

Local Plan Representations

For Pegasus Grab Hire | 23-100

Dudley Local Plan Regulation 18 consultation

Project: 23-100
Site Address: Dudley Local Plan Reps
Client: Pegasus Grab Hire
Date: 15 December 2023
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Contents

1.	Introduction	1
2.	National Planning Policy and Guidance	2
3.	Response to Policies	4
4.	Proposed Omission Site	9

Appendices

- EP1.** Site location plan
- EP2.** Pegasus Grab Hire Ltd.'s representations



1. Introduction

- 1.1 Emery Planning is instructed by our client, Pegasus Grab Hire Ltd, to submit site specific representations to the Dudley Local Plan Regulation 18 consultation. These submissions relate specifically to the land at Bott Lane, Lye, Stourbridge (“the site”), part of which is currently used as an aggregate sorting and recycling facility. A site location plan is provided at Appendix EP1.
- 1.2 This statement supports the allocation of our client’s site within the emerging Dudley Local Plan for employment use, primarily reflecting the established and successful Pegasus Group operations.
- 1.3 The land at Bott Lane can continue to contribute to meeting the identified employment land needs of the borough, within an already established industrial location. Part of the submitted site benefits from temporary planning permission for the use as an aggregate sorting and recycling facility until 2026 (ref. P20/1801) and other parts of the land within our client’s control have existing use rights for waste recycling. The remainder is currently vacant but available for expansion and diversification of the existing facilities and businesses.
- 1.4 The facility has and continues to provide employment benefits and it is considered that there are no constraints in terms of the connections to local services and infrastructure which would prevent the continued use of the site for employment purposes. It is considered that the continued and permanent operation of our client’s business from this site will contribute to and be complimentary to the regeneration objectives of the plan and assist with delivering wider sustainability and development objectives.



2. National Planning Policy and Guidance

National Planning Policy Framework

2.1 The Framework sets out the Government’s planning policies for England and how these are expected to be applied. The purpose of the planning system is to contribute to the achievement of sustainable development. The Framework, taken as a whole, constitutes the Government’s view of what sustainable development in England means in practice for the planning system.

2.2 Paragraph 11 requires plans and decisions to apply a presumption in favour of sustainable development. For plan-making this means that:

a) all plans should promote a sustainable pattern of development that seeks to meet the development needs of their area, align growth and infrastructure, improve the environment, mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

2.3 Paragraph 35 provides the following in relation to soundness:

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:

a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs²¹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;



c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.

National Planning Practice Guidance

2.4 The PPG was launched in March 2014. It replaced a number of practice guidance documents that were deleted when the PPG was published. Local Plan making is addressed under Section 12 of the most recent version of the PPG. The relevant sections are referred to in our representations.



3. Response to Policies

Dudley Local Plan – Part One – Spatial Strategy and Policies

Policy DLP1 Development Strategy

- 3.1 Policy DLP1 states that to deliver sustainable growth the plan will need to deliver the development of at least 25ha employment land. The policy states the strategy seeks to deliver sustainable patterns of development with growth focused on the borough’s centres and regeneration corridors.
- 3.2 The focus of further growth and development within the borough’s centres and regeneration corridors is supported. However, the proposed level of delivery of employment land within the borough is considered insufficient. This is considered further below, within the context of policy DLP18.

Policy DLP2 Growth Network: Regeneration Corridors and Centres

- 3.3 The regeneration corridors identified under Policy DLP2 will accommodate strategic and local employment areas and the principal location for new industrial and logistics development as well as the new homes required within the borough over the plan period.
- 3.4 Table 5.3 provides a summary of the opportunities and vision for each of the proposed regeneration corridors. Our client’s land interests are located within RC3 Stourbridge to Lye. The vision for RC3 refers to the design code and masterplan which is currently being prepared by the council and which we have engaged with on behalf of our client as it has evolved.
- 3.5 As currently prepared it is considered that the regeneration corridors are not protecting existing employment land. Our client’s land interests at Bott Lane have been excluded from the identified local employment areas. This is inconsistent with the current draft of the Lye and Stour Valley masterplan. The masterplan acknowledges that the Engine Lane / Bott Lane area currently operates well as an area of employment and recommends that the existing employment use is retained for the foreseeable future.

