



# Representations to the Black Country Plan

Land at Bott Lane, Lye, Stourbridge, DY9 7AW

for Pegasus Grab Hire Ltd

Emery Planning project number: 20-022

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Project : 20-022  
Site address : Bott Lane, Lye,  
Stourbridge, DY9 7AW  
Client : Pegasus Grab Hire Ltd

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## 1. Introduction

- 1.1 Emery Planning is instructed by Pegasus Grab Hire Ltd to submit representations to the draft Black Country Plan (BCP): Regulation 18 consultation. These submissions relate specifically to the land at Bott Lane, Lye, Stourbridge ("the site"), which is currently used as an aggregate sorting and recycling facility. The site is identified under reference SA-0227-DUD of the Black Country Plan Site Assessment Report and reference DUH003 within the Draft Black Country Plan.
- 1.2 We do not consider that the plan as drafted is sound. The Jewellery Line Core Regeneration Area objectives are not entirely viable. The allocation of land at Bott Lane for housing would result in a loss of employment land, a business which is critical to the sustainability objectives of the plan and Local Authorities and the viability of delivering the site for housing is uncertain due to former and surrounding uses.
- 1.3 The land at Bott Lane can continue to contribute to meeting the identified employment land needs of the Black Country Plan, within an already established industrial location. The site benefits from temporary planning permission for the use as an aggregate sorting and recycling facility until 2026 (ref. P20/1801), the decision notice is attached at appendix EP1. 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 (the 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) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;

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 the 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 the 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 needs [19]; 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.*

*21. Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework.*

## **National Planning Practice Guidance (PPG)**

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. Policy HOU1 - Delivering Sustainable Housing Growth

- 3.1 Proposed Policy HOU1 identifies housing allocations in Black Country Areas. Land at Bott Lane is identified for the delivery of 168 dwellings within allocation DUH003 and the BCP states it is likely to come forward as part of the Lye regeneration project; however, the site should be considered for other uses for the reasons discussed below and in the remainder of these representations.
- 3.2 Policy HOU1 at paragraph 6.6 also acknowledges the fact that the allocations of occupied employment sites can have "*multiple delivery constraints that typically affect such sites and that are likely to reduce delivery on a minority of sites*", including poor ground conditions. Policy HOU1 cannot be considered sound in regard to this site allocation.
- 3.3 In summary, the allocation of sites such as DUH003 for housing development is not effective. The viability of delivering housing on occupied employment sites is uncertain and the BCP acknowledges that there are constraints relating to this.

## 4. Policy EMP1 - Providing for Economic Growth and Jobs

### Employment land requirement

- 4.1 The BCP's approach to employment land, in terms of not meeting the identified needs is through relying upon neighbouring authorities to meet the shortfall, which amounts to 210 hectares of employment land.
- 4.2 Furthermore, a significant proportion of the identified housing supply comprises existing employment sites. Aside from the identified strategic and local employment areas (Policies EMP2 & EMP3), the plan provides no protection to existing employment sites. In fact, Policy EMP4 is permissive of such sites being developed for housing, without any test as to whether there is a continued need for the site to remain in employment use. This will only exasperate issues of employment land supply in the Black Country.
- 4.3 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 Black Country, 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 may also be an impact on commuting patterns.
- 4.4 The Council's reasons for failing to meet the identified need for employment need are similar to its reasons for failing to meet local housing need. The approach is flawed because:
- The SA is based upon flawed assumptions.
  - The BCA reliance upon the SA to justify the proposed growth option is misplaced.
  - The alleged impacts on landscape and natural resources (including Green Belt) are overstated.
  - There is an absence of firm agreement with neighbouring authorities to meet the needs.
- 4.5 The BCP should therefore not be allocating sustainable employment sites, which are operational, for housing needs whilst there is a clear need for employment land within The Black Country.
- 4.6 Overall, the proposed approach is not justified, effective or positively prepared. The BCP should seek to meet employment needs in full within the Black Country.



- 4.7 Our client proposes that site DUH003 at Bott Lane be reallocated for employment land / waste recycling, which is further discussed at Section 8.

## 5. Policy CSP2 - The Strategic Centres and Core Regeneration Areas

- 5.1 The core areas are proposed to provide a mix of housing and local employment land that are vital in providing for local jobs as well as strong links with the surroundings, knitting together old and new.
- 5.2 The BCP acknowledges the need for economic growth as one of the key issues for Core Regeneration Areas strategy and proposes the protection and enhancement of sustainable employment land. It also refers to the release of poor quality or underused land to support the regeneration.

### The Core Regeneration Areas

- 5.3 Policy CSP2 refers to two key issues arising from the evidence base:
- Provide for economic growth through the protection and enhancement of sustainable employment land and premises.
  - Delivering housing growth through the release of poor quality and underused land.
- 5.4 It is not considered that the Core Regeneration Areas are protecting and enhancing sustainable employment land. Sustainable employment sites are allocated for housing as part of the BCP despite being in sustainable locations and housing established businesses, despite the employment land shortfalls discussed in Section 3 of these representations.
- 5.5 We do not find these allocations to be effective considering the uncertainty surrounding the delivery and the sustainability benefits related to the continued use of occupied employment sites within The Black Country.

## 6. Policy W1 - Waste Infrastructure – Future Requirements

- 6.1 Policy W1 identifies a need for additional waste management capacity to be delivered in order to maintain net self-sufficiency. To achieve this, the capacity for re-use / recycling of non-hazardous municipal waste and inert C&DE waste must be increased.
- 6.2 The Waste Study 2020 highlights a need for an additional 1.5 mt of recycling capacity to maintain self-sufficiency. Table 9 - Black Country Waste Capacity Requirements 2018 – 2039 within the BCP states there is a requirement of up to 1 mt and mentions 7 – 20 facilities with a capacity between 50,000 and 150,000 tonnes per annum. This leaves a lot of uncertainty surrounding the delivery of additional waste capacity and is further undermined by the sites' unknown financial viability and attractiveness to investors.

### Protecting waste sites

- 6.3 There is a clear shortfall identified in the Waste Study 2020, which is expected to increase with the development of housing over the lifetime of the BCP. Policy W2, which is further discussed in Section 9, fails to protect existing sites which could further affect the shortfall of recycling sites. The Policy aims to safeguard all existing strategic and other waste management facilities, however the BCP contradicts this through allocating a sustainable recycling site for housing, despite the shortfall.

### Preferred Areas for New Waste Facilities

- 6.4 Policy W3 discusses the preferred areas for new waste sites. The preferred location for these is within Local Employment Areas identified by the BCP. Despite the shortfall, the BCP and Policy W3 fail to allocate specific waste sites. Paragraph 11.54 states:

*"It is not proposed to allocate specific sites for waste in the BCP because no new sites likely to be deliverable within the plan period have been identified, apart from sites that already have planning permission (NPPF, 16, 35, Annex 2). To have sufficient confidence to allocate a site, it would need to be actively promoted for waste management use by one or more of the BCAs, other waste planning authorities, a landowner, or a commercial waste operator."*

- 6.5 Our client's site has been actively promoted for waste management through the 2020 Call for Sites consultation, the 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. The site has instead been allocated for housing, which will further affect the shortfall of recycling facilities.

- 6.6 The policy fails to identify new sites despite the shortfall of recycling facilities identified through the Waste Study 2020. Furthermore, the policy finds Local Employment Land preferable for waste sites, but the BCP fails to allocate enough land for employment purposes, with a 210-hectare shortfall so cannot be expected to meet all needs from this finite supply. There is significant uncertainty surrounding the delivery of waste sites to meet the waste needs identified within the waste policies.

## 7. Policy W4 - Locational Considerations for New Waste Facilities

- 7.1 Policy W4 sets out a number of locational considerations for all new waste management proposals and requirements for supporting information in relation to waste applications, including applications under Section 73 to vary conditions attached to an existing waste permission.
- 7.2 The policy seeks to focus new waste facilities in locations which contribute to Spatial Objective 13 and the objectives of Policy W1, including the contribution to be made to landfill diversion and the diversification of the range of facilities available.
- 7.3 The requirements set out under policy W4 are highly prescriptive and are overly onerous for applicants as set out below but where the conclusion is almost that waste facilities are almost anticipated to be in isolated locations.
- 7.4 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.
- 7.5 Our client's current operations at Bott Lane are located centrally to the majority of their customer base, with the benefit of minimising vehicle movements and journey times to access their facility.
- 7.6 If our client is required to seek alternative premises from those currently in operation at Bott Lane, the prescriptive nature of policy W4 in seeking to locate waste operations within existing local employment areas will severely restrict our client's ability to identify future premises within the Black Country area, with the search for alternative premises already being unsuccessful. This, combined with the already identified shortfall in employment land and a focus of housing provision on previously developed land and existing employment sites will further exasperate our client's ability to relocate within the Black Country area where they have developed a facility which significantly assists with meeting sustainability objectives..

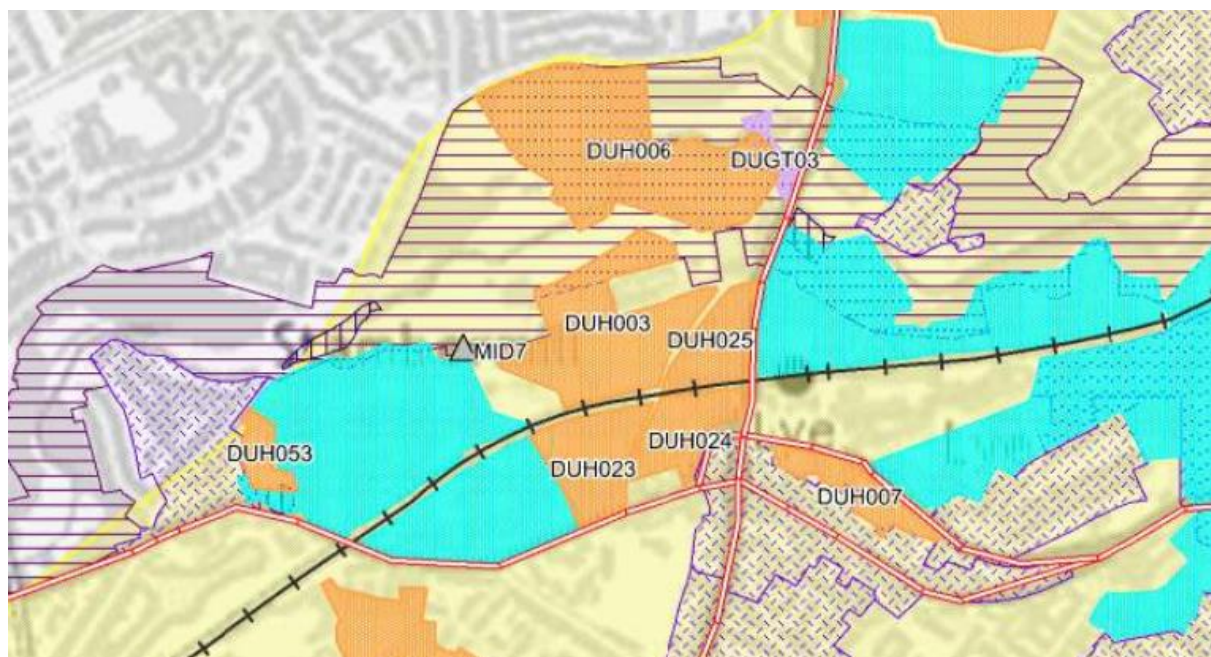
## 8. Chapter 13: Sub-Areas and Site Allocations

### The Jewellery Line Core Regeneration Area

8.1 We do not consider that the regeneration area can be developed as proposed in the BCP.

#### Land availability

8.2 The Vanguard Foundry site is not available and now excluded from the BPC which suggests that this viable business will remain, but which undermines the regeneration of the area on a housing led basis given the relationship of what is a heavy industrial use with anticipated housing sites. Our client's site, DUH003, seen below is proposed for housing and sits adjacent to a heavy industrial area with no restrictions on hours and no buffer between the sites as can be seen with some of the other nearby sites which have started to come forward, but which themselves were progressed under the previous assumptions that Vanguard would relocate. This would have an adverse impact on any residential developments in its immediate area and is not considered to be sound.



8.3 The probability of the owners of The Vanguard Foundry releasing this land is highly unlikely, which further undermines any future prospects of the site being allocated or developed for housing. Our clients, the occupiers and part owners of site DUH003, are not looking to dispose of the site, which

means this section of the regeneration area could only be developed through Compulsory Purchase Orders, which further reduces the likelihood of the residential development.

### **The market**

- 8.4 There is no evidence of any developer interest in site DUH003. It is unlikely that a housing developer is likely to come forward to develop the site in the short and medium term, considering the site neighbouring a heavy industrial area which is no longer allocated for housing or relocating.
- 8.5 The removal of The Vanguard Foundry as an allocation, owing the fact that the exiting premises within this location are well occupied, reflects a clear demand for employment land in this location.
- 8.6 Paragraph A34 of Chapter 13 recognises the need to realise the economic potential of The Jewellery Line Core Regeneration Area. The Core Regeneration Areas strive for both housing and business regeneration, therefore the protecting existing sustainable employment sites within these areas would also meet the strategy objectives whilst ensuring the regeneration areas can be developed. The operations at our client's site are actually part and parcel of the employment regeneration of the area as they are focussed on the green economy in terms of achieving high levels of recycling and re-use of materials for use in the utilities, infrastructure and construction sectors.

## 9. Proposed allocation: Land at Bott Lane, Lye

- 9.1 Pegasus Grab Hire Ltd's interest relates to land at Bott Lane, