of this scheme which are clearly contrary to policy and reduce the scale of the activity. However to do so would fail to recognise the integrated nature of the development and reduce its green energy and waste recycling benefits. This conclusion does not apply to the metal recycling activity but the wood recycling and the anaerobic digestion elements of the scheme are closely integrated and the scheme would operate less successfully without them.
- 8.8 Although policy does not require that a sequential search be undertaken to eliminate possible urban locations, suitable urban locations capable of accommodating the integrated elements of this proposal will be relatively rare.
- 8.9 Proximity to sources of waste materials is an important issue. However, policy does not exclude large facilities as part of the national network and this site is reasonably well-located in relation to areas of urban population and waste yielding activities.
- 8.10 Thus whilst there must be a serious concern about supporting development on such a large non-allocated site it is considered that the support from PPS 10, PPS 22, and the recognised need to provide facilities on the ground which will help to tackle climate change are, on balance, sufficient justification to support this application.

9. Environmental implications

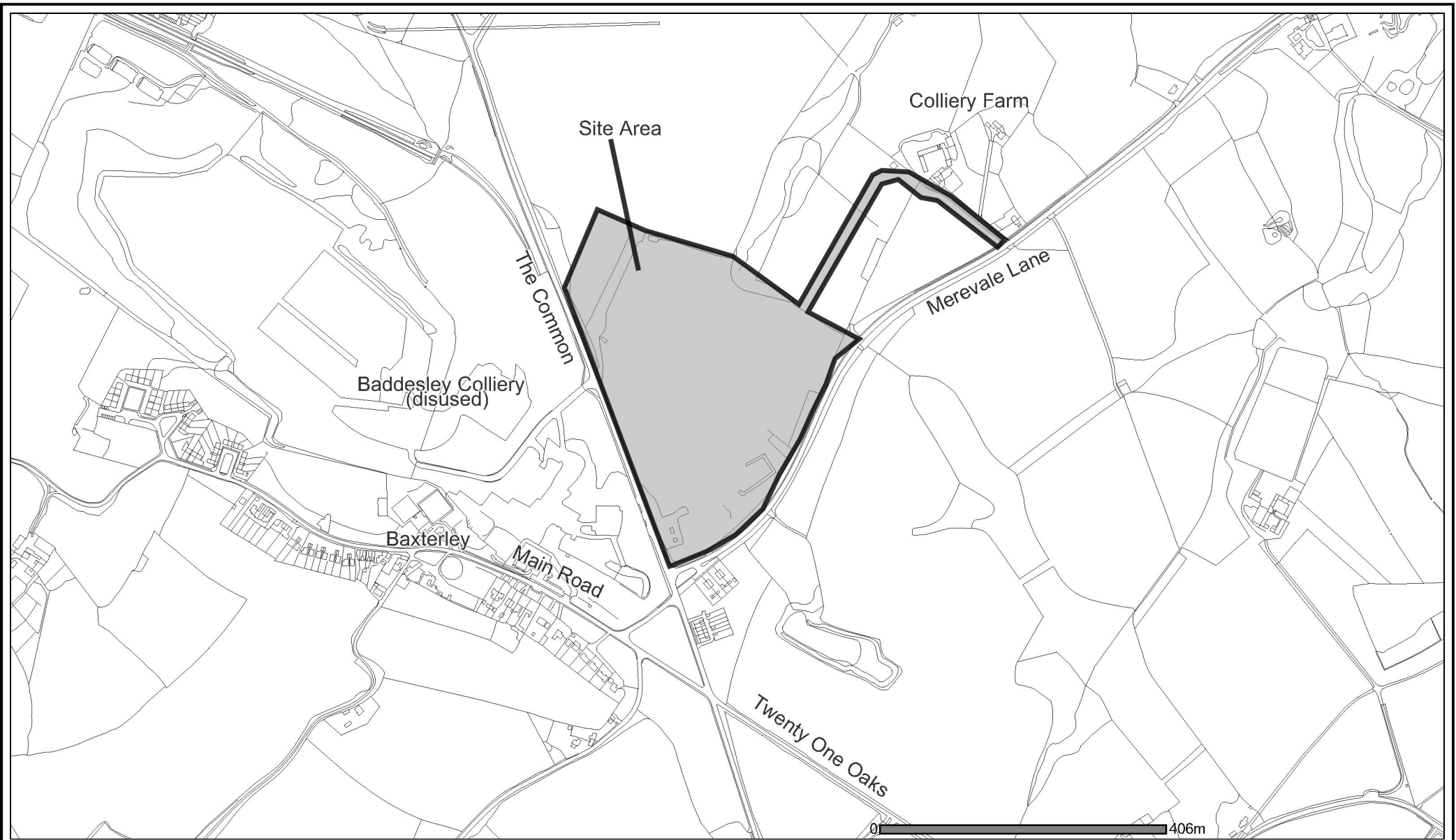
- 9.1 If approved this development must inevitably have some adverse impact upon the local environment primarily because the shale tip is currently unused (or is virtually unused). Inevitably the removal of some 200,000 tonnes of shale quarried from the site and the installation of large development on the site must

result in disturbance to the locality both from the activities themselves and the traffic generation which will result from the operation of these activities.

- 9.2 Furthermore whilst the removal of the shale is a temporary activity the final end use will constitute a permanent use of land and thus any adverse amenity impacts from this phase of the development will be permanent.
- 9.3 However the technical consultees (Environmental Health, The Environment Agency, Highways Agency etc.) advise that the adverse impact upon amenity or public safety will not be at such a level that they would wish to raise objections to the application on those grounds.
- 9.4 The real environmental benefits which will accrue from this development relate to the production of carbon neutral energy, the more efficient use of existing resources, and the beneficial effect this will have in tackling the problem of climate change.
- 9.5 This considerable environmental benefit must be carefully weighed against the adverse local environmental impacts referred to in paragraph 9.1 above.

JOHN DEEGAN
Strategic Director for Environment and Economy
Shire Hall
Warwick

13 August 2007



Scale 1: 7500

Ref No. NW57/07CM001

Drawn Jan Stevens

Regulatory Committee 21st August 2007

Subject

Baxterley Shale Tip



John Deegan
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Appendix B of Agenda No.

Regulatory Committee – 21 August 2007

The Former Shale Tip, Baxterley, North Warwickshire - Removal of 200,000 Tonnes of Shale, the Construction of a Biomass Power Plant, and the Creation of a Waste Recovery Park

Planning Application No. NW57/07CM001

Provisions of the Legal Agreement

The applicants shall be required to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 requiring the following:

- (1) Shale extraction on the site shall be completed within 5 years of the date of this agreement
- (2) On completion of the shale extraction the site shall only be developed for the uses specified in the planning application NW57/07CM001 or for other developments which constitute County matter developments and not for general industrial or commercial activities
- (3) Should the site not be developed (or partially developed)) in accordance with paragraph (2) above within 5 years of the completion of shale extraction then the entire site shall be restored to either agriculture, forestry / woodland or nature conservation uses (or a combination of such uses) in accordance with a scheme and timescale which shall be agree with the County Planning Authority.
- (4) No land outside the application site shall be used for ancillary storage for any of the uses approved as part of this application
- (5) The woodland around the perimeter of the site and any new planting provided as part of the development of the site shall be retained and be maintained as woodland in accordance with a management plan which shall be agreed with the County Planning authority before the commencement of development.
- (6) When in full operation the approved phase two development shall not generate more than 120 traffic movements per day on average measured over a four week period,
- (7) A vehicle routing agreement shall be put in place to ensure that heavy goods vehicles accessing and egressing the site do not pass through the villages of Baxterley or Baddesley Ensor

Planning Conditions

Commencement Date

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

Reason: To comply with Section 51 of the planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the details submitted with application reference no. NW5707CM001 and in accordance with the approved plans, and any samples or details approved in accordance with the conditions attached to this permission, unless these conditions require or allow, or the County Planning Authority agrees in writing to any modifications.

Reason: In order to define the exact details of the planning permission granted and to secure a satisfactory standard of development in the locality.

3. The development hereby permitted shall not be commenced until full details of landscape proposals for the site have been submitted to and approved in writing by the County Planning Authority. These details should include a planting plan showing existing trees to be retained along with new planting, written specifications, schedules of plants noting plant locations, species, sizes and proposed numbers and densities where appropriate.

Reason: In order to ensure the satisfactory appearance of the completed development

4. The landscaping scheme approved pursuant to Condition 3 of this consent, shall be implemented in the first planting season following the completion of the development hereby approved and unless otherwise agreed in writing by the County Planning Authority, should any trees or shrubs planted as part of the landscape scheme, die, be removed become damaged or seriously diseased within five years of the initial planting they shall be replaced in the next planting season with others of a similar size and species

Reason: In order to ensure the satisfactory appearance of the completed development

5. No development shall take place on site until the trees identified to be retained on the landscape plan submitted in pursuance of condition 3

of this consent have been protected by fencing and enclosures, full design details of which shall have first been submitted to and approved by the County Planning Authority prior to their installation on site and the approved tree protection scheme shall be retained in situ and in the approved form for the duration of construction work.

Reason: In order to protect trees on the site which are of amenity value.

6. Reversing alarms shall not be used unless they are of a bell tone type or are of the directional type or are capable of adjusting their noise level automatically to 5dB(A) above the ambient noise level or are of a type otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents.

7. No loaded lorries shall enter or leave the site unless they are sheeted or the load is otherwise adequately secured.

Reason: In the interests of highway safety.

8. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation measures has been submitted to and approved in writing by the County Planning authority. The scheme shall then be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding

9. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water drainage works to serve the site has been submitted to and approved in writing by the County Planning authority. The drainage works shall then be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding by ensuring a satisfactory means of surface water disposal

10. No development approved by this permission shall be commenced until a scheme for the provision and implementation of foul water drainage works to serve the site has been submitted to and approved in writing by the County Planning authority. The drainage works shall then be implemented in accordance with the approved programme and details.

Reason: To prevent pollution of the water environment.

11. No mud or deleterious material shall be deposited on the public highway and a scheme to prevent that happening shall be submitted to

and approved by the County Planning Authority prior to the commencement of development. In the event that material is inadvertently deposited it shall be removed immediately.