Policy DLP18 Economic Growth and Job Creation

- 3.6 The most recent Black Country Economic Development Needs Assessment (EDNA) – 2023 update confirms there is a shortfall in employment land within the borough of 73ha. This situation is echoed across the remaining Black Country authority areas.
- 3.7 Whilst Policy DLP18 seeks to address the shortfall through the delivery of at least 72ha of employment land over the plan period. The plan seeks to achieve this goal through the delivery of 24ha of new



employment land on allocated Employment Opportunity Sites, enhancement redevelopment and intensification of existing employment areas and the duty to co-operate. However, there remains a significant imbalance between the areas identified through the draft plan and evidence base suggesting there is a need for a 3 fold increase on what is currently being promoted.

- 3.8 Failing to meet the identified need for employment land will cause significant harm to the local economy. Businesses will not be able to invest and grow in the borough, and jobs growth will be curtailed to the detriment of residents. This is precisely the situation our client is facing with the uncertainty surrounding the current temporary use and it is frustrating the growth and development of a successful and highly valued local business. There will also likely be an impact on commuting patterns or alternately the uptake of residential allocations as either residents of the area travelling further distances outside of Dudley to pursue work opportunities and take the related economic activity with them, or alternatively residential development looks to establish itself closer to more available employment opportunities where commuting distances are less and available economic spend is greater.
- 3.9 The council should be allocating additional employment sites and protecting existing employment sites, such as our client's site, allocating them as Local Employment Areas providing landowners with the certainty they need to invest in sites to deliver the intensification and enhancement to existing employment sites which is required to meet the borough's employment land needs over the plan period.

Policy DLP75 Waste Infrastructure – Future Requirements

- 3.10 Policy DLP75 identifies a need for additional waste management capacity to be delivered within the borough over the plan period. The Dudley Waste Study (2023) was prepared following abandonment of the Black Country Core Strategy, and an updated waste needs assessment has been prepared to support the preparation of the emerging local plans of each of the back Country Authority areas.
- 3.11 The Waste Study identifies a shortfall in capacity taking account of known closures of existing waste sites within the borough over the plan period. In addition, this shortfall is expected to increase as a result of the level of housing and other growth proposed over the plan period.
- 3.12 Whilst the policy sets out considerations for new waste management facilities, the policy fails to protect existing sites which make a significant contribution to the existing and future capacity within the borough.

Policy DLP76 Waste Sites

- 3.13 Policy DLP76 seeks to protect and safeguard existing strategic waste management facilities from inappropriate development to maintain existing levels of waste management capacity.



3.14 Paragraph 17.20 of the supporting text which accompanies the policy defines a strategic waste management site as:

a) all facilities that form a vital part of the borough's municipal waste management infrastructure, e.g. energy from waste plants, waste transfer facilities and HWRCs, depots.

b) all commercial waste management facilities that fulfil more than one local role, e.g. they are part of a nationwide or regional operation linked to other facilities elsewhere and take in waste from all over the borough and / or beyond.

c) all commercial facilities specialising in a particular waste stream or waste management technology, of which there are no others, or very few other of the same type operating elsewhere in the borough.

d) all facilities likely to make a significant contribution towards existing waste management capacity.

e) a site with sufficient capacity to recover, treat or dispose of at least 20,000 tonnes of waste per annum.

f) a facility forming part of the UK's network of installations for waste disposal, such as landfill sites.

g) a hazardous waste recovery facility of sufficient size to qualify as a Nationally Significant Infrastructure Project (NSIP).

3.15 As drafted, the plan contradicts this policy and fails to protect existing waste facilities through the allocation of sites within the plan. Our clients site as considered under section 5 below, operates as an aggregate recycling and recovery facility, the recent installation of new state of the art washing and sorting facility and the increased capacity of the site means it would now meet the definition of a strategic waste management site as provided at paragraph 17.20 of the plan, falling at least within categories b), c), d) and e).

3.16 However, the site has not been allocated within the draft plan for employment purposes, nor by extension and application of the site hierarchy at 17.20, despite the contribution the site can make in assisting in meeting the borough's identified shortfall in capacity as identified within the Dudley Waste Study (2023). This is a significant omission given Pegasus' contribution to waste management both within and for Dudley MBC and the wider West Midlands authorities' areas where they play a significant role in also maintaining critical infrastructure.

DLP77 Preferred Areas for New Waste Facilities

3.17 Policy DLP77 identifies the preferred location for new waste management sites as being the Local Employment Area as shown on the proposals map and Waste Key Diagram.



3.18 Paragraph 17.31 of the plan states:

It is not proposed to allocate specific sites for waste in the Plan because no new sites likely to be deliverable within the Plan period have been identified, apart from sites that already have planning permission. To have sufficient confidence to allocate a site, it would need to be actively promoted for waste management use by a waste planning authority, a landowner, or a commercial waste operator.

3.19 However, this overlooks our client's site. Our client's site has been actively promoted for waste management through the 2020 Call for Sites consultation and in response to the now abandoned Black Country Core Strategy and more recently through the design code and master planning process for Lye Valley. Pegasus Grab Hire Ltd.'s representations are attached at appendix EP2. However, it is yet to be allocated for waste use despite also operating as such since 2018, continuous engagement with Officers where it has been made clear our client wishes to maintain a long term commitment to the site and through our client's investment and commitment to the continued improvement of the site and its operation.

DLP78 Locational Considerations for New Waste Facilities

3.20 The requirements set out under policy DLP78 are highly prescriptive and are overly onerous for applicants as set out below but where the conclusion suggests that waste facilities are almost anticipated to be in isolated locations.

3.21 Whilst the policy sets out numerous considerations in terms of the potential impacts of waste operations, no consideration is given to the locational requirements of new waste facilities in relation to the operators, customer base, locations where the source arises and in the case of our client, where the recycled products are then re-used and the wider sustainability impacts of this.

3.22 Our client's current operations at Bott Lane are located centrally to the majority of their customer and employee base, with the benefit of minimising vehicle movements and journey times to access their facility.

DLP80 Mineral Production – Requirements

3.23 In respect of construction aggregates and secondary and recycled aggregates, Policy DLP80 states as a minimum the council will aim to maintain permitted production levels throughout the plan period.

3.24 The Dudley Minerals Study 2023 identifies Dudley as a likely net importer of secondary and recycled aggregates and highlights the importance of safeguarding and retaining existing secondary and recycled aggregate capacity within the borough to maintain this position.



3.25 What is more, table 2.1 of the Dudley Minerals Study (2023) identifies sites within the borough managing recycled and secondary aggregates. Table 2.1 is reproduced below for ease of reference.

Site	Operator	Throughput (tonnes per annum)	Comments
Bell Recycling Centre Oak Lane, Kingswinford	Bell Recycling Ltd	~9,000	Operational
Oak Farm Aggregates Oak Farm Clay Pit (Quarry), Crooked House Lane, Himley	M & A Doocey Ltd	~20,000	Inactive recycling site Planning permission (P13/0893) was granted retrospectively during January 2014 to produce recycled aggregate from
			imported waste (excavated road stone from road repairs etc) to then use on-site in producing concrete used as road sub base.
Pegasus Grab Hire Land South of Bott Lane, Lye, Stourbridge	Pegasus Grab Hire Limited	75,000	Temporary planning permission for aggregates recycling granted in 2018 and 2021 (currently due to expire in 2026).
Pegasus Skip Hire Timmis Road, Stambermill Estate, Lye, Stourbridge	Pegasus Skip Hire Ltd (formerly Regen R8 Limited)	10,000	Operational / active recycling site Mainly accepts inert and CDEW, but not all throughput thought to be recovered as re-useable aggregate.

3.26 Our client’s current operations at Bott Lane clearly make a significant contribution to the borough’s capacity for managing recycled and secondary aggregates. The specialist and progressive nature of the plant and systems that they have invested in also make a significant contribution to carbon reduction in the Borough.

3.27 Policy DLP80 seeks to maintain the current level of production of secondary and recycled aggregates over the plan, however this would not be possible without the continued operation of the existing facility at Bott Lane, beyond the timeframe of the existing temporary planning permission, especially as our client’s facility alone has almost double the capacity of the other facilities set out above combined.



4. Proposed Omission Site

Site location and description

- 4.1 The site comprises the existing premises of Pegasus Grab Hire Ltd, with the existing use for the recycling of aggregate material. The site was initially granted temporary planning permission for a three-year period under application P18/0218. A further application for the continued use of the site and the installation of a new aggregate washing and sorting facility was granted for a further temporary period of 5 years under planning permission reference P20/1801. The further temporary consent requires cessation of the use on or before the 1 September 2026.
- 4.2 Since the grant of planning permission P18/0218, the site has been occupied by our client and been fully operational as an aggregate sorting and recycling facility. Since commencement of operations on site, the site has operated without causing significant harm to the amenity of nearby existing residential properties. When any concern has been raised, our client has been open to dialogue to seek a resolution of any concerns raised.
- 4.3 The primary reason for temporary consents being granted on this site was because the LPA did not want to prejudice the delivery of the site for housing which had been identified through previous local plan processes. Our client made submissions to previous local plan consultations and through the applications that housing would not be deliverable on this site for numerous reasons relating to suitability, viability, deliverability and the view of landowners who wished to continue with well-established and ongoing employment uses. It is noted that this emerging plan no longer has the specific housing allocation and it has been acknowledged that housing would not be deliverable on this site within the current and next plan periods.
- 4.4 The site has an area of 2.13ha.
- 4.5 In compliance with the conditions of planning permission P18/0218 and P20/1801, the applicant has been required to make improvements to the site and site management procedures. Such improvements to the site include the provision of:
- Acoustic fencing to the site's eastern boundary;
 - Provision of a 3m noise attenuation earth bund;
 - Provision of an electric vehicle charging point; and
 - The implementation of a dust suppression and management plan including the provision of wheel wash systems, closed mesh netting to the site boundary, water sprinkler suppression systems and highway cleaning.



- 4.6 Following the grants of planning permission our client has made significant investments in the site in providing the mitigation measures required in accordance with the planning permissions and in the delivery of the state-of-the-art aggregate washing and sorting facility which has resulted in the creation of local employment opportunities and the diversion of waste from landfill, assisting the council in meeting their wider economic and environmental objectives.
- 4.7 Our client would apply the same modern principles to the expansion within the wider site which also provides opportunities for further enhanced mitigation in terms of landscaping and management of any amenity impacts both for existing and future operations and expansion.
- 4.8 The site is sustainably located, being within easy access of a range of methods of public transport. The site is located approximately 200m to the west of Lye train station, with bus stops located on Engine Lane to the east of the site providing a regular service (every 20 minutes) between Dudley, Lye, Stourbridge and Wollaston.
- 4.9 The site is also well located to serve its primary customer base both within this area of the West Midlands and beyond, especially given the proximity of a number of commercial premises and industrial estates.
- 4.10 Additionally, the company provides services to a number of public bodies in the locality which also rely on the ease of access which this location provides for the company to address their requirements. The location of the business in respect of its customer base is another element of locational sustainability that is equally as important as the accessibility of the site for employees.
- 4.11 The site surrounds are primarily characterised by commercial activity, with various commercial and industrial uses taking place in the area immediately surrounding the application site. To the north of Bott Lane is the Vanguard Foundry and vehicle salvage yard. To the west of the site is an existing substation, and the Stambermill industrial estate.
- 4.12 The site is bound to the south by the railway line, beyond which are numerous commercial buildings, including Environcom Recycling Ltd who recycle household electricals on site.
- 4.13 To the east is Engine Lane where there are a mix of small commercial units located along its route together with a small number of dwellings located approximately 150m from the application site.

Proposed allocation

- 4.14 It is our client's intention to seek planning permission for the permanent use of the site at Bott Lane as employment land in connection with aggregate sorting and recycling facilities and to seek consent for an amalgamation and extension onto other adjacent sites that are within their control.



- 4.15 The site is in a sustainable location with easy access of a range of methods of public transport. It is located approximately 200m to the West of Lye train station, with bus stops located on Dudley Road to the east and providing a regular service every 20 minutes.
- 4.16 The site is also well located to serve its primary customer base both within this area of the West Midlands and beyond, especially given the proximity of a number of commercial premises and industrial estates. Additionally, the company provides services to a number of public bodies in the locality which also rely on the ease of access which this location provides for the company to address their requirements. The location of the business in respect of its customer base is another element of locational sustainability that is equally as important as the accessibility of the site for employees. The business has and continues to help address the need for economic growth in regeneration areas.
- 4.17 The site is located in an area which is primarily characterised by commercial activity, with various commercial and industrial uses taking place in the area immediately surrounding the application site. To the north of Bott Lane is the Vanguard Foundry and vehicle salvage yard. To the west of the site is an existing substation, and the Stambermill industrial estate. If the site were to be reallocated as Local Employment Land, it would continue the Local Employment Land to the west which it adjoins.
- 4.18 The site had previously formed part of a wider draft residential allocation within the now abandoned Draft Black Country Plan. Representations were made to the Draft Black Country Plan raising serious concerns in respect of the site's suitability for residential development, particularly as the draft allocation indicated the Vanguard Foundry located immediately to the north of Bott Lane and our client's site would be retained. The residential development of the site would be fundamentally incompatible with the continued use of the foundry and other heavy industrial operations taking place within the locality which have also shown no indication of a desire to relocate.
- 4.19 The Dudley Borough Development Strategy (DBDS) (2017) identified the site as being located within regeneration Corridor 13, and specifically within allocation H13.26 identifying a range of potential development options including industrial, residential and mixed use. Clearly prior to the progression of the Black Country Plan, Dudley Council had considered the site and wider area as an appropriate location for employment uses.
- 4.20 The council are currently in the process of preparing the Lye and Stour Valley Masterplan Design Code. Our client has engaged in the master planning process, and the plan as currently drafted identifies our client's land interests as proposed for industrial / employment use as part of the Masterplan.



