APPLICATION NO: 09/0030/FDMAJW  VALIDATION DATE: 09-06-2009

DISTRICT REF: P1197/09/CPC

AGENT: Land and Mineral Management Ltd., Suite 1, Security House, 82c Chesterton Lane, Cirencester, GL7 1YD

APPLICANT: Mr M F Bennion, Rose Hill Farm, Dymock, Gloucestershire, GL18 2EF

SITE: Rose Hill Farm, Dymock, Gloucestershire, GL18 2EF

PROPOSAL: The variation of conditions 4, 5 and 12 of planning permission DF.4279/J to increase the throughput of the site, and be able to sell more of the compost product including a limited amount of public sales

PARISH OF: Dymock

SITE AREA: 1.36 ha

GRID REF: E: 368520

RECOMMENDED: That planning permission be granted for the reasons set out in this report and summarised at paragraphs 7.19 to 7.22 and subject to the conditions detailed in section 8 of this report.

1.0 LOCATION

1.1 Rose Hill Farm is located approximately 2.5 kilometres north west of Dymock. The site is accessed via a private track from the B4251. The proposed site is to the north of main farm and its associated buildings and adjacent (west) of the existing compost wind row operation.

1.2 The application site is not in an Area of Outstanding Natural Beauty (AONB) or a Special Landscape Area. The site is not in an area identified for its conservation value and is not within any area classified as a water course or groundwater catchment area. The site is in open countryside, and could be visible when viewed from the north and west.

1.3 The application site has agricultural fields to the north and west, planted as an orchard. To the south and east is the existing compost operation, the main farm and associated buildings. The nearest residential properties are Little Netherton (approximately 400 metres to the west) and Cropthorne
APPLICATION No: 09/0030/FDMAJW

TITLE: THE VARIATION OF CONDITIONS 4, 5 AND 12 OF PLANNING PERMISSION DF.4279/J TO INCREASE THE THROUGHPUT OF THE SITE, AND BE ABLE TO SELL MORE OF THE COMPOST PRODUCT INCLUDING A LIMITED AMOUNT OF PUBLIC SALES AT ROSE HILL FARM, LEOMINSTER ROAD, DYMOCK, GLOUCESTERSHIRE, GL10 2EF.

SCALE: 1:3000 & 1:25,000     DATE: SEP 2009    AGENDA No:    

DUNCAN JORDAN BEng, CEng, MICE, MIHT
Group Director: Environment
Shire Hall, Gloucester
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approximately 500 metres to the north west). Public Right of Way SO63SE (GDY/27/3) runs along the site’s access track (that leading to the main farm) and east of the site (approximately 200 metres away).

2.0 THE PROPOSAL

2.1 This application seeks the variation of conditions 4, 5 and 12 of planning permission DF.4279/J. Conditions 4 and 5 relate to the permitted throughput and export of composted material from site, and condition 12 relates to the public restrictions, in terms of material allowed for sale and receipt of waste direct from the public.

2.2 The proposal would require no changes to the built form of the site, but would see an approximate increase in associated vehicle movements of 6 additional trips per day (excluding retail sales).

2.3 The applicant has requested, as the variation to condition 4, that material imported to site shall not exceed a level of 35,000 tonnes per calendar year (it is currently 25,000 tonnes per calendar year), and the volume imported during any calendar month be increased from 3,500 tonnes to 4,500 tonnes.

2.4 The applicant has requested, as the variation to condition 5, that the total amount of composted material exported from site be increased from 2,000 tonnes per calendar year to 7,000 tonnes per calendar year, with an increase from 300 tonnes per calendar month to 1,000 tonnes per calendar month.

2.5 The applicant has requested, as the variation to condition 12, that direct sales of compost to the public shall only be carried out on Sundays between the hours of 09:00 and 13:00.

Environmental Impact Assessment

2.6 The proposal has had an Environmental Impact Assessment Screening Opinion exercise carried out, as the proposal constitutes development as listed in paragraph 11 of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Based on the nature of the proposed development and subsequent consultation, evaluation and consideration, a screening opinion has been issued stating that the application does not require an Environmental Statement.

3.0 PLANNING HISTORY

The site has the following relevant planning history:

<table>
<thead>
<tr>
<th>Planning Ref</th>
<th>Development</th>
<th>Decision &amp; Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/0029DMAJW</td>
<td>Extension to concrete pad for open wind row composting</td>
<td>Consent – 25/08/2009</td>
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</table>
Extension of existing open windrow composting operations to include in-vessel composting for the composting of green waste and kitchen waste and ancillary operations

Variation of conditions 6, 8 and 1 of permission DF.4279/G to accept non-hazardous liquid waste and apple pumice and green waste and kitchen waste and ancillary operations.