Reason: In the interests of highway safety and the amenities of the locality.

Phase One Development – The Shale Extraction

12. Except as may otherwise be agreed in writing by the County Planning Authority, no shale extraction or operations or uses authorised as part of the phase one development by this permission (including the maintenance of vehicles and plant) shall be carried out other than during the following times:-

0700 – 1800 hours Monday to Friday
0700 – 1300 hours Saturday

No such operations shall take place on Sundays or on Bank or Public Holidays.

Reason: In the interests of the amenities of nearby residents.

13. Except as may otherwise be agreed in writing by the County Planning Authority, no lorries associated with the phase one development shall enter or leave the site outside the following hours:

0800 – 1700 hours Mondays to Friday
0800 – 1230 hours Saturday

No lorries shall enter or leave the site on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of nearby residents.

14. The phase one development hereby permitted shall not be commenced until a dust management plan has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include detail of on site management measures to prevent dust becoming a cause of nuisance and contingency plans should dust become a cause of complaint. Following approval the management plan shall be implemented accordingly.

Reason: In order to protect the amenities of the locality and prevent intrusive levels of dust pollution

15. The phase one development hereby permitted shall not be commenced until a noise management plan has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include detail of on site management measures to prevent noise becoming a cause of nuisance and contingency plans should noise become a cause of complaint. Following approval the management plan shall be implemented accordingly.

Reason: In order to protect the amenities of the locality and prevent intrusive levels of noise pollution

Phase Two Development

16. The development hereby permitted shall not be commenced until a schedule of all external finish materials, to be used on the exterior of the buildings hereby approved has been submitted to and approved in writing by the County Planning Authority. The development shall then be carried out in accordance with the said approved schedule.

Reason: In order to ensure the satisfactory appearance of the completed development

17. The phase two development hereby permitted shall not be commenced until a noise management plan for the phase two development has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include detail of on site management measures to prevent noise becoming a cause of nuisance and contingency plans should noise become a cause of complaint. Following approval the management plan shall be implemented accordingly.

Reason: In order to protect the amenities of the locality and prevent intrusive levels of noise pollution

18. The phase two development hereby permitted shall not be commenced until a dust management plan for the phase two development has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include detail of on site management measures to prevent dust becoming a cause of nuisance and contingency plans should dust become a cause of complaint. Following approval the management plan shall be implemented accordingly.

Reason: In order to protect the amenities of the locality and prevent intrusive levels of dust pollution

19. The phase two development hereby permitted shall not be commenced until an odour management plan for the phase two development has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include detail of on site management measures to prevent odour becoming a cause of nuisance and contingency plans should odour become a cause of complaint. Following approval the management plan shall be implemented accordingly.

Reason: In the interests of the amenity of the area.

20. Prior to the first use of any the phase two premises approved by this consent, the car parks, access drives and service areas shown shall be laid out, surfaced, drained and completed in accordance with a scheme which shall have first been submitted to and approved by the County Planning Authority prior to the construction of any part of these features.

Reason: In order to ensure that adequate provision is made for the servicing of the approved development and the adequate accommodation of vehicles away from the public highway.

21. Except as may otherwise be agreed in writing by the County Planning Authority, the metals recovery and wood shredding facilities approved as part of phase two of this development shall only operate between the following hours:

0800 – 1700 hours Mondays to Friday
0800 – 1230 hours Saturday

No metal recovery or wood shredding operations shall occur on the site on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of nearby residents.

22. The construction of the biomass power plant hereby permitted shall not be commenced until full details of the means of voltage power line connection to the national grid to serve the development have been submitted and approved in writing by the County Planning Authority and the said approved scheme shall be installed in the approved form prior to the first occupation of the premises.

Reason: In order to protect the visual amenities of the locality.

23. The phase two development hereby permitted shall not be commenced until details of the finished floor levels for the approved new building(s)

in relation to their adjacent natural ground levels have been submitted to and approved by the County Planning Authority. The development shall then be carried out in accordance with the said approved levels.

Reason: In order to ensure that the completed development is in scale and harmony with its surroundings.

24. The phase two development hereby permitted shall not be commenced until details of all external lighting to be fixed to the buildings and all external lighting columns to be installed on the site have been submitted to and approved by the County Planning authority. All lighting shall then be fitted in accordance with the said approved scheme.

Reason: In order to minimise light pollution to the locality.

Regulatory Committee – 21 August 2007

**The Former Shale Tip, Baxterley, North Warwickshire -
Removal of 200,000 Tonnes of Shale, the Construction of a
Biomass Power Plant, and the Creation of a
Waste Recovery Park**

Planning Application No. NW57/07CM001

The Waste Local Plan For Warwickshire – Adopted August 1999

Policy Number 1 – General Land Use

In evaluating proposals to develop any waste facility, the extent, to which the proposal makes a positive contribution to re-use and/or recycling of materials and satisfies the proximity principle will be taken into consideration. Permission will not be given where the proposal would;

- (i) Cause significant harm to features of nature conservation interest
- (ii) Give rise to a significant risk of pollution, including potential harm to local features of nature conservation interest
- (iii) Have a significant adverse visual impact taking account of the landscape context
- (iv) Have a significant adverse impact on the character of the locality or amenity of local occupiers, by reason of odour, noise, dust and/or local visual intrusion, having regard to the sensitivity of adjoining land uses and the proximity of residential property
- (v) Give rise to traffic that would adversely affect highway safety or have a significant adverse environmental impact traversing the routes which generated traffic is likely to take
- (vi) Involve significant loss of or damage to agricultural land within grades 1, 2 or 3A

Policy Number 7 – Scrap Yards

All proposals for scrap yards, vehicle dismantlers and other forms of metal recovery operation, including proposals for the development, relocation or expansion of facilities, will, subject to compliance with Policy Number 1, be approved in either of the following circumstances:

- 1) The proposal is to contain, within buildings, all activities likely to generate levels of noise, dust or smell, likely to adversely affect the amenities of local residents, and secures a substantial reduction in the extent of external storage of scrap vehicles, plant or other materials.

- 2) The proposal is for the relocation of an existing permitted operation, which would be the best way of meeting the environmental objectives of Policy Number 1 and would secure the permanent removal of the use from its current site.

Proposals for scrap yards, vehicle dismantlers or other forms of metal recovery operation falling within neither of these circumstances will be refused.

Policy Number 9 – Large Scale Composting

Proposals for facilities for large scale composting of plant or vegetable waste will be approved in locations that have a rural setting and are removed from towns or villages. Decisions on individual proposals will have close regard to the proximity principle, taking account of the source of waste arisings and the distribution of established and firmly committed composting facilities

Minerals Local Plan For Warwickshire

Policy M1

Areas have been defined on the proposals map as “areas of search” and “preferred areas” permissions will normally only be given within these areas. It does not follow that all applications within these areas will be acceptable.

Policy M6

Applications for the extraction of minerals whether within or outside the identified areas of search and preferred areas will be considered on the basis of the provisions of the development plan and their likely overall impact on:

1. Operational and economic needs
2.
 - a. Existing and proposed developments in the area
 - b. Areas of woodland, conservation, geological, geomorphological and ecological value.
 - c. Sites and landscapes of historical and archaeological importance
3. Other Considerations:
 - a. Transport
 - b. Agricultural land quality and the feasibility of achieving a high quality restoration to an appropriate use.
 - c. The quality and quantity of surface underground water
 - d. Subsidence
 - e. Living conditions for people.
4. Policy considerations:
 - a. Green Belt
 - b. The Cotswolds area of outstanding natural beauty.
 - c. Areas of restraint.
 - d. Landscape areas.

Policy M8

When considering the disposal of mineral soil the County Council will encourage, wherever possible, its use as an alternative to primary aggregates, but will otherwise give priority to proposals involving the restoration of voids left by mineral extraction, in accordance with an approved restoration scheme.

Warwickshire Structure Plan – 1996-2011

GD.3 – Overall Development Strategy

Most new development will be directed towards towns of over 8,000 people (at 1991) because they offer the best prospect of expanding public transport and job opportunities across the community. So living on towns should be made more attractive, new housing and industry should be located within easy access of public transport serving the main town centres in the County, and Coventry and Birmingham.

- (a) This urban development should be planned in a compact and disciplined form, as far as possible avoiding the Green Belt, and controlled to use previously developed land and buildings and Greenfield land in the proportions indicated in this Plan.
- (b) New housing and industry should be developed in tandem with supporting integrated transport, education, leisure, sport and other necessary facilities in the same broad location.
- (c) Developments should be planned so that provision for all of the necessary supporting infrastructure and services can be secured.

GD.5 – Development Location Priorities

Each District local plan will provide for most new housing and employment development to be accommodated in a combination of the following locations, in the following order of priority:

1. within the existing built up areas of towns of over 8,000 people (at 1991), that lie within recognised transport corridors
2. the identified broad locations;
 - a. in Nuneaton & Bedworth Borough: Keresley, in association with the redevelopment of Coventry Colliery; and
 - b. in Rugby Borough: East of Rugby, and for a Major Investment Site (MIS) at Ansty.
3. locations, including existing local plan allocations, meeting the following criteria:
 - i. adjacent to the built up areas of towns over 8000 people (at 1991), that lie within recognised transport corridors, where they can be integrated into the fabric of the town; and are
 - ii. outside of the Green Belt; and are
 - iii. Easily accessible to town centre services and facilities; and are
 - iv. well served, or can be made to be well served, by public transport.

In considering the allocation and release of land, local plans should have regard to the availability of previously developed land and buildings and allocate and provide for sites to come forward where they meet these criteria. Where there are no

appropriate sources of previously-developed land and buildings, or they have become exhausted, local plans should then provide for the release of Greenfield sites that meet the criteria of this policy.

ER.1 – Natural and Cultural Environmental Assets

Development will only be permitted where it is consistent with protection of the environmental assets of the County and respect for the character and quality of its towns and countryside. Local plans should therefore include policies and land allocations which ensure that:

- (a) development does not involve loss of, or risk of damage to, or adverse impact on: a Special Protection Area, Special Area of Conservation or Ramsar Site, or the setting of any of these, or any other landscape, site, building, artefact, feature, habitat, species or area with international statutory protection, or of international importance unless there are imperative reasons for the development which are overriding public interest;
- (b) development does not involve loss of, or risk of damage to, or adverse impact on the Area of Outstanding National Beauty; a site of Special Scientific Interest, National Nature Reserve, Scheduled Ancient Monument, Listed Building, registered Park, Garden or Battlefield, Conservation Area or the setting of any of these or any other landscape, site building, structure, artefact, feature habitat species or area with national statutory protection, or of national importance unless the development can be demonstrated to be in the public interest;
- (c) development does not involve significant loss of, risk of damage to, or adverse impact on the setting or character of any landscape, site, building, structure, artefact, feature, habitat, species or area of ecological, geological, archaeological, historical, recreational or other conservation interest of acknowledged regional or local importance unless there are overriding reasons for development;
- (d) development meets all appropriate pollution control, ground water protection, water conservation and flood control requirements.
- (e) the ‘best and most versatile’ agricultural land (grades 1, 2 and 3a) will be protected from development; where there is an overriding need for such land developed, land of the lowest grade possible, wherever possible, will be used first.
- (f) design guidance moves away from standardisation towards design that is more sensitive to the locality, and takes account of ways in which the environmental impact of development on energy and water resources can be reduced.

ER.2 – Environmental Impact Of Development

The environmental impact of all proposed development on human beings, soil, fauna, flora, water, air, climate, the landscape, geology, cultural heritage and material assets must be thoroughly assessed, and measures secured to mitigate adverse environmental effects to acceptable levels. Local plans should include policies to ensure this takes place. The impact of existing sources of environmental pollution on the occupants of any proposed new development should also be taken into account. All assessment of environmental impact should take account of, and where possible seek to reduce, uncertainty over the implications of the proposed development. If adverse impacts cannot be mitigated to acceptable levels, development will not be permitted.

ER.3 – Areas Of Outstanding Natural Beauty

The Cotswolds Area Of Outstanding Natural Beauty, shown on the Key Diagram, is of national landscape importance, and will be subject to the most rigorous of protection. Development will only be permitted where it is consistent with the conservation of the natural beauty of the landscape. In addition, local plan policies should:

- (a) require the highest standards of design and mitigation in the AONB to ensure that development is in keeping with landscape character; and
- (b) prevent large scale development, including extraction, in the AONB, other than where it is of proven national interest and where there are no suitable alternative sites.

ER.4 – Protection and Enhancement of the Landscape

Local plans should seek to protect and enhance landscape character and quality in all areas of Warwickshire's countryside. In particular, criteria should be established for the assessment of the sensitivity of each local landscape type to different categories of development.

- (a) Special Landscape Areas should be designated by virtue of their particular landscape quality, which is of local rather than national importance. The broad extent of these areas is indicated on the Key Diagram, and should be determined precisely within local plans. Within these areas, local policies should ensure that development does not damage landscape character and that only developments which can demonstrate a high quality of design are permitted.
- (b) Areas where environmental quality is poor should be identified in local plans as Environmental Enhancement Zones where new developments would be expected to contribute to the restoration of the environment. Where derelict land and unrestored mineral workings are located close to towns or cities, and are not proposed to be restored to agricultural use, local plans may provide for the restoration of this land, for recreation, public access or archaeological, geological or nature conservation use.

ER.8 – Minerals Local Plan

The Minerals Local Plan for Warwickshire should provide a landbank of permitted reserves of aggregates in accordance with national and regional guidelines, which takes into account the need to use secondary aggregates or alternative materials.

Local plan provisions for aggregate and opencast and deep mine coal workings should be made in the context of the impact on the living standards of local people, local environment and agriculture, and where appropriate proven regional and national demand. Until the Minerals Local Plan is reviewed, those policies which it repeats from the Structure Plan Alterations 1989-2001 are consistent with this Structure Plan and will continue to apply.

ER.9 – Waste Local Plan

The Waste Local Plan for Warwickshire should provide for a reduction in waste going to landfill, in line with the Government's national policy. Policies should:

- a. propose materials recycling facilities as close as possible to the source of waste;
- b. limit the extent of additional waste management facilities permitted to that necessary for the restoration of mineral workings or for the short term replacement of capacity in the Conurbation Fringe Corridor of North Warwickshire to discourage waste being hauled by road across the County

T.2 – Transport Targets

Within the context of minimising private car usage across the County, measures will be implemented to achieve the following targets:

- (a) Restrict the predicted growth in peak period vehicular traffic to maximum 20% of 1999 levels by 2011 (half the 1999 forecast of 40%) in:
 - i. the north-south transport corridor, between Nuneaton and Leamington, as identified on the Key Diagram; and
 - ii. the major urban areas of Warwick/Leamington, Nuneaton/Bedworth, Rugby, and Stratford-upon-Avon
- (b) Halve the proportion of journeys by car to schools and colleges in the major urban areas.
- (c) Double the proportion of cycle trips in the major urban areas between 1999 and 2011.
- (d) Significantly increase public transport patronage in the major urban areas and inter-urban routes between 1999 and 2011.
- (e) Achieve a reduction in private car traffic in the main town centres between 1999 and 2011.

These targets will be refined through the Local Transport Plan process.

