RETROSPECTIVE PLANNING APPLICATION

PROPOSED CHANGE OF USE OF EXISTING GRAIN STORE TO A WASTE STORAGE BUILDING IN CONJUNCTION WITH THE COMPOSTING AND WOOD PROCESSING OPERATIONS

PEBBLE HALL FARM, BOSWORTH ROAD, THEDDINGWORTH, NORTHAMPTONSHIRE

JULY 2012
Version 2
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APPENDIX 1
  • PLANNING PERMISSION NO. 2010/0879/03 AND UNILATERAL UNDERTAKING
1 THE PROPOSED DEVELOPMENT

1.1 Introduction

1.1.1 This Planning Statement accompanies a retrospective planning application seeking planning permission for the change of use of an existing grain silo to receive and temporarily store litter waste contained within the green waste material brought to site for composting and in the wood waste brought to site for shredding.

1.1.2 The change of use application relates to the existing composting and wood processing operations carried out by Welland Waste Management Ltd at the company’s site at Pebble Hall Farm, Theddingworth in Northamptonshire.

1.1.3 The application is supported by the following drawings:

- GPP/WWM/MT/12/11 Site Location Plan
- GPP/WWM/MT/12/22 Land Ownership
- GPP/WWM/MT/12/44 Site Plan

1.2 The Site and Site Context

1.2.1 Pebble Hall Farm is located south of the A4304 (Bosworth Road), Theddingworth in the northern part of the District of Daventry as shown on drawing GPP/WWM/MT/12/01 (Site Location Plan). It is approximately 1.8 km east of the village of Husbands Bosworth. Existing access to the site, which crosses the Northamptonshire and Leicestershire county boundaries, is surfaced in concrete and is approximately 560 metres long from its junction with the A4304.

1.2.2 Pebble Hall Farm is an agriculturally based operation that has been the subject of farm diversification, mainly as a result of the BSE crisis in the industry. By a series of grants of planning permission over a number of years (see planning history below), the site has established a variety of industrial/commercial related uses and a green waste composting and wood chipping operation as part of the diversification of the farm.

1.2.3 Historically, the main buildings and operational areas on the site have been identified with letters and numbers as shown on drawing GPP/WWM/MT/12/44 (Site Plan). Building No. 3, which is the subject of this planning application, is shown edged red on drawing GPP/WWM/MT/12/44. Planning permission was granted in 2004 (reference 2004/1046) to use the building No. 3 as a grain store. It is situated immediately adjacent to the extended composting area (area 2 on drawing GPP/WWM/MT/12/44).

1.2.4 The main waste management operation on the site is a green waste composting facility, which was granted planning permission in 2003 and subsequently extended in 2005 (shown as area 1 and 2 respectively on drawing GPP/WWM/MT/12/44). The area of the permitted Renewable Energy Generation Facility is shown as area 4 on drawing GPP/WWM/MT/12/44; this area is currently used for the receipt and processing of wood waste as allowed by this permission.
1.2.5 The site is situated in an area of open countryside, which by virtue of Policy EN1 of the Daventry Local Plan (saved policies), is designated as being within a 'Special Landscape Area'.

1.3 Planning History

1.3.1 In December 2000 Daventry District Council granted planning permission for a change of use of the farm buildings to B8 distribution uses; reference DA/00/1095.

1.3.2 On 21 October 2003 (reference DA/03/725C) planning permission was granted by Northamptonshire County Council for green waste composting. This permission has been implemented. A second permission was granted on 4 October 2005, for an extension to the area to be used for green waste composting, it has also been implemented (reference DA/05/773C). These permissions allow a total throughput of 25,000 tonnes per annum of green waste; these operations are intended to continue alongside the consented renewable energy generation facility.

1.3.3 Planning permission DA/07/319 was granted in June 07 for the construction of an In-Vessel Composting plant to deal with mixed green and food waste up to 25,000 tonnes per annum; however as the Waste Collection Authority has subsequently abandoned plans to collect the food waste there is no need to provide an in-vessel composting facility.

1.3.4 Planning permission 08/00053/WAS was granted in June 2008 for a renewable energy generation facility for Purepower, on the site previously consented for In-Vessel composting as detailed above. The REGF occupies a similar footprint, and uses waste wood to generate renewable electricity. The permission was implemented when the hoggin was excavated to create the site for the proposed renewable energy generation facility.

1.3.5 Planning permission 09/01593/FUL was granted on 14th June 2010 for the widening of the access track.

1.3.6 Planning permission 2010/C262/03 was granted by Daventry District Council on 7th July 2010 for the retention of temporary office buildings.

1.3.7 Planning permission 2010/0477 was granted by Daventry District Council on 19 October 2010 for the retention of engineering works associated with the existing distribution uses and waste related activities at the site.

1.3.8 Planning permission 10/00038/WAS was granted on 28 July 2010 for the use of one B8 unit for carpet recycling and part of the yard for carpet storage.

1.4 The Proposed Development

1.4.1 Retrospective planning permission is sought to change the use of an existing grain silo to allow the temporary storage of litter waste that has been screened out of the composted green waste and collected from the wood waste. The storage of litter waste currently takes place on the pad, in the open air, adjacent to the composting operations.
1.4.2 Building No. 3, which is the subject of this planning application, is shown edged red on drawing GPP/WWM/MT/12/44 (Site Plan). Other land within the applicant’s control is shown edged blue on drawing GPP/WWM/MT/12/22.

1.4.3 Following the completion of the composting process, which is undertaken in open-air windrows, the material is put through a trommel screen before undergoing its final maturation stage. The compost screening process removes any non-biodegradable waste (such as plastic bags, cardboard, paper, etc) to ensure that the finished compost product is suitable as a soil enhancer and can be applied to the surrounding agricultural land.

1.4.4 The collected litter waste in building No. 3 will be bulked up and taken off site in a contained vehicle (as it is currently in a roll-on-roll off) for recycling at a different waste management facility. It will not be sent to landfill. There will therefore be no additional traffic movements generated by the proposed change of use of the building. The proposal will aid the recovery of waste and contribute to recycling targets.

1.4.5 The recovered litter waste fraction of the composted material was, until recently, stored outside in the operational composting yard. The storage of the litter waste inside building No. 3 will bring about operational improvements and minimise the risk for windblown litter.
2 PLANNING POLICY CONTEXT

2.1 National Planning Policy


2.1.1 The Waste Review 2011 builds upon the waste hierarchy which was the core of the 2007 Waste Strategy for England. The key themes that are discussed within the review are;

- The need to focus on preventing waste as a priority, as a key component of broader resource efficiency;
- The importance of treating waste as a resource and embedding waste policies into a wider resource and material security policy;
- The need to remove barriers which prevent greater integration of household and business waste policy and service delivery;
- The importance of policies which continue to promote high levels of high quality recycling; and
- The need to continue to reduce the amount of waste going to landfill.

The 2007 Waste Strategy for England

2.1.2 The main objective of the 2007 Waste Strategy is to significantly reduce the amount of waste that is disposed at landfill. Fundamental to this objective is the concept of the waste strategy, where by operators are encouraged through policy, targets and levies to move up the waste hierarchy through more efficient and sustainable waste management.
National Planning Policy Framework

2.1.3 The National Planning Policy Framework was published on the 27th March and came into force immediately with respects to plan and decision making. The NPPF states at paragraph 5 of its introduction that it does not contain specific waste policies 'since national waste planning policy will be published alongside the National Waste Management Plan for England'. However, paragraph 5 goes on to say that local authorities should have regard to the policies in the National Planning Policy Framework in preparing their waste plans.

2.1.4 The NPPF provides a presumption given in favour of development with sustainable credentials. Paragraph 14 of the NPPF states:

'At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking.

For decision-taking this means
- Approving development proposals that accord with the development plan without delay and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless
  - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or
  - Specific policies in this Framework indicate development should be restricted.