Proposal for extension of on-farm green waste composting facility, with small lagoon.

On farm compost facility.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Consent Date</th>
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<tbody>
<tr>
<td>06/0093/FDFUL</td>
<td>Extension of existing open windrow composting operations to include in-vessel composting for the composting of green waste and kitchen waste and ancillary operations</td>
<td>01/02/2007</td>
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<tr>
<td>06/0031/FDFUL</td>
<td>Variation of conditions 6, 8 and 1 of permission DF.4279/G to accept non-hazardous liquid waste and apple pumice and green waste and kitchen waste and ancillary operations.</td>
<td>29/06/2006</td>
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<tr>
<td>05/0010/FDFUL</td>
<td>Proposal for extension of on-farm green waste composting facility, with small lagoon.</td>
<td>28/10/2005</td>
</tr>
<tr>
<td>03/00074/COUNTY</td>
<td>On farm compost facility.</td>
<td>13/02/2004</td>
</tr>
</tbody>
</table>

**4.0 PLANNING POLICY**

**Planning Policy Statement (PPS) 10: Planning for Sustainable Waste Management**

4.1 PPS10 encourages communities to take responsibility for their own waste and to enable waste to be disposed of in one of the nearest appropriate installations. The statement promotes sustainable waste management whereby waste is moved up the waste hierarchy of reduction, reuse, recycling and composting and waste to energy, with waste disposal to landfill as a last resort, as detailed in paragraph 8.16 of PPS10, where it states: “In the case of waste disposal facilities, applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy. Otherwise, if the proposal is consistent with PPS10 and the core strategy there is no need to demonstrate ‘need’.”

4.2 In finding suitable sites for enhanced waste management facilities, a broad range of sites are identified for consideration.

4.3 When determining planning applications the PPS is a material consideration which may supersede policies in development plans and Waste Planning Authorities should therefore not place requirements on applicants, which are inconsistent with the PPS.

4.4 In considering applications for waste management facilities the PPS indicates
that authorities should consider the likely impact on the local environment and amenity.

4.5 The requirement for applicants to demonstrate that their proposal represents the Best Practicable Environmental Option (BPEO) that was a former requirement of previous guidance (PPG10) has been removed.


4.6 RPG 10 interprets the national planning policy framework at the South West regional level and is part of the statutory development plan and therefore must be considered. Policy RE5 states Local Authorities should pursue regional targets to recycle or compost at least 30% of household waste by 2010; and 33% by 2015.

4.7 The Draft Revised Regional Spatial Strategy for the South West incorporating the Secretary of State’s proposed changes – for public consultation July 2008 has been issued for final consultation and is a material consideration in the determination of planning applications. As the Draft Revised RSS has not yet been adopted the policies have limited weight. Policy W1 is relevant which states that by 2013, the region should have an annual municipal waste management capacity for 150,000 tonnes per annum for minimum source separated (this includes composting).

**Gloucestershire Structure Plan Second Review (Adopted 1999) – Saved Policies:**

4.8 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that the Adopted Structure Plan’s Development Plan status must be considered. The following policies are relevant to the proposed development:

**Policy S.4:**

“Development in rural settlements should be limited in scale, and sustain and enhance the character and appearance and the social and economic well-being of local communities. Development within the open countryside will be strictly controlled.”

**Policy S.6:**

“In providing for development the following aspects of the environment which contribute to local character and distinctiveness should be safeguarded and wherever possible enhance:

(a) the quality of the landscape;

(b) the setting of the settlements and buildings within the landscape; and
(e) the distinctive wildlife and habitats.”

Policy S.7:

“In providing for development the quality of the County’s environment should be maintained and enhanced by the following:

(a) high standards of design.”

Policy WM.4:

“Provision will be made for facilities associated with the recovery of materials through recycling and composting. The following locational criteria will apply:

(a) facilities should contribute towards an integrated waste management system;
(b) facilities should be in close proximity to major concentrations of waste arisings; and
(c) industrial, redundant and “brownfield” sites or existing waste management sites should be used in preference to virgin land where appropriate.”

Policy NHE.3:

“The best and most versatile agricultural land targets (grades 1, 2 and 3a) will be protected from development. Provision will only be made for development affecting such land exceptionally if there is an overriding need for the need for the development and either sufficient land of a lower grade (grades 3b, 4 and 5) is unavailable; or available lower grade land has an environmental value recognised by a statutory wildlife, historic or archaeological designation, and outweighs the agricultural designations. If best and most versatile land needs to be developed and there is a choice between different grades, land of the lowest grade available should be used.”

Policy P.1:

“Provision will only be made for development where it does not have an unacceptable effect in terms of:

(a) the environment and local community in terms of air, noise or light pollution;
(b) the quality of surface or ground water; or
(c) contamination of the land or soil.”
4.9 The Third Alteration has had an Examination in Public in November / December 2003. Two sets of Proposed Modifications have been produced. In April 2005 a Secretary of State Direction was issued on the Plan. Due to this Direction, the Plan remains held in abeyance and will not be forwarded to adoption. However the policies of the Third Alteration still remain as material considerations in the determination of planning applications. The policies not cited in the Direction have weight as material considerations.

4.10 The following policies are material considerations in respect of determining the proposed development:

- Policy SD.6 – Development in the Open Countryside will be strictly controlled, although small scale employment developments may be allowed which do not give rise to significant increases in vehicular traffic;
- Policy SD.21 – Applies to the provision of waste management facilities – gives preference to industrial sites or existing facilities as locations for waste facilities;
- Policy MR.1 – maintaining and enhancing local character and distinctiveness;
- Policy MR.2 – development form should be of a high standard;
- Policy MR.3 – the countryside and its’ character should be protected for its own sake;
- Policy MR.10 – controls development in respect of pollution impacts;


4.11 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that the Adopted Waste Local Plan’s Development Plan status must be considered. The following saved policies are relevant to the proposed development:

Policy 9 – Composting:

“Proposals for the development of:

A. Indoor composting schemes will be permitted in appropriate locations, and may be permitted as a reuse of appropriate rural buildings or as part of an integrated waste management facility.

B. Composting schemes which do not require new buildings or structures will only be permitted in appropriate locations where the scale of the operation does not materially conflict with surrounding land uses.”
Policy 33 – Water Resources – Pollution Control:

“Proposals for waste development will only be permitted where there would be no unacceptable risk of contamination to surface watercourses, bodies of water or groundwater resources.”

Policy 36 – Waste Minimisation:

“Proposals for development requiring planning permission shall include a scheme for sustainable management of the waste generated by the development during construction and during subsequent occupation. The scheme shall include measures to:

1. Minimise re-use and recycle waste; and
2. Minimise the use of raw materials; and
3. Minimise the pollution potential of unavoidable waste; and
4. Dispose of unavoidable waste in an environmentally acceptable manner.

Initiatives to reduce waste generation will be encouraged throughout the County.”

Policy 37 – Proximity to other land uses:

“Proposals for waste development will be determined taking into account such matters as the effect on the environment, occupants’ and users’ amenity and health, the countryside, the traditional landscape character of Gloucestershire, the local highway network, any hazardous installation or substance and any adverse cumulative effect in combination with other development in the area. Where appropriate, suitable ameliorative measures shall be incorporated in the proposals to mitigate, attenuate and control noise, dust, litter, odour, landfill gas, vermin, leachate and flue emissions.”

Policy 38 – Hours of Operation:

“The Waste Planning Authority will, where appropriate, impose a condition restricting hours of operation on waste management facilities to protect amenity.”

*Supporting Commentary – However, for some wastes, such as special wastes and medical or clinical wastes, incineration may be the Best Practicable Environmental Option.

Policy 40 – Traffic:

“Proposals for waste development will only be permitted where the site access and the adjacent highway network can safely accommodate the traffic associated with the development, or where the required Highway improvements would not cause unacceptable harm to the local environment. A traffic assessment will be required to address the traffic generation of the proposed development and its impact on the local road network.”
Policy 41 – Public Rights of Way:

“Proposals for waste development should include, where appropriate, proposals to create new public rights of way and should safeguard existing public rights of way by incorporating measures to segregate or divert them, prior to commencing development. Where new public rights of way are created, operators will be asked to enter into a maintenance agreement. This will place a responsibility on the current and any future landowner to manage these rights of way.”

Policy 43 – After-use:

“The Waste Planning Authority will encourage after-uses on waste management sites which will:

- Benefit the local community;
- Diversify the local economy;
- Improve amenities;
- Enhance biodiversity and wildlife habitats, landscape features, the local environment, or other sites of geological or scientific interest, or
- Provide woodland areas.

Where this does not conflict with other policies, and the biodiversity action plan.”

Forest of Dean District Local Plan Review (Adopted November 2005)

4.16 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that the Forest of Dean District Local Plan’s Development Plan status must be considered. The following saved policies are relevant to the proposed development:

(R)F.Strategy 2

“Proposals for development will be required to take account of the principles of sustainability, with respect to:

1. Minimising the energy demands arising from the need to travel
2. Making the best use of existing or proposed infrastructure and services
3. Ensuring the conservation or enhancement of the natural and man-made environment
4. Minimising the use of natural resources
5. Minimising the demands and impacts upon energy and water, and with respect to waste, arising from the construction and occupation of new development
6. Providing for mixed land uses where appropriate.”
“Proposals for development will be required to:

1. Provide for vehicular access of an appropriate standard to a highway in a manner which has no unacceptably adverse effect on the function of the highway from which the access is gained
2. Ensure that the traffic arising from the development will not have an unacceptably detrimental effect on the highway network in respect of the movement of traffic and road safety
3. Ensure that the traffic arising from the development will not have an unacceptably detrimental effect upon the surrounding environment by reason of noise, vibration or reduced amenity
4. Provide for safe and convenient access for pedestrians, cyclists, buses and the disabled, including cycle parking.”

“In order to protect the open countryside development will be strictly controlled and will only be permitted where the development:

1. Will not result in the unacceptable loss of the best and most versatile agricultural land, or woodland
2. Will not create amenity problems for adjoining or nearby land users
3. Will not result in development of a scale, form, design or appearance that would be visually intrusive or detrimental to the character and appearance of the area
4. Will not result in an unacceptable impact on the biodiversity of the area or on sites or features of archaeological or historic importance
5. Will not create unacceptable traffic generation of highway safety problems
6. Make appropriate provision for access
7. Make provision for a high standard of landscaping and screening to assimilate the development into its surroundings.”

“Proposals for development will be expected to conserve, and where appropriate enhance, the key characteristics of their surroundings with respect to the natural and historic landscape, wildlife and natural features.”

5.0 REPRESENTATIONS

5.1 The proposal was advertised by site notice that was posted on 9th July 2009 and a newspaper advertisement dated 23rd July 2009. 6 letters were sent to neighbouring residents and premises adjacent to the site boundary to notify them of the application. Closing date for comments was the 13th August 2009.

5.2 No letters of objection have been received.
6.0 CONSULTATIONS

Forest of Dean District Council:

6.1 Objection on highways grounds suggesting that the increased throughput and sales to the public would be unsustainable and so contrary to Policy (R)F.STRATEGY.2 of the Forest of Dean District Local Plan Review. Verbatim, the objection is "The site is located in open countryside well away from any major settlements. As such it remains an unsuitable location for such an enterprise and the previous objection remains valid particularly as it is now proposed to yet again expand the enterprise and thus would be contrary to policy (R)F.STRATEGY.2 of the District Local Plan Review. The level of vehicular movements to and from the site and employees numbers would inevitably not be maintained at the current permitted level. Therefore the Local Planning Authority, on balance, would object to this proposal."

Whilst it is acknowledged the proposal involves the intensification of an existing permitted use on the site, the District Council still remain concerned that the location is not suitable and therefore object to the proposal."

Dymock Parish Council:

6.2 No objection

Environment Agency:

6.3 No objection subject to the attachment of an advisory detailing the applicants need to apply to the Environment Agency to vary the Environmental Permit for the operation, and that matters such as odour / bio aerosols and leachate will be reviewed as part of the permitting process.

The County Highways Representative:

6.4 No objection subject to condition requiring that the product produced for sale is processed only at site and not imported.

7.0 PLANNING OBSERVATIONS

Landscape:

7.1 No objection subject to conditions relating to maintaining height of wind rows, and ensure vehicles associated with the operation are stored within (to the south of) the existing bund or within the farm buildings when not in use (outside of operating hours), in the interests of visual amenity.

Ecology:

7.2 No objection.
Archeology:

7.3 No objection.

Planning

7.4 This application is for the variation of conditions 4, 5 and 12 of planning permission DF.4279/J to increase the throughput of the site and be able to sell more of the compost product including a limited amount of public sales at Rose Hill Farm, Dymock, Gloucestershire, GL18 2EF. The proposed development of the site is detailed in the submission.

7.5 The main considerations in determining this application are as below:

**If the proposal accords with the relevant Development Plan/s:**

7.6 The proposed variation of conditions to allow for an increased yearly throughput and increased volume of sales (as well as time limited sales to the general public), would accord with the relevant Development Plans by virtue of the fact that the application would not detract from the aesthetics of the surrounding open countryside, would not be to the detriment of neighbouring users and receptors, would have a negligible effect on the surrounding highway network, would not be unsustainable as it would continue to provide for composting at the only identified site in the Forest of Dean (and so would minimise journey movements to sites outside the District), and would contribute to the objectives as detailed in PPS10, RPG10 (Policy RE5), Draft Revised RSS for the South West (Policy W1) in terms of provision of capacity for the process of waste to compost and would be in relatively close proximity to the source of waste. Collectively, and on balance, the proposed variation of conditions would be sustainable, would not be to the detriment of the appearance of the wider area, or the amenity of neighbouring users. Therefore, the proposal is not considered to be contrary to the objectives of Plan policies.

**Impact on Amenity / Highway Network of the proposed development on its surrounds and Public Rights of Way:**

7.7 The proposed siting of the existing composting operation, as detailed in application number DF.4279/J, would not be to the detriment of the neighbouring visual amenity due to the fact that the development would be screened by the visual bund. In addition, the operation would continue to be seen in context with the existing composting process, and would be set against existing farm buildings when viewed from the north and west (the views that would be from the nearest residential properties). In addition, the treatment of the bund (and its extension west – note application 09/0029/FDMAJW) would be in keeping with the grassed areas to the north and east of the site, and over the medium period would be further screened by the planted orchard to the west. This boundary treatment would minimise visual impact and amenity on surrounding users and receptors.
7.8 The works as proposed would also have a negligible effect on the public right of way that runs to the south and east of the site due to the manageable increase in vehicle movements along route SO63SE, especially where the route is shared with the farm’s main point of access from the B4215 [additional trips are stated as being 6 per day (excluding retail sales)]. It is noted from existing permissions that the site and its associated activities generate approximately 7 vehicle trips per day (14 movements). Although it is noted that the additional vehicle movements constitute an increase of approximately 40%, comments on the application from GCC Highways state that the variation would have no detrimental impact on the highway network, or access, and no concerns have been raised with regards to the implications on users of the public rights of way. Therefore the visual aesthetics and amenity to users of the area would be unaffected and the proposal would accord with the objectives of Policies S.4, S.6 and S.7 of the Gloucestershire Structure Plan Second Review and Policies 40 and 41 of the Gloucestershire Waste Local Plan.

Impact on the Environment and Pollution Considerations:

7.9 It is noted that the site is located in a Source Protection Zone 3 and is on a Minor Groundwater Aquifer (I1) and so could pose a risk to groundwater. However, the proposed variation of conditions of planning permission DF.42749/J does not propose to alter the existing drainage system currently operational on site. This ensures environmental risks relating to groundwater are managed, and would continue to fall within the remit of the Environment Agency’s Environmental Permitting programme. Therefore, the proposal would accord with Policy P.1 of the Gloucestershire Structure Plan Second Review and Policy 33 of the Gloucestershire Waste Local Plan.

Odour, Air Quality (Bio Aerosol) and Noise Issues related to the proposed development:

7.10 It is accepted that the operation of the proposed development would result in there being an odour from process of composting. However, due to the sites proximity to neighbouring sensitive receptors, noxious odours would be minimal. This is supported by both the Environment Agency (EA) and the Forest of Dean Environmental Health Officer (EHO) in their submissions. Furthermore, the EA would have the opportunity to redress any issues through the enforcement of the applicable Environmental Permit (as issued by them).

7.11 It is accepted that the process of composting could result in the release of bio aerosols, due in part to its external nature. However, the process, due to its size and location would not be considered significant enough necessitate an assessment as the proposal would not meet the criteria detailed in the Environment Agency’s Policy Statement relating to Composting and potential health effects from bioaerosols (Policy Number 405_07 – dated 23rd October 2007). As such, the development in planning terms would not be considered so sensitive to result in potential issues arising at site from bio aerosols. This is supported by the EA in their submitted comments (date stamped 12 AUG
However, as part of the Permitting process, the EA has advised that matters relating to bioaerosols / leachate from the site and its operation will be reviewed as part of the varying of the Environmental Permit for the site as would be required by the applicant.

7.12 It is noted that the process will be running on a 24-hour basis, but that the material on site would be worked during conditioned periods of time during the day. In addition, there are no proposed changes to current working practice at the site different to those currently in place. Therefore, there is to be no increase in noise levels from the site. Furthermore, noise conditions will be applied as per those existing for the site.