1.2 – Industrial Land Provision

Local plans should make provisions for the phased release of up to 768 ha of land for industrial development (use classes B1, B2 & B8) over the plan period, to be distributed between the districts broadly as set out in table I.1. Provision of industrial land should maximise the use of urban developed land and buildings.

Table I.1	(a) Need 1996-2011 All industry in hectares	(b) Indicative Only % of new industry on urban previously developed land and buildings	(c) SIS Small investme nt sites hectares	(d) LIS Large investment sites hectares	(e) MIS Major investment site at least 50 hectares
District Area					
North Warwickshire	279	95%	3	276	-
Nuneaton & Bedworth	132	61%	47	85	-
Rugby	144	49%	4	90	50
Stratford- upon-Avon	81	60%	56	25	-
Warwick	132	10%	22	110	-
Total County Area	768	62%	132	586	-

North Warwickshire Local Plan – Adopted July 2006

ENV1 – Protection and enhancement of natural landscapes

Development that would neither protect nor enhance the intrinsic qualities of the existing landscape, as defined by Landscape Character Assessment, will not be permitted. Only where protection or enhancement is incompatible with proposed development might mitigation be considered as an alternative to protection or enhancement.

ENV3 – Nature Conservation

Nationally Important Sites

1. Proposals for development in or likely to affect Sites of Special Scientific Interest (SSSI) will be subject to special scrutiny. Where development may have an adverse effect, directly or indirectly on a SSSI it will not be permitted unless the reason for development clearly outweighs the nature conservation

value of the site itself and the national policy to safeguard the national network of such sites.

Regionally and Locally Important Sites

2. Development and other land use change likely to have a harmful effect on the nature conservation value of:
 - A Local Nature Reserve,
 - A Site of Importance for Nature Conservation or
 - A Regionally Important Geological / Geomorphological Site,

will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal that clearly outweigh the need to safeguard the nature conservation value of the site or feature.

3. Where development is permitted, the Authority will consider the use of conditions and / or obligations to secure all compensatory measures necessary to protect and enhance the site's nature conservation interest as well as the overall coherence of designated sites. It will also seek to increase the amount and quality of habitats, species and geological sites.

Species Protection

4. Development and other land use changes that are likely to have a harmful effect on rare, endangered, or other species of conservation importance will not be permitted.
5. Where development is permitted which may have an effect on these species, the Authority will use conditions and / or obligations to secure compensatory measures necessary to protect the species, reduce disturbance to a minimum and provide alternative habitats to sustain or enhance the population.

ENV4 – Trees and Hedgerows

Development will not be permitted if it would result in the loss of trees, woodlands or hedgerows that in terms of their historical, ecological, townscape or landscape significance make a positive contribution to the quality of the local environment. The planting of new trees, woodlands and/or hedgerows will be sought in the landscaping of new development.

ENV6 – Land Resources

1. The Council will safeguard and enhance land resources in the Borough by:
 - (i) In minerals developments ensuring the early establishment of after-uses that best meet the policies in this Local Plan
 - (ii) Protecting suitable sites for the recycling and re-use of waste materials

- (iii) Requiring applicants to identify unstable and potentially unstable land, and securing land stabilisation
- (iv) Ensuring strict control of the use and disposal of hazardous substances, so as to safeguard land, premises and people
- (v) Protecting the best and most versatile agricultural land

Contaminated Land:

2. Development that would result in land contamination will not be permitted. An Environmental Impact Assessment of a proposal may be required to demonstrate, to the satisfaction of the Local Planning Authority, that contamination will not occur.
3. The development of contaminated, or potentially contaminated, land or of land in its vicinity, will not be permitted unless it is demonstrated to a reasonable degree of certainty that practical measures can be taken to treat, contain or control the contamination so as not to:
 - (i) Expose the occupiers of the development, including in the case of housing the normal use and enjoyment of gardens, to significant risk
 - (ii) Threaten the structural integrity of buildings existing or to be erected on the site
 - (iii) Lead to the contamination of any watercourse or aquifer
 - (iv) Cause the contamination of adjoining land, or allow such contamination to continue
 - (v) Cause unacceptable environmental conditions for the occupiers of nearby properties while the remedial measures are being carried out, or
 - (vi) Expose site operatives to unacceptable health risks.
4. All remediation measures shall be to a standard approved by the Council, and allowance made for full remediation where this is not practical initially.

ENV9 – Air Quality

The air quality of the Borough will be safeguarded and enhanced by:

1. Not permitting new potentially polluting forms of development within and bordering the Borough's Air Quality Management Areas (AQMA) to minimise potential risks to health. The existing AQMA is shown on the Proposals Map.
2. Not permitting development that would include hazardous substances likely to have an unacceptable risk to nearby areas and people.
3. Not permitting development in the vicinity of notifiable hazardous installations or premises if there is an unacceptable risk to occupiers.
4. Not permitting places of residence, employment or other noise-sensitive uses if the occupants would experience significant noise disturbance.

5. Not permitting development that would create significant noise disturbance to nearby housing, schools and other noise-sensitive uses.

ENV10 – Energy Generation and Energy Conservation

Energy Generation

- 1 Planning permission will be granted for renewable energy schemes where they do not have an unacceptable impact on the environment.
- 2 In all residential developments of 10 or more dwellings and in non-residential developments of 1000sq m or more 10% of the predicted energy requirements should be produced on site from renewable energy resources.

Energy Conservation

- 3 New development will not be permitted unless its siting, design and layout avoids the unnecessary waste of renewable and non-renewable energy resources and makes economic use of raw materials.

ENV11 – Neighbour Amenities

Development will not be permitted if the occupiers of nearby properties would suffer significant loss of amenity, including overlooking, loss of privacy, or disturbance due to traffic, offensive smells, noise, light, dust or fumes. Occupiers of the development itself should also enjoy satisfactory standards of these amenities.

TPT1 – Transport considerations in new development

Major Traffic Generating Proposals

1. In the following cases developers will be required to submit transportation assessments and travel plans to consider and mitigate the impacts of their schemes.

Use	Indicative Thresholds
Non-food & Food Shops, Financial & Professional Services, PHs & Licensed Clubs, Restaurants & Takeaways	More than 1,000m ²
Offices	More than 2,500m ²
Industry	More than 5,000m ²
Warehousing	More than 10,000m ²
Schools, Hotels, Motels, Guest Houses & Residential Clubs	All

Residential	Sites for 100 dwellings or more.
Medical Practitioners, Clinics, Dentists, Opticians & Chiropodists	More than 500m ²
Places of Assembly	More than 1,000m ²
Stadia	More than 1,500 seats

Assessments will also be required for developments below these thresholds:

- Where there is a cumulative effect created by the floorspace on the site or in the vicinity
 - In Air Quality Management Areas (as shown on the Proposals Map)
 - Or where there are demonstrable shortcomings in the adequacy of the local transport network to accommodate development of the scale proposed.
2. Developments of this scale will be required to demonstrate safe and convenient access by a range of means of travel and transport.
 3. Planning permission will be refused where the transportation impacts of these developments are significant and cannot be mitigated by:
 - (i) Measures to reduce the impacts to acceptable levels
 - (ii) The delivery of Approved Travel Plans
 - (iii) Developer contributions towards public transport services and facilities, cycling and pedestrian provision.

For All Development

4. Development will only be permitted where, individually or cumulatively there would be sufficient capacity within the transport network to accommodate traffic generated by the proposal and where there would be no additional hazard to traffic safety or detriment to access visibility.
5. Schemes will only be permitted where the cumulative effect of developments can be accommodated within the network capacity and where transport associated impacts have been adequately addressed to maintain the character of the local environment.

TPT3 – Access and sustainable travel and transport

Development will not be permitted unless its siting, layout and design makes provision for safe and convenient pedestrian and vehicular access and circulation, and maximises practicable opportunities for the use of sustainable means of travel and transport including walking, cycling, bus and train.

CORE POLICY 1: Social and Economic Regeneration

The Local Plan will support the economic and social regeneration of the area, primarily by seeking to ensure local people have access to a range of high quality employment, housing, shopping, leisure, education and other community facilities.

CORE POLICY 2: Development Distribution

- (1) The settlements identified in Categories 1, 2, and 3 in Appendix 2: *Settlement Hierarchy* indicate the Main Towns, Green Belt Market Town and Local Service Centres within the development boundaries of which development for employment, housing (including affordable housing), services and other facilities will be permitted, at a scale proportionate to their position in the Borough's settlement hierarchy and where such development would maintain or enhance the function of the settlement.
- (2) In other settlements with development boundaries defined on the Proposals Map, housing development will be limited to that for which a local affordable housing need has been identified.
- (3) Outside the development boundaries and except where other policies of the Plan expressly provide, development will be limited to that requisite for agriculture, forestry or other uses that can be shown to require a rural location.

CORE POLICY 3: Natural and Historic Environment

All development decisions will seek to protect or enhance biodiversity, natural habitats, the historic environment, and existing landscape and townscape character.

CORE POLICY 9: Employment Land Requirement

Provision has been made for development of 279 hectares of industrial land within the Plan area in the period 1996-2011. Monitoring of supply indicated that this level of provision had already been exceeded by end March 2004 and no new employment land beyond existing commitments and the phased rollover of land from the 1995 Local Plan is therefore made the subject of site-specific allocations in this Plan.

The Regional Spatial Strategy for the West Midlands

Policy WD3

A. In their development plans, appropriate planning authorities should include policies and proposals for all major waste streams to:

- i) guide the location and siting of waste treatment and recycling facilities to appropriate locations, having regard to the proximity principle and other environmental and amenity principles as identified elsewhere in this guidance;
- ii) wherever possible and consistent with the principles of Best Practicable Environmental Option and Proximity, encourage the use of rail and water transport in preference to road transport; and

iii) require the submission of a waste audit and provision for in-house or on-site recycling and treatment of wastes, in the case of major development proposals.

B. Where possible, site-specific proposals for new waste management facilities should be included in development plans. Consideration should be given to the potential advantages of making provision for waste management in the form of small-scale facilities that may be more easily integrated into the local setting.

C. Development plans should restrict the granting of planning permission for new sites for landfill to proposals which are necessary to restore despoiled or degraded land, including mineral workings, or which are otherwise necessary to meet specific local circumstances. The depletion of landfill capacity will be the subject of regular monitoring.