2.1.5 Comment: the proposed development is situated on an existing waste management facility. The proposed change of use of the grain store will improve efficiency of the composting and wood processing operations and minimise the generation of litter at the site.

2.2 Planning Policy Statements

PPS10 Planning for Sustainable Waste Management

2.2.1 The National Planning Policy Framework has replaced most Planning Policy Guidance Notes and Statements, but it is noted that PPS 10 remains valid, together with its Technical Guidance Note. Planning Policy Statement 10 considers that positive planning has an important role in delivering sustainable waste management, through the development of appropriate strategies for growth, regeneration and the prudent use of resources. One of the key objectives of PPS10 is driving waste management up the waste hierarchy and using waste more as a resource.

2.2.2 Paragraph 29 states that "waste planning authorities should consider the likely impact on the local environment and on amenity".

2.2.3 Comment: The proposal will contribute to the efficient operation of the waste management facility and will not give rise to adverse environmental and amenity impacts. The proposal is therefore considered to be compliant with the objectives of PPS10.
2.3 Local Planning Policy

Northamptonshire County Council Control – MWDF Core Strategy

2.3.1 Policy CS14 of the MWDF Core Strategy requires that proposals for minerals and waste development must demonstrate that the following matters have been addressed:

- minimising environmental impact and protecting Northamptonshire’s key environmental designations;
- protecting natural resources or ensuring that any unavoidable loss or reduction is mitigated;
- ensuring built development is of a design and layout that has regard to its visual appearance in the context of the defining characteristics of the local area;
- ensuring access is sustainable, safe and environmentally acceptable, and
- ensuring that local amenity is protected.

2.3.2 Comment: The proposed change of use of building No. 3 will not give rise to unacceptable environmental or amenity impacts. The proposal is therefore considered to be broadly compliant with the Policy CS14.

Northamptonshire County Council Control and Management of Development

2.3.3 The Control and Management of Development DPD contains specific policies for controlling Minerals and Waste development in the county and complements the strategic visions and policies that are set out in the MWDF Core Strategy.

2.3.4 Policy CMD1: relates to development criteria for waste management facilities (non-inert and hazardous). It requires proposals for waste management facilities on non-allocated sites (including extensions to existing sites and extensions to allocated sites) to demonstrate that the development (inter alia):

- does not conflict with the spatial strategy for waste management,
- promotes the development of a sustainable waste network and facilitates delivery of Northamptonshire’s waste management capacity requirements,
- is in general conformity with the principles of sustainability,
- facilitates the efficient collection and recovery of waste materials

Development should also, where appropriate, and particularly in the case of advanced treatment facilities:

- maximise the use of previously developed land (particularly existing and designated industrial land…) or redundant agriculture and forestry buildings (and their curtilages).

2.3.5 Comment: The proposed change of use of building No. 3 will facilitate the efficient collection and recovery of waste materials within the composting process. The proposal also complies with the policy objective of maximising the use of existing redundant agricultural buildings on the site. The proposal is therefore considered to be broadly compliant with the Policy CMD1.
2.3.6 Policy CMD7: Natural assets and resources requires that (where possible) waste development should achieve a net gain in natural assets and resources, through (inter alia)

- delivery of wider environmental benefits in the vicinity where development would adversely affect any regional or locally designated sites or other features of local interest,
- consider opportunities to contribute towards Northamptonshire Biodiversity Action Plan targets for habitats and species.

2.3.7 Policy CMD8: Landscape character requires that waste development should seek to reflect Northamptonshire's landscape character. Waste development should mitigate potentially adverse impacts on the local character and distinctiveness of Northamptonshire's landscape where necessary during the development, operational life, restoration, aftercare, and after-use. Opportunities for enhancement should be maximised through restoration, aftercare, and after-use. Proposals will be required to undertake a landscape impact assessment to identify the potential impacts and any necessary mitigation measures.

2.3.8 Policy CMD10: Layout and design quality requires that the layout and overall appearance of waste management facilities will be required to demonstrate that the development (inter alia):

- supports local identity and relates well to neighbouring sites and buildings,
- is set in the context of the area in which it is to be sited in a manner that enhances the overall landscape
- incorporates specific elements of visual interest, and
- builds-in safety and security.

Daventry District Local Plan 1997 (Saved Policies)

2.3.9 Policy GN1 provides that the granting of planning permission will be guided by (inter alia) the need to protect and enhance the environment.

2.3.10 Comment: The proposed development relates to a change of use of the building only, which will not have an adverse impact upon the environment.

2.3.11 Policy GN2 provides that planning permission for development will normally be granted provided (inter alia): the proposal will be in-keeping with the locality, access and traffic impacts will be acceptable, no adverse impact upon landscape character.

2.3.12 Comment: The proposed development relates to a change of use of the building only and will not give rise unacceptable levels of environmental or amenity impacts.

2.3.13 Policy EM19 relates to the conversion and/or change of use buildings in the open countryside. It provides (inter alia) that the change of use of rural buildings will normally be granted planning permission where: it would be physically capable of conversion without major alteration; in keeping with its surroundings; access to the site is safe;

2.3.14 Comment: Buildings 3 will not require alteration in order to facilitate the proposed change of use. The proposal will therefore comply with Policy EM19.
2.3.15 Policy EM20 relates to the reuse or adaptation of farm buildings constructed since 1948. It provides that planning permission will be granted for the reuse or adaptation of farm buildings provided that the history indicates that the building was used for the purpose it was built and modifications will be required where the Council considers that the building to have significant adverse effects on the landscape.

2.3.16 Comment: The building has historically been used as a grain store. It is not prominent in the landscape and its use to store litter waste recovered from the compost and wood fractions will not detract from the character of the surrounding countryside. The proposal is therefore considered to be compliant with Policy EM20.

2.3.17 Policy EN1 relates to special landscape areas and provides that planning permission will normally be granted for development provided that (inter alia) “it comprises agricultural, forestry, recreation or tourism development... and it does not adversely affect the character of the local landscape".

2.3.18 Comment: the proposed development is situated on land that benefits from a mix of existing agricultural, commercial and waste related development. The proposed change of use from an agricultural use will not have an adverse impact upon the special landscape area designation.

2.4 Key Planning Policy Issues

2.4.1 The main development plan policy tests in relation to the proposal is whether the change of use of the building is appropriate and compatible in its location and whether the proposal is likely to give rise to adverse impacts upon the environment or local amenity.

2.4.2 An assessment of the potential impact of the proposed change of use is set out below in section 3 (Planning and Environmental Considerations).
3 PLANNING & ENVIRONMENTAL CONSIDERATIONS

3.1 Introduction

3.1.1 The starting point for the consideration of this planning application is the Development Plan. The key Development Plan documents in relation to this planning application consists of:

- Northamptonshire Minerals & Waste Development Framework (MWDF);
- Daventry District Local Plan 1997 (saved policies)

3.1.2 From an assessment of the Development Plan, the key issues in the determination of this planning application are considered to be:

- the proposed change of use of the building from agriculture to a waste storage building; and
- any potential adverse environmental and amenity impacts that have the potential to arise

3.1.3 The above main issues are discussed below along with any other relevant environmental and amenity issues.

3.2 Proposed Change of Use

3.2.1 The thrust of Policy CDM1 (Control and Management of Development DPD) requires non-allocated waste development to conform to the principles of sustainability, compliance with the waste spatial strategy and to promote efficient recycling. Policy CDM1 encourages waste development to facilitate the efficient collection and recovery of waste materials. The proposal will assist to improve the collection and storage of litter waste enabling it to be bulked up for onward recycling. The proposal is therefore generally compliant with Policy CMD1 in that it is considered to be sustainable development and will divert more waste from landfill.

3.2.2 The building, which is the subject of this planning application is currently in an agricultural use but situated adjacent to the composting and wood processing operations in the eastern part of the site. The building is therefore ideally suited to house the screened out litter fraction of the composted material and wood waste.