7.13 I consider that the proposed development would not give rise to unacceptable levels of odour, air quality or noise to nearby receptors [users of public right of way number SO63SE or Little Netherton or Cropthorne (the two nearest properties)], and would accord with Policy P.1 of the Gloucestershire Structure Plan Second Review, Policy 41 of the Gloucestershire Waste Local Plan and Policy (R)FT.2 of the Forest of Dean District Local Plan.

Other considerations:

Sustainability:

7.14 It is noted that the Forest of Dean District Council has objected to the proposed variation of conditions on the grounds that the development would generate increased vehicle movements and would therefore be unsustainable. It is noted that the proposed operation will continue to receive waste from sources outlined in application number DF.4279/J (namely Forest of Dean kerbside kitchen waste collections), as well as from locations in South Herefordshire and South Worcestershire where they abut the Gloucestershire County boundary (the site being central to the three locations). It is accepted that there are no other composting sites in the Forest of Dean, and only three others within the County of Gloucestershire [New Earth Solutions (Sharpness); Wingmoor West (Bishops Cleeve) and Sunhill (South Cotswold)]. The proposed variation of conditions, at the established composting site would minimise the energy demands that could arise from the need to travel (as it would maintain the facility within the Forest of Dean District Boundary), would make the best use of the existing infrastructure (the site is already in place), would continue to maintain the aesthetics of the location (would operate within existing height conditions for windrows / maintain the visual bund), would minimise the use of natural resources (the site is existing so wouldn’t require new construction), as a waste facility would minimise demands on energy and water (the site is existing so wouldn’t require new construction) and would provide a suitable location for mixed use (such as the limited sale of the compost product to the public, as produced at site). Therefore, the intensification of use at site, when considered against the start up of a new site for such operations (materials used / land take required etc), together with potential, and unknown distances for the travel of waste (currently beyond the boundary of the Forest of Dean District) would not be
unsustainable, and would accord with Policy (R)F.Strategy 2 of the Forest of Dean District Local Plan Review.

7.15 In addition, the increase in capacity to take greater volumes of green and kitchen waste would divert material away from landfill facilities, so moving waste up the hierarchy. As such, the proposal would contribute to the recycling targets and would accord with the objectives of PPS10.

Human Rights

7.16 From 2nd October 2000 the Human Rights Act 1998 has the effect of enshrining much of the European Convention on Human Rights in UK law. Under 6(1) of the Act, it is unlawful for a public authority to act in a way, which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1), and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

7.17 The main Convention rights relevant when considering planning proposals are Article 1 of the First Protocol (the peaceful enjoyment of property) and Article 8 (the right to a private and family life). Article 1 of the First Protocol guarantees the right to peaceful enjoyment of possessions and Article 8 of the Human Rights Act 1998 guarantees a right to respect for private and family life. Article 8 also provides that there shall be no interference by a public authority with the exercise of this right except in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the freedom of others.

7.18 No objections have been received relating to the application from the general public, and only one objection from the Forest of Dean District Council has been received. For the reasons set out in the observations of the Head of Planning and Development it is not thought there would be any breach of the convention rights. Even if there was to be an interference with convention rights then, in this case, it is thought that the interference would be justified in the interests of public safety. Accordingly, it would not be unlawful to grant planning permission for this development.

Conclusions and summary reasons for grant of planning permission and relevant development plan policies

7.19 The proposal is for the variation of conditions 4, 5 and 12 of planning permission DF.4279/J to increase the throughput of the site and be able to sell more of the compost product produced at the site, including a limited amount of public sales at Rose Hill Farm, Leominster Road, Dymock, Gloucestershire, GL18 2EF.

7.20 The proposal seeks to vary conditions 4, 5 and 12 of planning permission DF.4279/J to allow for an increase in throughput of material, and to be able to sell more of the product, including time limited sales to the public. Noting the
location of the proposal, the effect of the existing visual bund, together with
the retention of soft landscaping and use / reiteration of suitable conditions, it
is not considered that the development conflicts with the planning policy of the
development plan. The increase in volumes and timed sales of compost to
the public from the site would continue to contribute to the provision of
recycling facilities / capacity, as required by Policy RE5 of RPG10 and Policy
W1 of the Draft Revision RSS for the South West.

7.21 The Forest of Dean District Council was the only statutory consultee to have
objected to the proposal, on grounds of the increased vehicle movements
being considered unsustainable in this location. However, the Waste Planning
Authority is of the opinion that the development will, on balance, not adversely
affect the amenity of neighbouring users and will maintain the nature and
aesthetics of the surrounding countryside, as well as contributing towards
recycling capacity targets. It is considered that the variation of conditions
would give rise to no material harm, would be in accordance with the
development plan and there would have no material considerations which
indicate that the application should be refused.

7.22 The application has been determined in accordance with the Town and
Country Planning Acts, and in the context of the Government’s current
planning policy guidance and the relevant circulars, together with the relevant
Development Plan Policies:

Gloucestershire Structure Plan Second Review – saved policies S.4, S.6, S.7,
WM.4, NHE.3, and P1.

Gloucestershire Structure Plan Third Alteration Proposed Modifications –
policies SD6, SD21, MR1, MR2, MR3, and MR.10.

Gloucestershire Waste Local Plan (adopted October 2004) – Policies 9, 33,
36, 37, 38, 40, 41, and 43.

Forest of Dean District Local Plan Review 2005 (adopted November 2005) –
Policies (R)F.Strategy 2, (R)FT.2, (R)FNE.1 and (R)FNE.2.

8.0 RECOMMENDATION

8.1 That planning permission be granted for the reasons set out in this report and
summarised at paragraphs 7.19 – 7.22, and subject to the following
conditions:

Conditions:

Commencement

1. The development hereby approved shall commence not later than 3 years
beginning with the date of this permission.
Reason: In order to comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. The developer shall ensure that at least 14 days prior notification of the date of commencement of the development detailed in this application, to be begun pursuant to this permission, shall be given in writing to the Waste Planning Authority.

Reason: To enable the Waste Planning Authority to monitor the operations and to ensure compliance with this permission.

Approval of Plans

3. Notwithstanding any condition set out in this permission the land, subject of this application [hereinafter known as ‘the site’, being identified as land edged red on drawing number RF009b (dated 11-06-2006 and approved in planning permission DF.4279/J)] shall otherwise be operated in accordance with the conditions of planning permission DF.4279/J (dated 1st February 2007) and any subsequent planning permission varying that permission.

Reason: For the avoidance of doubt and to maintain planning control over the site and in accordance with Policy 37 of Gloucestershire Waste Local Plan.

4. Unless otherwise agreed in writing with the Waste Planning Authority, or required by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the submitted planning application 09/0030/FDMAJW, its accompanying documentation, and the approved drawings:

2000/1 (date stamped 22 MAY 2009)

Reason: To ensure the development is carried out in accordance with the submitted details and for the avoidance of doubt.

Removal of Permitted Development Rights

5. Notwithstanding the provisions of Part 2 of the Town and Country (General Permitted Development) Order 1995, or any order amending or replacing that Order, no extensions or alterations to the external appearance of the building(s) hereby permitted shall be carried out and no building, structure or any other enclosure shall be erected, constructed or placed on site, unless with the prior written consent of the Waste Planning Authority.

Reason: In order to maintain control over the operation of the development, and in the interests of visual amenities of the surrounding area, and pursuant to Policies S.4, S.6 and S.7 of the Gloucestershire Structure Plan Second Review.
Hours of Working

6. No development shall take place except between the following hours:

For the reception of waste:

07:00 hours to 22:00 hours Monday to Friday
07:30 hours to 18:00 hours Saturday
08:00 hours to 13:00 hours Sundays and Statutory Bank Holidays

For the Shredding, Screening and Turning of Wind Rows:

08:00 hours to 18:00 hours Monday to Friday
08:00 hours to 12:00 hours Saturdays

Materials will not be screened or shredded or wind rows turned outside these hours on Sundays or Bank or Public Holidays.

Reason: In the interests of amenity in the area and in accordance with Policy 38 of the Gloucestershire Waste Local Plan.

Operating Conditions

7. The total amount of material imported into the site shall not exceed a level of 35,000 tonnes per calendar year (January to December) of which there shall be no more than 4,500 tonnes per calendar month imported into the site unless otherwise agreed in writing with the Waste Planning Authority.

Reason: To define the scope of the application in the interests of highway safety and to accord with Policy 40 of the Gloucestershire Waste Local Plan.

8. The total amount of composted material exported from site shall not exceed 7,000 tonnes per calendar year (January to December) of which there shall be no more than 1,000 tonnes per calendar month exported from the site. The loads shall not be exported in loads of less than 1 tonne, unless otherwise agreed in writing with the Waste Planning Authority.

Reason: To define the scope of the application in the interests of highway safety and to accord with Policy 40 of the Gloucestershire Waste Local Plan.

9. From the date of this permission the operators shall maintain records of their monthly importation and exportation of materials, both tonnage and the number of vehicular movements, and shall make them available to the Waste Planning Authority within 7 days of written request. All records shall be kept for at least 24 months.

Reason: In order that the Waste Planning Authority can monitor the input and output of the site and to accord with Policy 40 of the Gloucestershire Waste Local Plan.
10. No material other than that to be composted at the site, including green garden and park’s waste, grey cardboard waste, non-hazardous liquid sugar waste, apple pumice and apple green waste and kitchen waste (including food manufacturing / retailing wastes falling under ‘Category 3’ of the Animal By Products Regulations [ABPR] 2003), shall be imported to the site.

   Reason: To define the scope of the planning permission and in the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

11. All doors in the reception building shall only be opened to allow for personnel to access and egress the building and to allow for vehicles to enter or exit. At all other times doors shall remain closed, except in the case of emergency.

   Reason: To protect the amenity of the locality from the effects of odour arising from the development in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

12. There shall be no storage of any unprocessed kitchen waste materials outside the reception building.

   Reason: To protect the amenities of the locality from the effects of odour arising from the development in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

Traffic, Transport and Highway Safety

13. No composted material shall be exported from the site other than that to be utilised on land within the same ownership or control as the site and which lies within a radius of 6 kilometres measured from the boundary of the site, or that referred to in condition 7 of this permission, unless otherwise agreed in advance, and in writing, by the Waste Planning Authority.

   Reason: To define the scope of the planning permission in the interests of the amenity of the area (in particular the effect on the environment and the local transport network) in accordance with Policies 37 and 40 of the Gloucestershire Waste Local Plan.

14. The site shall not accept waste direct from individual members of the public. Direct public sales shall only be carried out on Sundays between 09:00 hours and 13:00 hours, and sales shall be of compost produced at the site only.

   Reason: To define the scope of the application, and to control the number of vehicular movements in the interests of highway safety and in accordance with Policy 40 of the Gloucestershire Waste Local Plan.

15. No commercial vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent materials being deposited on the highway.
Reason: In the interests of highway safety and to prevent mud and detritus getting on the highway in accordance with Policy 40 of the Gloucestershire Waste Local Plan.

**Noise**

16. All plant and machinery shall operate only in the permitted hours, except in emergency (which shall be notified to the Waste Planning Authority as soon as is practicable), and shall be silenced at all times in accordance with the manufacturers recommendations.

Reason: In the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

**Landscaping**

17. The heights of any stockpiled, deposited or windrowed waste whether in a processed or unprocessed state or any composted materials shall not exceed 3 metres above the concrete floor of the site.

Reason: In the interests of amenity of the local area and to reduce the impact of the development on the locality in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

18. The earth bund, as depicted in drawing number RHF-PL1(r2) (dated 07/11/2006 and approved in planning permission DF.4279/J) shall not exceed 5 metres in height and shall be profiled so that the external face matches that of the existing bund. Hedgerow planting and grass seeding shall be to the same species, sizes and densities as existing, and as approved under Condition 15 of planning permission DF.4279/J.

Reason: In the interests of visual amenity, and to maintain continuity of the existing views of the site, in accordance with Policy 37 of the Gloucestershire Waste Local Plan.

19. Should any trees, shrubs or seeding (forming part of the landscaping scheme approved by the Waste Planning Authority under Condition 15 of permission DF/4279/G), other than those to be removed as part of the development hereby permitted, die or become diseased they shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the amenity of the area in accordance with Policy 37 of the Gloucestershire Waste Local Plan.
Advice Note/s:

Advice from the Environment Agency:

1. The proposed increase in the amount of material to be processed means the applicant will need to apply to the Environment Agency to vary the Environmental Permit for the operation.

BACKGROUND PAPERS:

Planning Application 09/0030/FDMAJW, accompanying plans / supporting information, and consultation responses.

CONTACT OFFICER:

Ben Gilpin
Principal Planning Officer
Gloucester (01452) 425652

Gillian Parkinson Legal and Democratic Services

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<th>Consultee</th>
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Reason for Delay beyond statutory period:

The above timings include hearing / consideration at September 2009 Planning Committee following objection received from Forest of Dean District Council and lack of appointed Group Spokespersons to allow the application to be determined using delegated powers.