Policy QE6

Local authorities and other agencies, in their plans, policies and proposals should conserve, enhance and, where necessary, restore the quality, diversity and distinctiveness of landscape character throughout the Region's urban and rural areas by:

i) ensuring that a consistent approach is taken to landscape and character issues, particularly where they cross local planning authority boundaries;

ii) establishing a positive and integrated approach to the use, management and enhancement of the urban fringe;

iii) supporting the Community Forest and National Forest programmes;

iv) protecting and, where possible, enhancing natural, man-made and historic features that contribute to the character of the landscape and townscape, and local distinctiveness;

v) considering other factors that contribute to landscape character including tranquillity and the minimisation of noise and light pollution; and

vi) identifying opportunities for the restoration of degraded landscapes including current and proposed minerals workings and waste disposal sites.

Extracts from PPS10: Planning for Sustainable Waste Management

21. In deciding which sites and areas to identify for waste management facilities, waste planning authorities should:

(i) assess their suitability for development against each of the following criteria:

– the extent to which they support the policies in this PPS;

- the physical and environmental constraints on development, including existing and proposed neighbouring land uses (see Annex E);
 - the cumulative effect of previous waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential;
 - the capacity of existing and potential transport infrastructure to support the
- (ii) give priority to the re-use of previously-developed land, and redundant agricultural and forestry buildings and their curtilages.

DETERMINING PLANNING APPLICATIONS

Approach – waste planning authorities

22. Development plans form the framework within which decisions on proposals for development are taken. It is important that plans are kept up-to-date and properly reflect national policy. When proposals are consistent with an up-to-date development plan, waste planning authorities should not require applicants for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal.
23. In the interim period before the development plan is updated to reflect the policies in this PPS, planning authorities should ensure proposals are consistent with the policies in this PPS and avoid placing requirements on applicants that are inconsistent.

Unallocated sites

24. Planning applications for sites that have not been identified, or are not located in an area identified, in a development plan document as suitable for new or enhanced waste management facilities should be considered favourably when consistent with:-
- (i) the policies in this PPS, including the criteria set out in paragraph 21;
 - (ii) the waste planning authority's core strategy.
25. In the case of waste disposal facilities, applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy.

Responsibilities

26. In considering planning applications for waste management facilities, waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities.

27. The planning and pollution control regimes are separate but complementary. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
28. Waste planning and pollution control authorities should work closely to ensure integrated and timely decisions under the complementary regimes. This can be assisted by applicants preparing and submitting planning and pollution control applications in parallel.

Local environmental impacts

29. In considering planning applications for waste management facilities waste planning authorities should consider the likely impact on the local environment and on amenity (see Annex E). These can also be concerns of the pollution control authorities and there should be consistency between consents issued under the planning and pollution control regimes.

Health

30. Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The detailed consideration of a waste management process and the implications, if any, for human health is the responsibility of the pollution control authorities. However, planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions.
31. Where concerns about health are raised, waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. Rather, they should ensure, through drawing from Government advice and research¹³ and consultation with the relevant health authorities and agencies, that they have advice on the implications for health, if any, and when determining planning applications consider the locational implications of such advice. In turn, the relevant health authorities and agencies will require sufficient understanding of the proposed waste management process to provide considered advice. A concurrent process and a transparent relationship between the planning and pollution control regimes will help facilitate this.

ANNEX E

Locational Criteria

In testing the suitability of sites and areas against the criteria set out in paragraph 20, waste planning authorities should consider the factors listed below. They should also bear in mind the envisaged waste management facility in terms of type and scale, taking account of best available technologies (not involving excessive costs). Advice on likely impacts and the particular issues that arise with specific types and scale of waste management facilities is given in accompanying practice guidance.

a. protection of water resources

Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care.

b. land instability

Locations, and/or the environs of locations, that are liable to be affected by land instability will not normally be suitable for waste management facilities.

c. visual intrusion

Considerations will include (i) the setting of the proposed location and the potential for design-led solutions to produce acceptable development; (ii) the need to protect landscapes of national importance (National Parks, Areas of Outstanding Natural Beauty and Heritage Coasts).

d. nature conservation

Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites) or a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves).

e. historic environment and built heritage

Considerations will include any adverse effect on a site of international importance (World Heritage Sites) or a site or building with a nationally recognised designation (Scheduled Monuments, Conservation Areas, Listed Buildings, Registered Historic Battlefields and Registered Parks and Gardens).

f. traffic and access

Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads.

g. air emissions, including dust

Considerations will include the proximity of sensitive receptors and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.

h. odours

Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.

i. vermin and birds

Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas. As part of the aerodrome safeguarding procedure (ODPM Circular 1/200316) local planning authorities are required to consult aerodrome operators on proposed developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the proposals map in the local development framework).

The primary aim is to guard against new or increased hazards caused by development. The most important types of development in this respect include facilities intended for the handling, compaction, treatment or disposal of household or commercial wastes.

j. noise and vibration

Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise both inside and outside buildings. Intermittent and sustained operating noise may be a problem if not kept to acceptable levels and particularly if night-time working is involved.

k. litter

Litter can be a concern at some waste management facilities.

l. potential land use conflict

Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility.