



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

REGULATORY - PLANNING COMMITTEE

13 May 2024

Report of the Executive Director – Place

**Erection of a Portal Frame Attenuation Housing to Existing Oxygen Generation Plant and (Retrospective) Erection of a Retaining Wall
Applicant: Ecobat Resources Ltd
Planning Application Code No. CW3/1123/40**

3.1742

1. Introductory Summary

- 1.1 The Ecobat Recycling Facility is located in South Darley, to the north of Darley Bridge. The site has been involved in lead smelting and processing for possibly over 100 years. HJ Enthovens acquired the site in 1941 and Ecobat took over in 2019. Operations at the site are now entirely related to the recycling of lead-acid batteries and therefore proposals for development are considered a matter for the Waste Planning Authority.
- 1.2 The site has evolved and grown over the years through the ad hoc, incremental addition of buildings needed to accommodate new and expanding processes, logistic and regulatory demands. There have been 10 applications in the last 20 years. Whilst it is accepted that local residents have a number of concerns relating to the operation of the site and these include the cumulative impacts of scale, noise, traffic, emissions to air, discharges to water and contamination of the land, the operation is extensively regulated. The application being considered here is for the installation of an acoustic attenuation housing, to be located on a previously consented concrete base, accommodating an oxygen generation plant. The purpose of the development for attenuation housing is to reduce the noise impact of the consented

oxygen generation plant. While the housing is located within a waste recycling facility, it does not, itself, contribute to the recycling process, its sole purpose is the reduction of noise. Its installation has not been required by regulation and the oxygen plant can lawfully operate in the absence of the attenuation housing.

- 1.3 A retaining wall to the rear of the attenuation housing is sought for retrospectively and would amend the previously consented development of the oxygen generation plant.
- 1.4 There are no new processes, emissions or discharges associated with the proposal. The attenuation housing will be sited on an existing and consented concrete base. No further groundworks or tree works are required. Traffic impacts will be limited to construction traffic and, given the nature and scale of the attenuation housing, will be for a relatively short period only. The addition of the attenuation housing will reduce the level of noise experienced in the locality. It is accepted that it is another building on site, a further incremental expansion, however, it is relatively small and will enclose existing plant to provide noise attenuation. In my view, the proposal represents betterment and should therefore be granted planning consent.
- 1.5 The issues raised by representations and consultees are discussed in more detail below.

2. Divisions Affected

- 2.1 Derwent Valley.

3. Purpose

- 3.1. To enable the application to be determined by the Regulatory - Planning Committee.

4. Information and Analysis

Site

- 4.1 The Ecobat Resources Ltd site is located at South Darley, approximately 500m west of the settlement of Darley Bridge and 850m to the south-west of Churchtown. Stanton Lees lies 900m to the north-west and Warrencarr only 250m to the north-west of the Ecobat facility boundary. The application site itself, forming only a small part of the overall facility and located in the south-eastern corner of the wider site, is 615m from Warrencarr and 1.3km from Stanton Lees. At its closest point, the application site is only 25m to the north of the Peak District

National Park boundary. Similarly, Clough Woods Site of Special Scientific Interest (SSSI) and Cambridge Wood ancient woodland are close to the site, being only 100m to the south-west. The nearest listed buildings are Potters Cottage and the Three Stags Heads public house which are 625m to the east and within the village of Darley Bridge. The site is mostly surrounded by plantation woodland within the ownership of the applicant and subject to a long-term management plan.

- 4.2 The site is not crossed by or directly affecting any Public Rights of Way (PRoW), although South Darley WD110/46/3 byway open to all traffic (BOAT) follows Oldfield Lane which is to the south of the facility and only 10m from the application site. A thin belt of trees occupies the space between Oldfield Lane and the application site boundary.
- 4.3 Public Footpaths South Darley WD110//1/1 and WD110/1/2 follow a north/south alignment from Oldfield Lane to Warrencarr via the former site of Millclose Mine. Although this route affords clear views of the wider Ecobat site, views of the application site are limited and will be considered below.
- 4.4 The Ecobat Resources Ltd facility is reputedly the largest lead-acid battery recycling plant in Europe, extending over an area of approximately 9.8ha, although the surrounding land within the ownership of Ecobat is significantly larger than this, comprising 25.25ha west of the River Derwent and east of Darley Bridge, mostly comprising plantation woodland. The site has a long history of lead working associated with the nearby Millclose Lead Mine which closed in 1940. The site currently operated by Ecobat, is first shown as a lead smelting works on the 1919 - 1939 OS map, although the exact date of its establishment is not known. HJ Enthovens and Sons acquired the site in 1941. An application was made to the Environment Agency in January 2019 for a variation in the existing Environmental Permit, changing the name of the operator from HJ Enthoven Ltd to Ecobat Logistics.

Planning History

- 4.5 Throughout its history, the site has grown and evolved as a result of gradual expansion from a site of approximately 2ha to its current extent of 9.8ha. Over the past 10 years, there have been a number of planning applications resulting in a progressive expansion of the site. Previous applications have been determined by Derbyshire Dales District Council, however, as the operation of the site has evolved, it has become increasingly apparent that the business of Ecobat is now waste recycling rather than the smelting of lead ore. The main activities carried out are therefore the recycling of lead-acid batteries, to produce a

variety of recycled materials including lead ingots and sheet metal, polycarbonates and gypsum.