3.2.3 The potential loss of agricultural building floor space will be replaced by changing the use of three workshop buildings on the site (buildings B, I & K).

3.2.4 In the light of the above, it is considered that the proposed change of use of the building, which is adjacent to the existing waste operations, is acceptable in this location. The proposal will not therefore give rise to concerns over harm to the countryside or landscape character. In planning policy terms, the proposed change of use is considered to be compliant with development plan policy.
3.3 Traffic and Transport

3.3.1 There will be no net increase in traffic as part of the proposed development because the litter waste fraction has been historically taken off site.

3.3.2 All traffic movements, to and from the site, are restricted by a legal agreement (Unilateral Undertaking) between the operator and Leicestershire County Council. The legal agreement is attached to planning permission No. 2010/0879/03. Copies of both planning permission No. 2010/0879/03 and the Unilateral Undertaking are included at Appendix 1.

3.3.3 The applicant is required to continue to comply with the terms of the legal agreement. It is therefore concluded that the proposal will not give rise to unacceptable levels of traffic and is in accordance with Policy CS14 of the Waste Core Strategy.

3.4 Landscape and Visual Amenity

3.4.1 The site lies within a ‘Special Landscape Area’ (Policy EN1 of the Daventry Local Plan). Policy CMD8 of the Control and Management DPD requires waste development not to have an adverse impact on the landscape of the area.

3.4.2 It is considered that the proposed change of use of the buildings to a waste related use will be in-keeping with the sites setting and existing permitted landuses. There are no proposals for external work to the building; therefore no adverse impacts upon the landscape and visual amenity are unlikely to arise.

3.4.3 In the light of the above, it is considered that the proposal is compliant with Policies EN1 and CDM8.

3.5 Flood Risk Assessment and Drainage

3.5.1 The proposal will not give rise to flood risk issues. A flood risk assessment has not therefore been considered as part of this planning application.

3.6 Ecology

3.6.1 The proposal will not give rise to issues relating to potential impacts upon features of nature conservation interest. The proposal therefore does not conflict with Policy CMD7 of the Control and Management DPD and Policy CS14 of the Waste Core Strategy.

3.7 Noise

3.7.1 The proposal will not give rise to issues relating to potential adverse noise impacts upon local amenity. The proposal therefore does not conflict with Policy CS14 of the Waste Core Strategy which requires waste development to have acceptable levels of impact upon local amenity.
4 CONCLUSION

4.1.1 The proposed development seeks to change the use of an existing silo building at Pebble Hall Farm to a waste related use. The proposed change of use is considered to be acceptable in the countryside, as it is related to an established waste facility at the site.

4.1.2 The proposal will not give rise to adverse impacts unacceptable environmental or amenity impacts.

4.1.3 The proposal will also not generate additional traffic or give rise adverse landscape and visual amenity impacts. The proposed development is therefore considered to be complaint with the development plan.
APPENDIX 1

PLANNING PERMISSION NO. 2010/0879/03

AND UNILATERAL UNDERTAKING
Town and Country Planning Act 1990

Planning permission

Name and address of applicant          Name and address of agent (if any)
J.M. Clarke & Son                      Mrs. G. Pawson
Pebble Hall                           GP Planning Ltd.
Bosworth Road                         Mill House
Theddington                           Long Lane
Lutterworth                           East Haddon
Leics. LE17 6NJ                        Northamptonshire NN6 8DU

Part I - Particulars of application

Date of application                  Application no.
29th April 2010                      2010/0879/03 (2010/C262/03)

Particulars and location of development:

VARIATION OF CONDITION NO. 3 OF PLANNING PERMISSION NO. 2008/0889/03 (TO ALLOW ADDITIONAL USE OF VEHICULAR ACCESS IN CONNECTION WITH CHANGE OF USE OF B8 BUILDING TO CARPET RECYCLING FACILITY AND USE OF PART OF YARD FOR CARPET STORAGE - PEBBLE HALL FARM, THEDDINGWORTH

Part II - Particulars of decision

In pursuance of its powers under the Town and Country Planning Act 1990 the Leicestershire County Council grants planning permission for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

1. This consent relates only the use of the vehicular access to Pebble Hall Farm in connection with those operations permitted by planning permissions DA/05/773C; DA/07/0319C; 08-00053-WAS and 10-00038-WAS issued by Northamptonshire County Council on 4th October 2005; 27th June 2007; 17th September 2008 and 28th July 2010 respectively. The consent relates also to planning application no 2005/1081/03 as amended by letter from the agent dated 28th September 2005.

2. The volume of green waste composting delivered to the site shall not exceed 25,000 cu. m. in total during any 12 month period. The volume of carpet waste brought onto the site shall not exceed a total throughput of 1,000 tonnes per annum. The quantity of wood waste and other materials delivered to the proposed energy regeneration facility shall not exceed 40,000 tonnes per annum.

3. A record of daily vehicle movements and tonnages relating to approved composting operations, carpet waste recycling, and feedstock for the energy recovery facility, both into and out of the site, shall be maintained at all times and shall be submitted for inspection to the County Solicitor at monthly intervals, commencing from the dates when the approved operations are brought into use.

4. No vehicle shall enter or leave the site in connection with approved carpet waste recycling activities or the approved energy recovery facility, except between the hours of 07.00hrs and 18.00hrs (Mondays to Fridays), and 07.00hrs to 13.00hrs (Saturdays). No vehicle movements shall take place on Sundays and Public/Bank Holidays.

5. No vehicle shall enter or leave the site in connection with approved composting operations, except between the hours of 07.00hrs and 18.00hrs (Mondays to Fridays), and 07.00hrs to 13.00hrs (Saturdays, Sundays and Public/Bank Holidays). As an exception, compost can be removed from the site between 0700hrs and 1800hrs (October – March); and between 0600hrs and 2100hrs (April – September).

Date: 20-12-11

Proper Officer of the Council

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ON THE REVERSE SIDE OF THIS FORM
CONDITIONS CONTINUED

6. No composted materials shall be removed through the access that is the subject of this application, other than for use on land owned or controlled by the applicant.

7. The improvement and signage works to the existing vehicular access onto Bosworth Road, as implemented in accordance with the requirements of condition no 5 of consent no 2003/0879/03, shall be retained and maintained at all times.

8. Within two months of the date of this consent, an automatic traffic counter (ATC) shall be installed at the entrance to the Pebble Hall site from Bosworth Road (A4304), in accordance with a detailed scheme to be first submitted to and agreed in writing by the County Solicitor. Once installed, the ATC shall remain in place and be fully operational at all times during the lifetime of any of the developments approved under the various permissions referred to in condition no 2 above.

9. The continuous date recorded by the ATC installation referred to in condition no 9 above shall be forwarded to the County Planning Authority on the 1st day of each calendar month for a period of 12 months following the date of installation. Thereafter, the recorded data shall be retained and maintained up to date, and made available for inspection by the County Solicitor on request.

REASONS

1. To ensure a satisfactory form of development in this rural location.
   (Policy WLP 7 of the Waste Local Plan)

2. Although traffic levels likely to be generated by the applicant’s specific proposals are acceptable in Highway safety terms, a more intensive use of the premises may be inappropriate and create dangers due to increased traffic that would use the access, and to ensure a satisfactory form of development.
   (Policies WDC8 and WDC10 of the Waste Core Strategy)

3. To ensure that proper control is maintained over the approved operations on Pebble Hall site and the overall levels of traffic generated at the access with Bosworth Road (A4304), in the interests of highway safety, and to prevent the unnecessary importation of additional materials onto the site.
   (Policy WDC10 of the Waste Core Strategy)

4. To safeguard the amenities of this rural location.
   &5. (Policy EV/4 of the Harborough Local Plan)

6. In the interests of highway safety and to ensure a satisfactory form of development.
   (Policy WCS5 of the Waste Core Strategy)

7. In the interests of highway safety and to ensure a satisfactory form of development.
   (Policy WDC10 of the Waste Core Strategy)

8. To ensure that proper control is maintained over the approved operations on Pebble Hall site &9. and the overall levels of traffic generated at the access with Bosworth Road (A4304), in the interests of highway safety.
   (Policy WDC10 of the Waste Core Strategy)

Date: 2012

Proper Officer of the Council
Note to Applicant

A Liaison Committee should be established to monitor and react to future operations on the Pebble Hall site.

