

DATED <sup>Mr 4</sup> 24<sup>th</sup> February 2003

THE NORFOLK COUNTY COUNCIL

- and -

T M A BARK SUPPLIES

- and -

A G and M J THOMAS

-and -

AMC BANK LIMITED

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## AGREEMENT

Under Section 106 of the  
Town and Country Planning Act 1990  
relating to land at  
The Runway Weston Longville

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Head of Law  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

THIS AGREEMENT is made by Deed the <sup>Mr</sup> 24<sup>th</sup> day of ~~February~~<sup>Mr</sup> February  
2003<sup>Mr</sup> 2004

B E T W E E N THE NORFOLK COUNTY COUNCIL (the "County Council") of  
County Hall Martineau Lane Norwich (1) and TMA BARK SUPPLIES (co no.  
04597067) of Mill Farm Bungalow Mill Street Elsing Dereham Norfolk ("the  
Developer") (2) and ANTHONY GERALD THOMAS and MARION JOY THOMAS  
both of Woodforde Farm Weston Longville (together referred as "the Owners")(3) and  
AMC BANK LIMITED of Charlton Place Charlton Road Andover Hampshire SP10  
1RE ("the Mortgagee")(4)

AND RECITES:-

- (1) The Owners are the freehold owners of the land shown edged red (the "Land")  
on the attached plan (the "Plan") subject to legal charges to the Mortgagee  
dated 20<sup>th</sup> July 1976 7<sup>th</sup> July 1986 27<sup>th</sup> September 1991 29<sup>th</sup> November 1993  
and 9<sup>th</sup> December 1996 and the Owners are also the tenants of the Land  
under the terms of a tenancy agreement dated 29<sup>th</sup> November 1993
- (2) The County Council is a Local Planning Authority within the meaning of the  
Town and Country Planning Act 1990 (the "Act") for the area within which the  
Land is situate
- (3) The Developer has made application to the Norfolk County Council (reference  
C/5/02/5002) dated 11<sup>th</sup> February 2002 (the "Application") in accordance with

the Act and the Orders and Regulations for the time being in force thereunder,  
for planning permission to develop the Land by carrying out green waste  
processing (the "Development")

- (4) Subject to completion of this Agreement the the County Council have resolved to grant planning permission for the development pursuant to the Application (the "Planning Permission")
- (5) The obligations created by this Deed are planning obligations within the meaning of Section 106 of the Act (as amended)
- (6) The obligations created by this Deed are enforceable by the County Council

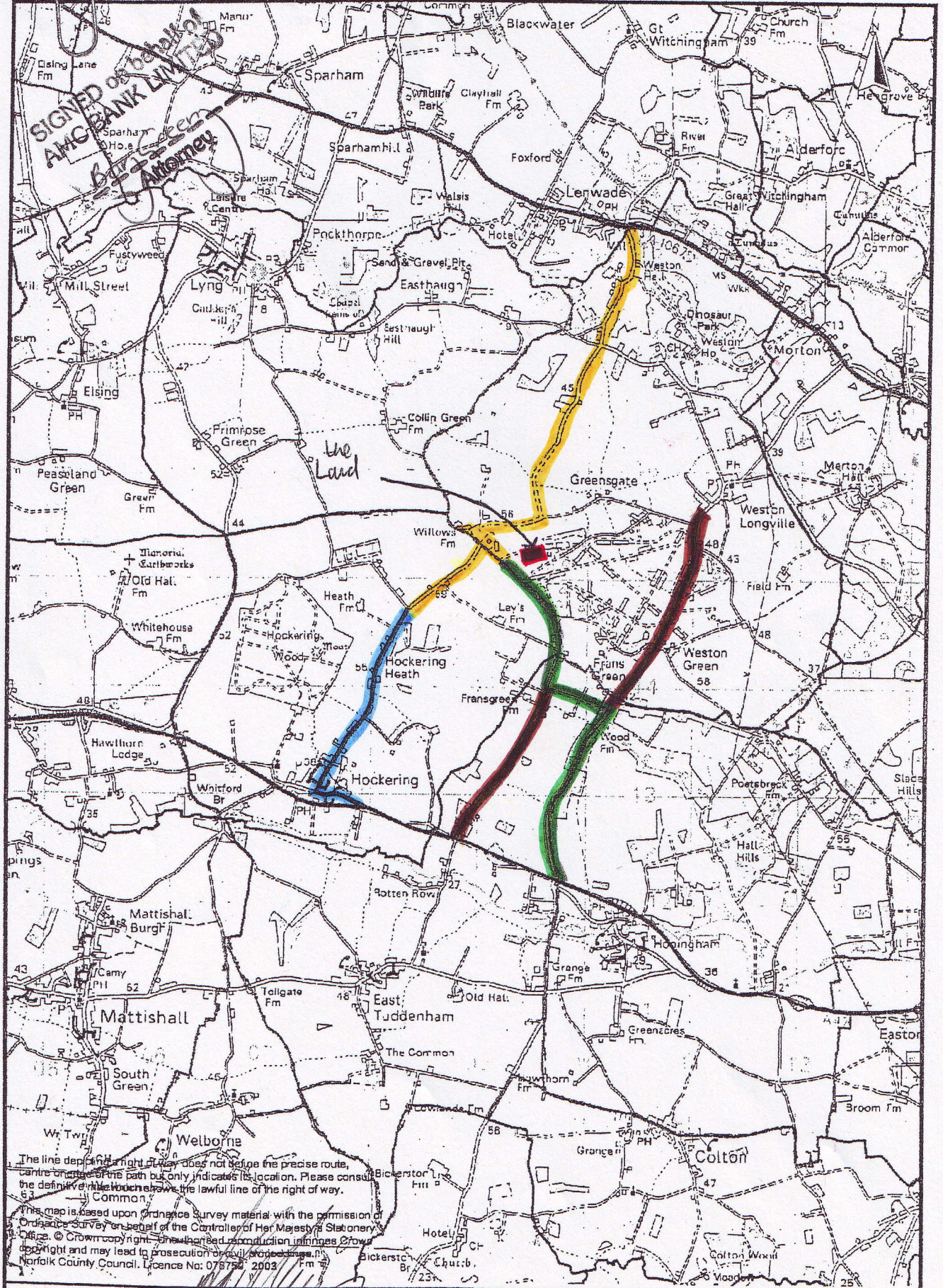
N O W THIS DEED WITNESSETH as follows:-

- 1.1.1 This Agreement is made in pursuance of Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers
- 1.1.2 In this agreement the terms "Vehicle" and "Vehicles" mean any motor vehicle or motor vehicles as the case may be weighing (including any cargo) in excess of 3.5 metric tonnes
- 1.2 The Mortgagee consents to the Owners entering into this Agreement and acknowledges that this Agreement binds its interest in the Land provided that the Mortgagee shall not be liable for any breach of this agreement unless it shall enter into the Land as mortgagee in possession



*St John*  
*M.J. Thomas*

**SIGNED on behalf of  
 AMGBANK LIMITED  
 6/1/2003  
 Attorney**



The line depicts a right of way does not define the precise route, centre line of the path but only indicates its location. Please consult the definitive map Hockering for the lawful line of the right of way.

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**NMB print**

*T.M. Andrews*

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 Scale 1:50000  
 Map centre: 608896,314380

**NORFOLK**  
 COUNTY COUNCIL  
**Planning &  
 Transportation**



2. The Owners and the Developer hereby jointly and severally covenant with the County Council with effect from the date of the Planning Permission that the Land shall not be used for the purposes authorised by the Planning Permission unless:-

2.1 All Vehicles operated by the Developer the Owners or their employees or otherwise under the direct control of the Developer or the Owners:

- (1) approach the Land either via the route shown in yellow on the Plan and/or the route shown in blue on the Plan ("the Access Routes") and;
- (2) leave the Land either via the route shown in yellow on the Plan or the route shown in green upon the Plan ("the Egress Routes") (the Access Routes and the Egress Routes are together referred to as the "Permitted Routes") and;
- (3) do not access the Land via the route shown in green on the Plan or leave the Land via the route shown in blue on the Plan or access or egress the Land via the route shown coloured brown on the Plan ("the Brown Route")

2.2 in relation to Vehicles not under the direct control of the Developer or the Owners all reasonable endeavours shall be used to ensure that such Vehicles approach the Land via one of the Access Routes and leave the Land via one of the Egress Routes and do not approach or leave the Land via the Brown Route

2.3 there are affixed and displayed and maintained on the Land such signs approved by the County Council in writing as to locations numbers size and legend and as shall be required from time to time by the County Council (including any modifications additions or subtractions to those first or subsequently approved by the County Council)

3. It is hereby agreed and declared for the purposes of clause 2.2 that the requirement to use reasonable endeavours:

3.1 requires the Owners and the Developer to incorporate in all contracts with persons likely to visit the Land a term having the same effect as clause 2.1

3.2 requires the Owners and the Developer to communicate in writing with persons whose Vehicles from time to time regularly visit the Land informing them of the Permitted Routes and requesting that their Vehicles follow them at all times when visiting the Land at a method and frequency as shall be reasonably likely to secure co-operation with the use of the Permitted Routes such method and frequency to be determined by the Developer or Owners as appropriate and disclosed to the County Council as requested or at the County Councils discretion shall be as reasonably determined by the County Council

3.3 requires the Developer or the Owners on receiving information that any driver of a Vehicle shall have taken any route to or from the Land other than the one of the Permitted Routes as appropriate to take all necessary and lawful action possible against the Driver to ensure future compliance

- 3.4 will be breached if an employee of the Developer or the Owners uses a route other than the one of the Permitted Routes
- 4.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 4.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 4.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute shall be referred to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties
5. Without prejudice to the enforcement of restrictions and obligations against successors in title no person shall be liable for any breach of this Agreement if at the time the breach occurs they have no interest in the Land PROVIDED THAT the reservation of any rights or the inclusion of any covenants or

restrictions over the Land in any transfer shall not constitute an interest for the purposes of this clause

6. No waiver (whether express or implied) by the County Council of any breach of default by the Developer or the Owners or their successors in title in performing or observing any of the terms and conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the terms and conditions or from acting upon any subsequent breach or default in respect thereof by the Developer or the Owners or their successors in title
7. If the Planning Permission is quashed revoked or expires without implementation then this Deed shall absolutely determine
8. The Owners hereby covenant that they are the freehold owners of the Land and have full power to enter into this Agreement that the Land is free from all mortgages charges or other encumbrances and there is no person having any interest in the Land other than those notified in writing to the County Council's Head of Law prior to the date hereof  
*Other than the Legal Charges to the mortgagee*
9. The expressions "the County Council" "the Developer" and "the Owners" shall include their respective successors and assigns as appropriate within the terms of Section 106 of the Act



10. The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement

11. The Developer shall pay the County Councils reasonable legal costs on this Agreement

12. This Agreement shall be registered as a local land charge

13. In consideration of the Landowner <sup>and the mortgagee</sup> entering into this Deed the Developer <sup>and the mortgagee can</sup> hereby covenants with the Landowner to indemnify the Landowner against all <sup>each of them</sup> costs claims losses damages expenses or other liabilities incurred by the Landowner that arise directly or indirectly as a result of the Landowner entering into this Deed or of any breach by the Developer of its or the Landowners obligations under this Deed

IN WITNESS WHEREOF the parties hereto have executed and delivered this Deed  
the day and year first before written

THE COMMON SEAL of THE NORFOLK  
COUNTY COUNCIL was hereunto  
affixed in the presence of:-

*Keir Munn*  
HEAD OF LAW



EXECUTED AS A DEED by  
T M A BARK SUPPLIES  
Acting by:-

Director *[Signature]*

Secretary *T. M. Andrew*

SIGNED by the said  
ANTHONY GERALD THOMAS  
in the presence of:-

*A. G. Thomas*  
*Gina F. Cooper*

GINA F. COOPER  
182 Gwydir St  
Cambridge CB1 2HW

SIGNED by the said  
MARION JOY THOMAS  
in the presence of:-

*M. J. Thomas*

*Gina F. Cooper*

GINA F. COOPER

182 Gwydir St.  
CAMBRIDGE CB1 2HW

SIGNED AND DELIVERED as a Deed  
by **Barry Graham Greenaway**  
as Attorney and for AMC BANK  
LIMITED

in the presence of:-

*Ann Entwistle*

ANN ENTWISTLE F.Inst.L.Ex  
Charlton Place  
Charlton Road  
Andover  
Hampshire SP10 1RE

*Barry Greenaway*

11657

**NORFOLK COUNTY COUNCIL**

**Town and Country Planning Act, 1990**

**Town and Country Planning (General Development Procedure) Order 1995**

To: TMA Bark Supplies  
Mill Farm Bungalow  
Mill Street  
Elsing  
Dereham

Particulars of Proposed Development

Location: The Runway, Woodforde Farm, Weston Longville

Applicant: TMA Bark Supplies

Proposal: Green waste reprocessing to produce natural bark mulch

The Norfolk County Council hereby gives notice of its decision to PERMIT the development specified in the application and particulars deposited on the 9th May 2002

This permission is subject to the conditions specified on the attached sheet.

The reasons for these conditions are also set out on the attached sheet.

Signed:  Date: 3.3.04

for DIRECTOR OF PLANNING AND TRANSPORTATION

Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2SG

**SEE NOTES ON ATTACHED SHEET**

## NOTES

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with section 78 of the Town and Country Planning Act 1990, within six months of the date of this notice. The secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the Development Order, and to any directions given under the Order.
- (2) If permission to develop land is refused, or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the county or district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land accordance with Section 137 of the Town and Country Planning Act, 1990.
- (3) In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused, or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Sections 114 and 115 of the Town and Country Planning Act, 1990.
- (4) Any planning permission is subject to compliance with the byelaws (Local Acts, Orders, Regulations) and general statutory provisions in force.

Appeals must be made on a form which is obtained from the Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel: 0117 372 6372 Fax: 0117 372 8782 or e-mail: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)



Location: The Runway, Woodforde Farm, Weston Longville

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Conditions:

1. The development hereby permitted shall commence not later than five years from the date of this permission.
2. The development shall not take place except in accordance with the site layout shown on Plan number 020111-1 dated January 2002 (TO BE AMENDED), the elevation drawings shown on Plan number 020111-2 dated January 2002 and the details given in the statement accompanying the application unless otherwise agreed in writing with the County Planning Authority.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that order), no further buildings, plant or machinery, nor structures of the nature of plant or machinery other than that permitted under this planning permission, shall be erected on the site, except with permission granted on an application under Part III of the Town and Country Planning Act 1990.
4. No material other than green waste (comprising tree and hedge cuttings and prunings and garden waste) shall be brought onto the site for processing as authorised under this permission.
5. No operation shall take place except in accordance with the scheme of working set out in the application forms and Part 3 of the Environmental Statement submitted in support of the application unless otherwise agreed in writing with the County Planning Authority.
6. No plant or machinery shall be used on the site unless it is maintained in a condition whereby it is efficiently silenced.
7. Measures shall be taken to minimise dust nuisance caused by the operations, including spraying of road surfaces, processing area and stockpiles as necessary.
8. No operation authorised or required under this permission or under Part 23 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 shall take place on Sundays or public holidays, or other than during the following periods:-

|                    |               |
|--------------------|---------------|
| Mondays to Fridays | 07.00 - 17.00 |
| Saturdays          | 08.00 - 14.00 |
9. No material shall be stacked or deposited to a height exceeding 4 metres above the level of the surrounding land.

10. Within three months of the date of this permission a scheme of landscaping shall be submitted and agreed in writing by the County Planning Authority. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance, and details of the construction and maintenance of the soil bunds. The bunding shall be completed before the commencement of development and the scheme as agreed in writing shall be completed within one year of the date of this permission. The scheme shall make provision for:-
- (a) the screening of the operations by trees, hedges and soil bunds;
  - (b) the protection and maintenance of existing trees and hedges which are to be retained on site;
  - (c) re-seeding and re-planting where failures or damage occur within a period of five years from the date of planting; and
  - (d) the replacement of any damaged or dead trees with trees of similar size and species at the next appropriate season.
11. Soil bunds which are in situ for one or more growing season shall be seeded with grass and maintained in accordance with the scheme submitted by the applicants and agreed in writing with the County Planning Authority.
12. Any drums and small containers used for oil and other chemicals on the site shall be stored in bunded areas which do not drain to any watercourse, surface water sewer or soakaways and all oil or chemical storage tanks, ancillary handling facilities and equipment including pumps and valves shall be contained within an impervious bunded area of at least 110% of the total stored capacity.
13. The operational area of the site shall be maintained with an impermeable surface which shall be drained to a sealed system and which shall be emptied when necessary and the contents disposed of in a manner approved by the County Planning Authority and which will not lead to pollution of surface or underground waters.
14. Measures shall be taken to ensure that vehicles leaving the site shall not be in a condition whereby they would deposit mud or other loose material on the public highway.
15. No external lighting shall be installed on the site unless it is maintained such that it will not cause glare beyond the site boundaries.

The reasons for the Council's decision to authorise the development subject to compliance with the conditions herein before specified are:

- 1 To accord with Section 91 of The Town and Country Planning Act 1990.
  - 2,4,5,7,8 To ensure orderly working in the interests of the amenities of the surrounding area in accordance with Adopted Waste Local Plan policy WAS.13.
  - 3,6,9-11,15 To protect the amenities of the surrounding area in accordance with Adopted Waste Local Plan policy WAS.13.
  - 12&13 To safeguard hydrological interests in accordance with Adopted Waste Local Plan policy WAS.18.
  - 14 In the interests of highway safety in accordance with Adopted Waste Local Plan policy WAS.16.
- Note: This permission is also subject to a Section 106 Legal Agreement dated 24 February 2004 covering vehicle routeing.

#### Reasons for granting planning permission

This site is adjacent to an established bark processing operation located on brownfield land in the countryside and which is not inappropriate in terms of the locational policy WAS3 in the Adopted Waste Local Plan. The surrounding uses give the area a semi-industrial context which is not out of character with the proposal and both the existing landscaping and that required under the terms of this permission mitigate any visual impact as required under policies WAS3 and WAS10 of the Adopted Waste Local Plan. Subject to the conditions required under the terms of this permission there would be no adverse impact on local amenity and the proposal is therefore in accordance with Adopted Waste Local Plan policy WAS13. Access to the site is via an HGV Access Route and the permission is subject to a Section 106 Legal Agreement covering this and the proposal is therefore in accordance with Adopted Waste Local Plan WAS16. The proposal is in accordance with development plan policies and there are no material considerations which indicate that it should be refused.