4.6 All of the applications below have been determined by Derbyshire Dales District Council with the exception of 17/00119/CM for Hazardous Substances Consent, which was determined by Derbyshire County Council (Code CH3/0117/85).

- 06/00029/FUL - Two storey side extension, Cowley Lodge. Approved with conditions, 23 February 2006.
- 06/00239/FUL - Reverbatory furnace and gas desulphurisation system. Approved with conditions, 17 March 2006.
- 12/00347/FUL - Erection of storage building. Approved with conditions, 10 August 2012.
- 12/00423/FUL - Erection of industrial building. Approved with conditions, 13 September 2012.
- 15/00910/FUL - Extension to height of chimney and associated works. Approved with conditions, 2 February 2016.
- 17/00119/CM - Application for Hazardous Substances consent (CH3/0117/85). No objection, 9 March 2017.
- 18/00919/FUL - Installation of new road, extend car park, construct retaining walls, relocate building and extension to existing building. Approved with conditions, 24 October 2018. Includes the relocation of the Oxygen farm.
- 19/00525/FUL - Erection of two storage buildings. Approved with conditions, 14 June 2019.
- 21/00500/FUL - Proposed extension to C-Bays building to accommodate relocated equipment (modifications to extension previously approved under planning permission, 18/00919/FUL).
- 22/00873/FUL - Erection of portal frame housing over previously approved oxygen generator area. Intervention, determined to be a County Matter, now application CM3/1123/40, 12 January 2022.

The Proposal

4.7 The application comprises two elements, the first being the proposed erection of an acoustic attenuation housing to enclose the oxygen generator sets forming part of the previously consented oxygen farm. The battery recycling facility requires an oxygen generation plant, for the storage and decompression of liquid oxygen used in the lead smelting process. Application Code 18/00919/FUL gave consent for an extension to the 'C-bays' processing building and the relocation of the oxygen generation plant to the location currently under consideration. The new location is approximately 35m from the original and moved toward the rear of the facility. The 18/00919/FUL consent does not include the enclosure of the oxygen generation plant.

- 4.8 The acoustic enclosure will take the form of a steel portal frame building measuring 21m long, 14.25m wide and 7.5m to the ridge (7m to the eaves). The building will be powder coated in Battleship Grey to match the existing buildings on site. The structure will include a composite cladding profile with insulated core to provide the desired acoustic attenuation. The shutter door and personnel doors will also be acoustically clad. This structure will sit on the concrete base supporting the oxygen generation plant consented by application code 18/00919/FUL. The erection of the housing does not require any additional groundworks over and above those consented by application code 18/00919/FUL for the relocation of the oxygen plant.
- 4.9 Drawings T_21_2496 80-102 P1 and T_21_2496 80-103 P1 show what is described as an 'existing lean-to' at the eastern end of the attenuation housing; it is understood that this structure had not been built by the time of the submission of the application, however, it had been consented by application code 18/00919/FUL and it has subsequently been installed. The term 'existing' was used by the applicant on the drawings to make it clear that this structure does not form part of this application. It has been consented previously and thus its construction is lawful. It is understood that the lean-to encloses the electronic control equipment for the oxygen farm. The use of the word 'existing' by the applicant has been cited in representations as an error. While it may have been a poor choice of word, it does serve to differentiate between that consented structure (which is now existing) and the proposed structures within the site.
- 4.10 The second element of the application is for retrospective consent for a retaining wall to the rear of the new location for the oxygen plant. This wall relates to development under the 'C-bays' permission (18/00919/FUL); although there is no consent for the wall under that permission, it forms part of the works that were actually carried out in order to implement that development. The creation of the retaining wall has reduced the need to regrade the ground to the rear of the oxygen plant to provide a stable slope. The retaining wall has therefore reduced ground disturbance to the rear of the oxygen plant and, in my view, represents the least intrusive design solution.
- 4.11 No external lighting is proposed in the submission. However, I consider that it is possible that the applicant will determine that external lighting is required, so I would therefore suggest that, if approved, a suitably worded condition be attached to the consent requiring the submission and approval in writing of any future external lighting schemes associated with the oxygen plant and acoustic attenuation housing.

- 4.12 The application does not meet the criteria to require an Environmental Impact Assessment and, therefore, an Environmental Statement is not included in the application documents.
- 4.13 The site benefits from an Environmental Permit regulated by the Environment Agency. This permit limits the production capacity of the site and operates outside the land use planning system. We must make the assumption that this regulatory regime is operated effectively.

Consultations

- 4.14 **Local Member Councillor Susan Hobson (Derwent Valley)**
No Comment.
- 4.15 **Councillor Roger Shelley (Derbyshire Dales District Council, Darley Dale)**
Supports actions for the reduction of noise from the Ecobat Plant but objects to the proposal as the acoustic assessment is felt to be inadequate, not specifically considering the noise impacts of the plant on the residents of Darley Dale. Councillor Shelley considers that the application should be deferred or refused until a full assessment of noise impacts on Darley Dale has been provided. The application fails to address the cumulative impacts of site expansion and traffic increases over the past 20 years. The full text of Councillor Shelley's representation is included in Appendix 2 below.
- 4.16 **Councillor Laura Mellstrom (Derbyshire Dales District Council, Youlgreave)**
Councillor Mellstrom represents an adjacent ward which is impacted by noise from the Ecobat plant and is concerned that the proposal omits to reference the residents of Warrencarr. The application focuses on noise attenuation but Councillor Mellstrom states that noise is not the only issue that should be considered, other issues should include cumulative impact and lighting. The full text of Councillor Mellstrom's representation is included in Appendix 2 below.
- 4.17 **Derbyshire Dales District Council – Planning**
Permission has been granted in the main for the extension of C-bay and, in doing so, the requirement to move the oxygen generator and tank farm to the location east of the Flue Gas Desulphurisation building. In this case, the application involves enclosing plant approved planning permission in 2018 and then again in 2021. The site has a long-established industrial use. The industrial processes on site are controlled by the Environment Agency and the amount of material that can be processed is capped. This will not change as a result of the

development. On the basis of the above, Derbyshire Dales District Council raise no objection.

4.18 Derbyshire Dales District Council – Environmental Health

No comment.

4.19 Derbyshire Wildlife Trust

No comment.

4.20 Peak District National Park Authority

“Although we do not object to this proposal, the cumulative impact of further site expansion is of concern in the setting of the national park and we would like to be consulted on further applications/proposals for the site. The National Park Authority would welcome any opportunities to strengthen the landscaping around the site.”

4.21 Environment Agency

“We have no objection to the application. We generally support installation of noise attenuation measures. Although cladding with noise attenuation properties is mentioned in the proposal, we would recommend that the operator ensures with their consultants that the cladding is suitable for the frequency ranges likely to be generated. Also, we would recommend that the roof is also suitably insulated to reduce noise propagation.”

4.22 Stanton-in-the-Peak Parish Council

The comments of the Parish Council are publicly available along with the application documents. Issues raised are addressed below.

4.23 South Darley Parish Council

The comments of the Parish Council are publicly available along with the application documents. Issues raised are addressed below.

4.24 Lead Local Flood Authority

No comment received. The site is not identified as being at risk of flooding.

4.25 Conservation Heritage and Design – SLR Consulting Ecology

“Having reviewed the application documentation, including the submission of a Woodland Management Plan that includes management of Clough Woods SSSI, we have no objections in relation to ecology. We recommend the following item be conditioned:

- *Lighting: A condition should be attached which stipulates that no natural habitats should be subject to artificial lighting as a result of the minor alterations, or if lighting is required that may result in light spill*

onto natural habitats, then a suitable lighting scheme should be developed and set out within a Sensitive Lighting Strategy, prepared in accordance with Bat Conservation Trust Guidelines on artificial lighting at night.”

4.26 Conservation Heritage and Design – Landscape

“The applicant previously sought pre-application advice, at which time it was anticipated no significant landscape or visual effects other than the potential for some localised visual impacts for the users of Oldfield Lane.

4.27 As previously stated, the overall proposal is a relatively minor change in relation to the wider site and the design and colour finish of the building are appropriate to context and, as such, will in my opinion result in no significant landscape or visual amenity effects. There are proposals included for the wider management of the woodland estate surrounding the plant site, which is welcomed, and includes the felling of the poplar woodland surrounding the new building and replanting (area 3a on the plan). It is unclear what the replanting would entail although it is suggested that a broader mix of broadleaf trees and understorey shrubs will be planted, which could have a significant effect in increasing and improving the screening value of the woodland at this location on potential users of Oldfield Lane. We could seek clarification of exactly what is being proposed in compartment 3a to perhaps influence the detail of any replanting and ensure that it would maximise future screening of the site.”

Representations

4.28 The application was advertised by site notice on 12 December 2023 and by press notice on 28 December 2023. The Case Officer has met with a representative of Stanton Action for Environmental Renewal (SAFER) and Councillor Mellstrom (Derbyshire Dales District Council, Youlgreave) to discuss the proposal. Ten representations, including those of SAFER, have been received objecting to the proposal on the following grounds:

• **Location**

- The location of the site is inappropriate.

• **Cumulative Impacts**

- The application will result in a gain of non-residential floorspace contrary to what is stated on the application form.
- Cumulative impacts have not been addressed.
- Several previous planning applications relating to this site have not been referred to.

- Floorspace added to the site since 2018, and a car park extension, have not been referred to.
 - Reference to cumulative impacts in the Design and Access Statement.
 - There have been 10 applications relating to this site over the last 20 years, this is evidence of expansion of operations.
 - The site has increased in size substantially in recent years.
 - Lack of any evidence in the submission of the impact of the proposals in respect of cumulative impact.
 - Ecobat has not made full disclosure of 10 planning applications over the past 20 years.
 - Gradual creep in the size of the existing operation.
- **Air Pollution**
 - Air pollution from Ecobat activities.
 - Pollution from HGVs.
- **Traffic**
 - Increase in HGV traffic and road congestion.
 - Traffic congestion.
 - Impact on highways, needs a comprehensive traffic assessment.
 - More traffic details are required before a decision can be made.
 - Lack of any evidence in the submission of the impact of the proposals in respect traffic.
- **Public Consultation with the Community**
 - Will DCC make a copy of the 2015-2014 woodland management Plan available for public scrutiny (available with the application documents).
 - Will DCC ask that the company engage in public consultation?
 - Can local residents be consulted on future applications?
 - Lack of public consultation by Ecobat with local residents.
 - The application was not widely publicised.
- **Light Pollution**
 - Light Pollution.
 - Lighting and possible light trespass.
- **Biodiversity**
 - Biodiversity information is not provided.
 - The Clough Wood Management Plan is incomplete.
 - There are trees (or were) on the development site.
 - Three trees have blown down near to the site in recent months.
 - Requirement for a tree survey.
 - Biodiversity and geological conservation.

- There is a SSSI near to the site but the applicant has not acknowledged this.
 - The proposal will impact upon the Clough Woods SSSI.
 - No consideration for wildlife or local residents.
 - Next to a SSSI.
 - Inaccurate or incomplete information in respect of consideration of the proposals on the local habitat.
 - The Woodland Management Plan (which ensures some screening of the Site) is not fully completed.
- **Noise**
 - The acoustic barrier created by the woodland surrounding the site is not referenced in the Clough Wood Management Plan.
 - Newly proposed external plant being outside the scope of the noise assessment.
 - The application does not indicate which alternatives have been considered.
 - Will components operating simultaneously impact on sound levels.
 - The Environment Agency suggests that the roof of the enclosure is also clad with acoustic materials, can the County Council request this?
 - The site causes noise disruption.
 - Noise pollution.
 - Uplift in noise over last 18 months with little evidence that concerns about noise are not being acknowledged or resolved. Difficult to believe that this will contain noise and it may compound the issue.
 - No track record of appropriate noise control.
 - No base line assessment of noise at residential properties.
 - The noise assessment was made in 2021 and is therefore out of date.
 - Concern that there will be cumulative noise increase, difficult to judge if noise in Darley Dale will increase as a result of this proposal.
 - The acoustics report does not include an assessment of newly proposed plant. Noise is apparent at Darley Dale (Broadwalk and Greenaway Lane).
- **Water Pollution**
 - Water Pollution from Ecobats activities.
- **Public Health**
 - Must be impacting on public health.
 - Suggesting that consenting to future expansion would mean that the DCC Planning Department was liable for future health issues in surrounding communities.

- **Retrospective Elements**
 - The retrospective element should not be consented.
- **Requirement for a Hazardous Substances Consent**
 - The County Council asked to confirm if oxygen plant requires a Hazardous substance consent.
- **Errors or Omissions in the Application**
 - Inaccurate information in the application.
 - At least one of the drawings is inaccurate/errors on drawings relating to the access/service road/drawings regarding the access road are unclear/contradictory drawings - such as whether the existing access road is to be retained or a new one built?
 - The 'existing' Lean to building is not on site.
 - No details of the retrospective retaining wall.
 - The site is clearly visible from the public road, not 'cannot be seen' as described by the applicant.
 - Application should be invalid as it does not provide all of the information advised in the pre application discussions/not all info requested in the pre application advice has been provided.
 - Errors and missing information in the application, the application should be brought before the planning committee.
 - No Environmental Impact Assessment
 - Application fails to point out that Warrencarr is a residential area.
 - Lack of adequate details regarding size and location of the building and retaining wall.
- **Site of High Public Interest**
 - Ecobat has been designated as a site of High Public Interest by the Environment Agency, but this is not referred to in the application.

4.29 The issues raised in representations will be discussed below.

Planning Considerations

4.30 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In respect of this application, the relevant development plan policies are contained in the saved polices of the adopted Derby and Derbyshire Waste Local Plan (DDWLP) (2005) and the adopted Derbyshire Dales Local Plan.

Policy Considerations

4.31 National Planning Policy Framework

The most relevant paragraphs from the NPPF for this proposal are:

7: The purpose of the planning system.

8: Achieving sustainable development.

11: The presumption in favour of sustainable development.

38-50: Decision-making.

55-56: Planning conditions.

85, 87: Building a strong, competitive economy.

4.32 Derby and Derbyshire Waste Local Plan

W6: Pollution and Related Nuisances.

W7: Landscape and Visual Impacts.

W9: Protection of Other Interests.

4.33 Derbyshire Dales Local Plan

S1: Sustainable Development.

S4: Development in the Countryside.

S7: Matlock/Wirksworth/Darley Dale Development Strategy – Growth of local employment opportunities.

S9: Rural Parishes Development Strategy – Sustainable growth, encouraging growth of local employment opportunities and retention of existing employment provision

PD1: Design and Place Making

PD2: Protecting the Historic Environment

PD3: Biodiversity and the Natural Environment

PD5: Landscape Character

PD6: Trees, Hedgerows and Woodlands

PD9: Pollution Control and Unstable Land

HC19: Accessibility and Transport

EC1: New and Existing Employment Development

Assessment of the Proposal

Location

- 4.34 The location of the proposal is dictated by the location of the previously approved oxygen plant. The attenuation housing cannot usefully be installed in another location. Representations state that the site of the recycling plant is inappropriate by virtue of its rural location, proximity to residential areas and the Peak District National Park, and because access to the site is via narrow roads which were not designed with

heavy traffic in mind. However, it is a matter of historical fact that the site is located at South Darley and, as far as the Waste Planning Authority is aware, it is operating lawfully. The location of the recycling plant, as a whole, is not a matter for consideration as part of this application. I consider that, as the attenuation housing can only be constructed in the proposed location and as noise has been cited as a concern by local residents, the enclosure of the oxygen plant in an acoustic attenuation housing is acceptable and accords with national policy and those of the DDLP and DDWLP.

Cumulative Impacts

- 4.35 Lead smelting and working have been carried out on this site for many decades and lead mining and processing were once commonplace in the area. The site is first shown as a lead smelting works on the 1919 - 1939 OS map. Since this time, a handful of relatively small workshops occupying a small proportion of the site have expanded into a site of nearly 10ha and comprised of many large industrial buildings, offices and ancillary facilities. This expansion has not been planned but has arisen from incremental changes and additions driven by both commercial and regulatory demands. Including an application for Hazardous Substances consent, there have been 10 planning applications over the past 20 years. While the addition of the attenuation housing is a new building on site, the proposal does not include any additional processes and will sit on the plinth formed as part of the consent for the relocated oxygen plant.
- 4.36 Representations have stated that this unplanned and incremental growth of the site, in what has been described as an inappropriate and poorly accessed location, must be addressed through the planning system. The addition of the attenuation housing is another example of incremental growth adding to the cumulative impacts of the site. However, the Conservation Heritage and Design Service of the County Council has stated that the visual impact of the attenuation housing enclosing existing plant will, by virtue of its size, colour and location, be a relatively minor change in relation to the wider site.
- 4.37 I therefore conclude that while the proposal will add a relatively small new building to the site, this will be a minor change to the visual impact of the site and that the benefit of the enclosure of existing plant and the acoustic attenuation provided will outweigh the additional visual impacts and therefore the proposal acceptable and accords with policies W7 of the DDWLP and PD5 of the DDLP.

Landscape and Visual Impact

- 4.38 Previously consented development at the Ecobat site has resulted in the loss of roughly 0.3ha of plantation woodland to the north of the site (part of compartment 3a in the Woodland Management Plan). This has been required to enable the proposed C-bays extension (18/00919/Ful and 21/00500/FUL). The loss of this woodland has opened up views of the site from Oldfield Lane to the north. In addition, the relocation of the oxygen plant has moved it further south and closer to the southern arm of Oldfield Lane (BOAT WD110/46/3) where the plantation woodland is thin and offers little screening. In response to consultation, the Landscape Architect from the Conservation Heritage and Design Service, has stated that *“the overall proposal is a relatively minor change in relation to the wider site and the design and colour finish of the building are appropriate. However, it is recommended that additional planting in compartment 3a of mixed broadleaf trees and understorey shrubs could have a significant effect in increasing the screening value of the woodland”*.
- 4.39 The Woodland Management Plan itself relates to land in the ownership of Ecobat, but not forming part of this application (excepting the losses to compartment 3a consented by 18/00919/FUL). As landscape and woodland planting can be conditioned in relation to land outside the application site, but within the wider land holdings of the applicant, I consider that with the inclusion of a suitably worded landscape condition, the application can be made acceptable in relation to landscape and visual impact and accords with Policy W7 of the DDWLP.
- 4.40 The acoustic enclosure would be in keeping with the scale and appearance with other buildings on the wider Ecobat site and subject to conditions to require approval of landscaping scheme and for materials and colour to be as submitted (Battleship Grey) it is considered that the development would not result in any unacceptable impacts to character or appearance of the area in accordance with Policy W7 of the DDWLP, Policies PD1, PD5 and PD6 of the DDLP and guidance with the NPPF.

Air Pollution

- 4.41 There are no emissions from this proposal, it is an acoustic attenuation housing comprising a portal frame building with acoustic cladding. It is designed to reduce the noise impact of the enclosed plant on the locality and in terms of noise impact, it will not harm the wider environment. The proposed development does not include any processes or emissions (the enclosed plant having been previously permitted by 18/00919/FUL). As there will be no additional traffic generated by the proposal other

than construction vehicles, the air quality impacts of goods vehicle traffic associated with the proposal will be minimal. I therefore consider that in terms of air quality and emissions, the proposal is acceptable and accords with Policy W6 of the DDWLP.

Traffic

- 4.42 It is accepted that traffic generated by the Ecobat site is a concern for the local residents and congestion caused by HGV traffic is not uncommon. Access to the site is from the A6 via the B5057 through Darley Bridge, a route which is narrow, includes several tight bends and passes through residential areas and listed building. However, other than a small number of vehicles associated with the construction of the portal frame building, there will be no additional traffic associated with this proposal. This application is for an acoustic attenuation housing, Once constructed, it will not contribute to further traffic generation as the proposal does not introduce any new plant or processes to the site. Furthermore, it is not considered proportionate to require a full traffic assessment for the consideration of a development that will not result in an increase in traffic. I therefore consider that the short-term impacts of construction traffic are outweighed by the acoustic benefits of the proposal. In terms of traffic generation, I consider the proposal acceptable.

Public Consultation with the Community

- 4.43 While it may be good public relations practice for the applicant to consult local residents, it is not a requirement. The application was advertised by public notices on site, in Darley Bridge, Warrencarr and Stanton Lees, also in the local press and on the County Council's website. Due to the timing of site visits by the Case Officer (which included the placement of site notices) and publication deadlines for the local press, the consultation period exceeded the statutory requirement.
- 4.44 It is usual for a neighbour to be consulted directly as part of the advertising of the application where an application site (red line boundary) abuts the property of that neighbour. In this case, the nearest neighbouring property to the application site boundary is in Darley Bridge, 500m from the application site boundary and, therefore, direct consultation with individual residents was not required.
- 4.45 The Case Officer has been informed that a local liaison group meets periodically at the Ecobat offices. As part of the ongoing development management process, it may be appropriate for the Waste Planning Authority to be represented at these meetings in future.

Light Pollution

- 4.46 The proposed development will not contribute to increased light pollution as no additional lighting is proposed. I consider that, with the inclusion of a suitably worded condition seeking to minimise the impact of lighting and requiring the prior approval of any future lighting scheme associated with the oxygen plant and attenuation housing, the proposal can be made acceptable and accords with policies W7 and W9 of the DDWLP.

Biodiversity and Geodiversity Loss

- 4.47 The application was received before the introduction of the requirement for Biodiversity Net Gain.
- 4.48 There will be no additional biodiversity loss arising from the proposal. All groundworks have been implemented as part of planning consent Code 18/00919/Ful for the relocation of the oxygen plant. The attenuation housing will be located on the concrete slab created for the relocated oxygen plant.
- 4.49 The retrospective retaining wall to the rear of the oxygen plant is, in my view, acceptable. The retaining wall reduces the need to grade the land to the rear of the oxygen plant and therefore reduces the potential footprint of the proposal.
- 4.50 Although the attenuation housing will be sited approximately 100m from Clough Woods SSSI and Cambridge Wood ancient woodland, its impact will be to reduce the noise received from the facility at both the SSSI and ancient woodland. The development itself will enclose the oxygen plant and is to be fixed to the existing and previously consented foundation structure and will therefore introduce no further impacts upon biodiversity or geology.
- 4.51 Derbyshire Wildlife Trust and the Waste Planning Authority's ecological consultants have been consulted and suggested that any consent includes a condition to control any future proposals for external lighting. I consider that the benefit of the noise attenuation of the housing should be considered as betterment, reducing the impacts of the site, as a whole, on the nearby SSSI and ancient woodland, and that the inclusion of a suitably worded lighting condition, would ensure that the proposal can be made acceptable and accords with the policies of the DDWLP and the DDLP.

Noise Pollution

- 4.52 The purpose of the proposal is to reduce the propagation of noise from the enclosed plant. The acoustic data provided with the application

indicates that peak noise will be reduced from around 100dB to 69dB. It is accepted that this will not entirely resolve the impact on the acoustic environment around the site which operates 24 hours a day. However, in my opinion, the provision of the attenuation housing to enclose the oxygen plant should be considered a net benefit and the proposal consented. The proposal accords with Policy W6 of the DDWLP.

Water Pollution and Drainage

- 4.53 Other than the discharge of rainwater/roof-water, there are no trade effluent discharges from the attenuation housing. All discharges from the wider recycling site pass through an on-site effluent treatment plant regulated by an Environmental Permit issued by the Environment Agency. It has been suggested that inadequate information relating to site drainage has been included, however, drawing T/22//2542 55-01 provides all the drainage and ducting information associated with the oxygen plant site. Given that all site drainage is processed by a regulated, on-site water treatment plant and that the only discharge associated with the attenuation housing is roof-water, I consider that in relation to discharges and potential water pollution, the proposal is acceptable and accords with Policy W6 of the DDWLP.

Public Health Issues

- 4.54 There are no public health issues associated with this proposal. Any issues of public health associated with the wider operation of the lead recycling business on this site are not relevant to the proposed attenuation housing. The Environmental Health Officer has raised no objection. I therefore consider that in relation to public health, the proposal is acceptable and accords with Policy W6 of the DDWLP.

Site of High Public Interest

- 4.55 The Ecobat facility has been identified as a 'Site of High Public Interest' by the Environment Agency. This implies that there are potentially grounds for a high level of public interest in the regulation of the operation, but this relates to the processes of lead-acid battery recycling and the impacts that those process may have on the environment and population. The installation of this attenuation housing does not add to those processes, nor does it involve the potential disturbance and mobilisation of ground contamination as it is to be mounted on a pre-existing and consented foundation slab. The Environment Agency has been consulted and has no comments on the proposal in relation to the site's status as a Site of High Public Interest. While it is accepted that the wider recycling site is of High Public Interest, I consider that the provision of the attenuation housing will contribute to the reduction of noise from the site and should be viewed as beneficial in its contribution to noise reduction, I therefore consider that the proposal acceptable.

Retrospective Elements

- 4.56 The retaining wall has been implemented as an unauthorised variation of consent code 18//00919/FUL. It does not represent an unauthorised start to the proposed attenuation housing and, as such, the application form is correct in stating that the development of the attenuation housing had not been started without consent or prior to an application being submitted. Derbyshire Dales District Council has also provided evidence demonstrating that previous consents were started within the timeframe set by those consents. The removal of the retaining wall will require further groundworks and the regrading of land to the rear of the oxygen plant to maintain structural stability of the slope. In my view, the provision of a retaining wall is the most appropriate solution. In the context of the wider site, the retaining wall is insignificant in its visual impact and, given its location to the rear of the attenuation housing, will be largely unseen. I therefore consider that the retrospective approval of the retaining wall is acceptable and accords with the policies of the DDLP and particularly Policy W7 of the DDWLP.

Errors and Omissions in the Application

- 4.57 A number of points have been cited as errors or omissions in representations. These include a lack of drainage information, uncertainty over the status of the access road, a lack of noise survey data for nearby settlements, an absence of traffic flow data, a lack of public consultation, an incomplete Woodland Management Plan and limited assessment of impact on local habitats. In the main, these issues have been addressed in the assessment above, but additional miscellaneous issues are discussed below.
- 4.58 The access road is consented by 18/00919/FUL and its inclusion within the application boundary is required to demonstrate that access to the site is possible.
- 4.59 The application includes information relating the degree of noise attenuation achieved by the housing as a reduction of noise at source. No noise survey data relating to nearby settlements is provided, but any reduction of noise at source should be considered a benefit and will be reflected in a reduction of noise at receptors.
- 4.60 The proposal is for an acoustic housing and, once completed, will not generate any additional traffic. The traffic required to construct a portal frame building of this size (21m long, 14.25m wide and 7.5m to the ridge) will be minimal. The commissioning of a full traffic survey is not considered necessary as the traffic flows generated by the wider site activities, which benefit from planning consent and an environmental permit, are not material to the consideration of the attenuation housing.

- 4.61 The Woodland Management Plan provided is incomplete and vague. However, this application is for an attenuation housing which will sit on a previously consented concrete base. The proposal does not affect the nearby woodland. Issues of screening will be included in a suitably worded condition and the provision of the attenuation housing will reduce the noise impact of the plant on adjacent woodland.

Conclusions

- 4.62 It is accepted that there are many issues associated with the operation of the wider recycling works in this location, close to the boundary of the Peak District National Park, close to Darley Bridge and Warrencarr, and overlooked by Stanton Lees. Access to the site by heavy goods vehicles is poor and local residents have raised concerns regarding traffic, noise, emissions and the cumulative impacts of a history of incremental expansion of the industrial complex. The oxygen plant has been relocated in accordance with planning consent code 18/00919/FUL and the current proposal for the enclosure of the oxygen generators in an acoustic attenuation housing should, in my view, be seen as a benefit for the area through a reduction of noise impacting on residential receptors and nearby habitats.
- 4.63 Work to prepare and construct an access road, relocate the oxygen farm and to clear a section of woodland (part of compartment 3a) already benefit from planning consent code 18/00919/FUL. The impacts of traffic on local roads, emissions to air and discharges to water are not relevant to this application as there are no new processes, emissions or activities proposed. The only additional traffic generation will be during the construction period. Given the size and structure of the attenuation housing, the construction traffic will not add greatly to the existing traffic situation and will be of short duration. The only discharge will be roof-water which will pass through the regulated on-site treatment works before discharge.
- 4.64 All ground works required have already been completed as part of 18/00919/FUL, including the retrospective element of the retaining wall. As a result, there will be no additional mobilisation of any contamination. The retaining wall represents an improvement from the consented scheme under application no. 18/00919/FFUL, as it reduces the need to regrade the slope to the rear of the oxygen farm, thus resulting in a visual improvement.
- 4.65 On cumulative impacts, since it is apparent that the site evolved over many years (starting before the first iteration of the modern planning system with the Town and Country Planning Act 1947) there may have been little prior consideration of how the historic progressive

development of the site would impact on local character and environmental quality. The local community is understandably concerned about the presence of a large lead processing works so close to residential areas, health being one of those concerns. However, the development for consideration under this application provides for an improvement in the quality of the local environment in terms of noise. The proposal being considered is for an acoustic attenuation housing to enclose a previously consented oxygen generation plant. It is designed to reduce the propagation of noise from that plant, at a site where noise is reported as a concern for local residents. Its visual impact has been described by our landscape specialists as a minor change in relation to the existing plant and it will not contribute to emissions or discharges from the site, nor will it contribute to further traffic generation, I therefore consider that the acoustic attenuation benefits of the proposal outweigh the minor visual impact which can be further reduced by the use of suitably worded planning conditions.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 Application CW3/1123/40 Proposed portal frame housing over oxygen generator area and retrospective retaining wall.
- 6.2 National Planning Policy Frameworks, December 2023.
- 6.3 Derby and Derbyshire Waste Local Plan 2005.
- 6.4 Derbyshire Dales Local Plan 2017.
- 6.5 Representations received.

7. Appendices

- 7.1 Appendix 1 - Implications.
- 7.2 Appendix 2 - Full comments made by Councillors Shelley and Melstrom.

8. Recommendation

That planning permission is **granted** for the development described under application CW3/1123/40 subject to the following conditions:

- 1) The development shall be undertaken in accordance with the details set out in the application CW3/1123/40, dated 20 November 2023, together with the letters and accompanying documents, in particular the following drawings and documents:

T_21_2496 80-101 – Site block plan as existing/proposed
T_21_2496 80-102 - Proposed floor plans
T_21_2496 80-103 - Elevations as proposed
T_21_2496 80-104 - 3D site perspectives as proposed
T_21_2496 80-105 – 3D site elevations as proposed
T/22/2542 55-01 – Drainage and ducting layout
00-GEN-200-004 – Site layout.

Reason: To enable the Waste Planning Authority to monitor the development in the interests of the amenity of the area.

- 2) A scheme for landscaping comprised of additional native tree and shrub planting in compartment 3a identified in the Woodland Management Plan and on land immediately to the south of the attenuation housing, for the purpose of screening the oxygen plant when viewed from Oldfield Lane to the south and also to provide screening when viewed from Oldfield Lane north-east of the site, shall be submitted to and approved in writing by the Waste Planning Authority. Such a scheme shall be submitted within one year of the date of this permission and implemented the following planting season. Losses during the first five years post planting shall be replaced.

Reason: To reduce the impact of views into the site from adjacent Public Rights of Way and in the interests of protection of local amenity.

- 3) The materials to be used in the construction of the external surfaces of the building, hereby permitted, shall be as specified on the application form and approved details. For the avoidance of doubt the buildings are to be finished in profile steel cladding in dark grey (RAL BS 4800:18B25 or RAL810-4) or equal to match existing buildings and structures.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings.

- 4) No new permanent or temporary lighting shall be erected or operated for the illumination of the attenuation housing, except in accordance with a scheme that has been first submitted to and approved in writing by the Waste Planning Authority. Any lighting scheme should be developed and set out within a Sensitive Lighting Strategy, prepared in accordance with Bat Conservation Trust Guidelines on artificial lighting

at night. In the event that it is proposed to erect lighting to illuminate the attenuation housing, then a scheme shall make provision for a three-month period of review to assess the impacts of the lighting on local amenity and to make necessary adjustments to the lighting to reduce light pollution and glare. Details of the adjustment shall be provided to the Waste Planning Authority, the scheme shall then be implemented as approved.

Reason: To ensure the development does not have an adverse effect on neighbouring amenity or ecological interests.

Informative Note:

- 1) The relocation of the oxygen plant to the site of the attenuation housing, which is the subject of this application, may require an application by Ecobat Resources Ltd for Hazardous Substances Consent and subsequent approval by the Waste Planning Authority in consultation with the County Emergency Planning Service.

Chris Henning
Executive Director - Place

Implications

Financial

1.1 None.

Legal

2.1 This is an application under Part III of the Town and Country Planning Act 1990, which falls to be determined by the County Council as Waste Planning Authority. Any other statutory provisions or legal considerations of particular significance to the determination are referred to in the body of the report.

2.2 I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Recommendation.

Human Resources

3.1 None.

Information Technology

4.1 None.

Equalities Impact

5.1 The determination of this application does not raise any equalities impact implications.

Corporate objectives and priorities for change

6.1 None.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None.

Local Councillor Comments

Councillor Roger Shelley (Derbyshire Dales District Council, Darley Dale)

Please accept my comments here as an objection, in support of the observations by the SAFER community group. I am not objecting to the principal of installing noise reducing facilities at the Ecobat site (quite the opposite), but like SAFER, I am concerned that there is insufficient evidence supplied to make a full, reasoned assessment of the proposals. My main concerns relate to the cumulative impact of this and previous planning applications, and the County Council's own apparent pre-application advice on this occasion, which draw attention to the need to take into account the effects of the serious of extensions on drainage, traffic and noise over the last 20 years. I consider that it is particularly important to take account of the note in the Red Acoustics report of July 2023, and their statement in their Conclusion that their assessment does not consider the impact of the new proposed plant on noise emissions. This is of special concern to myself as a Darley Dale ward councillor, where my colleagues and I are receiving reports now from local residents of low-level background nuisance noise from the Ecobat plant, even though the locations in question are approximately a mile distant (the Broadwalk and Greenaway Lane areas). If this is the situation at present, then you will appreciate how these concerns could be exacerbated by further cumulative increases in noise. My point is, that it is very difficult to judge this if there is inadequate information in the application about how Darley Dale residents will be affected. For this reason, I am objecting in order to reinforce SAFER's request for a deferral of the application pending further explanation and information.

Councillor Laura Mellstrom (Derbyshire Dales District Council, Youlgreave):

I write as the Derbyshire Dales District Council Member for Youlgreave Ward, which includes the parish of Stanton in Peak, and the communities of Stanton Lees and Warren Carr. Although the application site is not in my ward, I represent the residents most closely situated to it, being the villagers of Warren Carr.

The proposal to provide additional sound attenuation to the existing oxygen generation facility is welcomed, because noise from the Ecobat site is the source of much distress to the residents of Warren Carr. However, the application contains a large number of errors, and omits relevant information which I believe planning officer and committee members would wish to consider before deciding on appropriate conditions to any consent.

I note with concern that the existence of Warren Carr as a residential area is ignored by this Application. The aerial site view at Figure 2.3, page 8 of the

Red Acoustics report identifies only the Western edge of Darley Bridge as “Residential Properties”, ignoring the homes in Warren Carr which lie within the box described as “Forticrete Masoncrete”. This is particularly odd given that the site location address is “Oldfield Lane, Warren Carr”. This is not the first time that the existence of residential properties at Warren Carr, between Forticrete and Ecobat, has been glossed over in planning applications for this site.

I have read and wish to support the representations already filed by Stanton in Peak Parish Council and on behalf of SAFER. I do not repeat here the concerns and questions raised in those letters, but wish to emphasise the importance of ensuring that the highlighted errors and omissions are addressed by the Applicant, before any decision is made on this application, so that local residents can be confident that the Application has received the proper scrutiny.

The focus of the application documents appears to be on noise attenuation – an important matter, but not the only concern here.

The issue of lighting must also be addressed please. The cumulative effect of successive developments of this site over recent decades has been a dramatic increase in lighting levels and intrusive light pollution. The Applicant should be required to address the matter of how the new attenuation building is to be lit, and the cumulative effect of any new lighting on overall light levels at the site, on wildlife and on local residents. I would suggest that the best way to be confident that this, and the other environmental implications of the further development of this site, have been properly investigated, would be to require an Environmental Impact Assessment to be undertaken.

Indeed, you may find it surprising that (perhaps because development at this site has taken place by way of many small, incremental changes) no Environmental Impact Assessment has ever been commissioned. This is the largest single site producer of recycled lead in Europe, a Schedule 1 installation under the Environmental Permitting Regulations, just outside a National Park, which has been designated a Site of High Public Interest, and is right next to an SSSI (also, strangely, not marked on the site plans).

I therefore urge the planning department to require an Environmental Impact Assessment, together with clarification from the Applicant on the numerous significant errors and omissions in the application documents, before allowing this Application to proceed further.