Summary of the policies and proposals in the development plan which are relevant to the decision, as follows:

*Policies EV/4 and TR/3 of the Harborough Local Plan.*
*Policies WLP7 of the Waste Local Plan*
*Policies WCS4; WCS5; WCS10; WDC8 and WCS10 of the Waste Development Framework Core Strategy and Development Control Policies Document*

Summary of the reasons for the grant of planning permission

1. On the basis of the specific application for relatively small scale development in Northamptonshire, it is considered that the variation of consent represents an acceptable form of development *in principle*. However, given the number of different permissions and other 'lawful' activities on the overall site, it is essential to secure effective controls over the nature and intensity of operations and prevent an unacceptable increase in traffic generation from the site.

2. In addition to relevant conditions, the completion of a unilateral undertaking (to control and monitor the actual vehicular movements at the site access onto A4304) would provide an effective means of securing this objective. Subject to these requirements, the development would accord with the relevant policies of the development plan. The establishment of a site liaison committee would provide an appropriate forum to oversee development activities on the Pebble Hall site, and address concerns about the future monitoring and management of activities on the site.
20th December 2011

PLANNING OBLIGATION

Pursuant to

section 106

of the

Town and Country Planning Act 1990

given by

JEFFREY JENNINGS CLARKE

to

LEICESTERSHIRE COUNTY COUNCIL

in respect of

of Pebble Hall Farm, Bosworth Road,

Theddingworth, Leicestershire


E.M. McCalla LLB
County Solicitor
County Hall
Glenfield
Leicester
LE3 8RA

AWJ/CXPHE/12
**THIS UNDERTAKING** is made on 20th December 2011

**BY JEFFREY JENNINGS CLARKE** of Pebble Hall Farm, Bosworth Road, Theddingworth, Leicestershire ("Mr. Clarke") to **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Glenfield, Leicester, LE3 8RA ("the Council")

1. **RECITALS**

1.1 Mr. Clarke is the freehold owner of the unregistered Property known as Pebble Hall Farm and delineated on Plan 1 attached and is a partner in J.M.Clarke & Son which farms Pebble Hall Farm ("the Partnership")

1.2 The Council is the local planning authority for the purpose of the 1990 Act for the area within which the Property is situated and the authority by whom the obligations contained in this Deed are enforceable.

1.3 The Partnership has applied to the Council for the Planning Permission.

1.4 Mr Clarke is desirous of entering into a planning obligation under section 106 of the 1990 Act in respect of the matters contained in this Undertaking and is entering into this Undertaking in contemplation that the Council will grant the Planning Permission.

2. **DEFINITIONS AND INTERPRETATIONS**

2.1 In this Undertaking:

**"1990 Act"** means the Town and Country Planning Act 1990 as amended;

**"Application"** means the application reference 2010/0879/03 submitted to the Council for planning permission to carry out the Development.

**"Commencement of the Development"** means the carrying out on the Property of a material operation as defined by Section 56(4) of the 1990 Act in connection with the Development pursuant to the Planning Permission and "Commence the Development" shall be construed accordingly;

**"Development"** means retrospective approval to vary condition 3 of Planning Permission No. 2008/0889/03 (access in connection with carpet recycling activities);

**"Harvest Period"** means the period of approximately three months in each calendar year during which the Partnership is engaged in harvesting crops as part of the agricultural activities carried out on its agricultural holding at Pebble Hall Farm and associated holdings

**"Plan 1"** means the plan attached to this Undertaking:

**"Planning Permission"** means the planning permission to be granted pursuant to the Application: and

**"Property"** means the property shown edged red on Plan 1.
"v.m.p.d." means vehicle movements per day at the Property from the A4304 at OS Grid Reference SP 6603-8514;

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<th>2.2</th>
<th>Where the context so permits:</th>
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<tbody>
<tr>
<td>(a)</td>
<td>The expression the &quot;Council&quot; shall include their successor authorities save where specifically provided to the contrary by this Undertaking: and</td>
</tr>
<tr>
<td>(b)</td>
<td>The expression the &quot;Partnership&quot; shall include its successors in title and assigns save where specifically provided to the contrary by this Undertaking: and</td>
</tr>
<tr>
<td>(c)</td>
<td>words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.</td>
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| 2.3 | References in this Undertaking to a clause are references to the clause in this undertaking and references within a clause are references to that clause. |

| 2.4 | The headings appearing in this Undertaking are for ease of reference only and shall not affect the construction or interpretation of this Undertaking. |

| 2.5 | References in this Undertaking to any statute or delegated legislation include and import (unless the context otherwise required) reference to that statute or delegated legislation as amended or re-enacted from time to time and to any replacement or succeeding statute or delegated legislation from time to time. |

| 2.6 | The construction validity performance and enforcement of this Undertaking shall be governed by English law. |

| 2.7 | This Undertaking is completed pursuant to section 106 of the 1990 Act and the covenants by Mr. Clarke hereinafter contained are planning obligations for the purposes of Section 106 of the 1990 Act. |

### 3. ENFORCEABILITY

| 3.1 | The obligations in this Undertaking shall be enforceable not only against Mr. Clarke but also against any successors in title to and any person claiming through or under Mr. Clarke an interest or estate in the Property or any part thereof PROVIDED THAT no person shall be liable for any breach of the obligations contained in this Undertaking occurring after it has parted with its interest in the Property or the part of the Property to which the breach relates but without prejudice to the rights of the Council in relation to any breach arising prior to parting with such interest. |

### 4. UNDERTAKING AND COVENANTS

| 4.1 | Save for this clause 4.1 (which is unconditional) this Undertaking is conditional upon the grant of Planning Permission by the Council. |
4.2 Subject to clause 4.3 below Mr Clarke covenants for the benefit of the Council not to exceed 240 v.m.p.d. on any day Monday to Friday 120 v.m.p.d. on any Saturday or 65 v.m.p.d. on any Sunday.

4.3 The covenant given by Mr. Clarke under clause 4.2 shall not permit the Council to take any action against Mr. Clarke if but only if the limits specified in each case are exceeded during any Harvest Period and the total number by which the number of vehicle movement undertaken exceeds the maximum number of vehicle movements which in the absence of this clause 4.3 would be allowable during the said Harvest Period is no greater than 1000.

4.4 Mr. Clarke covenants to record the start and finish of each Harvest Period in a diary which shall be retained for not less than two years after the end of the Harvest Period to which it relates and to make the diary available for inspection by the Council as required.

4.5 Mr. Clarke further covenants for the benefit of the Council to install on the private road at a point between 65 metres and 75 metres from the nearside edge of the public highway an automatic counter to record all daily traffic movements into and out of the vehicular access to the Property and to retain the record of such daily movements for a period of two years from the date to which each record relates and to make those records available for inspection by the Council upon request.

5. THIRD PARTY RIGHTS

No person other than the Council may enforce any provision of this Undertaking solely by virtue of the Contracts (Rights of Third parties) Act 1999.

6. TERMINATION

If before the Commencement of Development the Planning Permission is quashed or revoked or is otherwise withdrawn or modified (other than by agreement with or at the request of Mr. Clarke) or ceases to have effect by operation of law or expires then this Undertaking will cease to have effect.

IN WITNESS whereof the following have executed and delivered this Undertaking on behalf of Mr. Clarke as a Deed the day and year first before written.

JEFFREY JENNINGS CLARKE

In the presence of

(print name)

Received and acknowledged as a Planning Obligation pursuant to section 106
Town and Country Planning Act 1990

Head of Legal Services
Leicestershire County Council