Site assessment

4.21 The assessment of our client's site at Bott Lane (ref: SA059) indicates that the site is suitable for employment use and should be retained for employment. The assessment concludes:

Part of the site (Pegasus Grab Hire) has been granted planning consent to continue operations on site until 01/09/2026 and for a new aggregate washing facility. As such, it is considered that employment uses at this location are considered suitable in the short term and the existing housing allocation is removed. However, as part of the BEAR, this site was scored below the threshold to be considered a Local Employment Area. As such, it is considered suitable that this site be an Other Employment Site within the Local Plan. Not suitable for Employment Development Opportunity site given existing waste uses.

4.22 The Black Country Employment Area Review (BEAR) dated July 2021 assesses the site as being suitable and available for release from employment use. Since the assessment of the site through the BEAR our client has made significant investments in the site infrastructure to deliver a state-of-the-art aggregate sorting and recycling facility and the BEAR assessment is considered to be outdated.

4.23 The most recent assessment of the site as part of the council's site assessment, dated 2023, considers the site a suitable location for employment, however the overall conclusion is skewed by the findings of the aged BEAR (2021) report which does not reflect the nature of the operations now on site nor the opportunity to enhance this provision through our client's adjacent land interests.

Planning Considerations

Policy DLP2 Growth Network: Regeneration Corridors and Centres

4.24 Policy DLP2 aims to deliver new housing and employment uses within regeneration corridors. The employment use of the site would not be detrimental to the policy as it would still generate sustainable development within the borough.

4.25 The site at Bott Lane is currently in an employment generating use and comprises an existing aggregate sorting and recycling facility. As outlined above, the site benefits from a temporary planning permission (ref: P20/1801) for the current operations on site, with our client looking to obtain a permanent planning permission to secure their continued use of the site.

4.26 The site is in a sustainable location and has continually provided jobs since the granting of planning permission for its current use. The existing use merges well with the surrounding facilities, such as Environcom Recycling Ltd who recycle household electricals on site, Vanguard Foundry and vehicle salvage yard and the Stambermill industrial estate. It is easily accessible to its customer base and employees,



including public bodies in the locality which rely on the ease of access. The waste facility is in a highly sustainable location and helps to meet the economic growth objectives in line with Policy DLP2.

- 4.27 The site currently forms employment land which is fully operational and is not underused or of poor quality. Additionally, there is a shortfall of employment land which the wider site can help to address.
- 4.28 The continued use of the site for recycling would not conflict with Policy DLP2.

Policy DLP75 Waste Sites

- 4.29 The Waste Study 2023 found that the Black Country is currently short of recycling sites. Housing and employment growth is predicted to increase over the plan period which will further increase the shortfall.
- 4.30 The site has temporary permission for the current use; however, this permission has not expired and the site can continue to operate as existing until September 2026. This use is not expected to cease before the expiry of the permission and as previously mentioned, our client would seek to make this use of the site permanent as the efforts to date to find alternate premises within their geographical area of operation has come to naught and with little prospect of alternate suitable sites becoming available, especially given the allocation of employment sites for housing land.
- 4.31 Although the site is allocated for housing within one of the identified regeneration corridors, the economic benefits of the continued use of the site for recycling and assisting with meeting sustainability objectives is considered to be a significant consideration.
- 4.32 The existing recycling facilities located at Bott Lane are unique within the borough and wider Black Country area and are highly efficient enabling the potential for up to 100% diversion of inert waste from landfill and the recycling of materials to provide high quality aggregates. Our client's operations make a significant positive contribution in meeting targets for the recycling of materials and moving waste up the waste management hierarchy, but also significantly reducing the need for the quarrying of virgin materials.

Deliverability

- 4.33 The site is currently in employment generating use and comprises an existing aggregate sorting and recycling facility. The site benefits from a temporary planning permission (reference P20/1801) with our client having ambitions to obtain a permanent planning permission to secure their future occupation of the site. The wider site is either vacant or also contains existing waste management operations and are under the control of our client.
- 4.34 On this basis it is considered there are no physical barriers to the continued operation of the site for employment purposes.

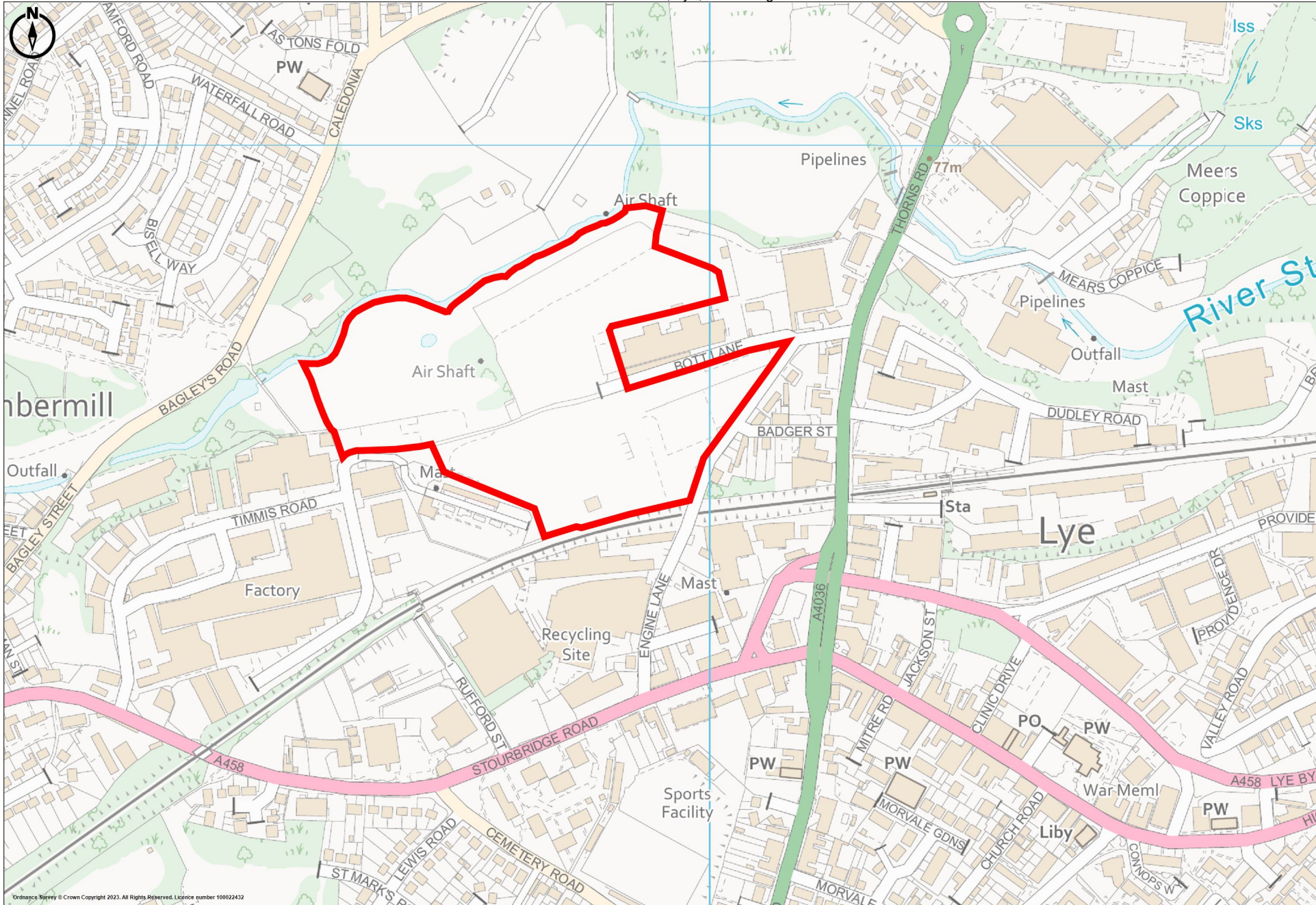


- 4.35 The site is located within the existing built-up area of Lye, in an area which is predominantly in employment use and has been historically. It is considered there are no constraints to the continued use of the site for employment purposes with regard to connections to local services and infrastructure which would prevent the continued use of the site for employment purposes.
- 4.36 Following the changes to the structure of the plan system in the area it is not considered that this site would be critical to meeting Dudley's housing needs in the same way as previously and that the delivery of employment at this location would play a stronger role in meeting Dudley's needs.



EP1

Land off Bott Lane, Lye, Stourbridge



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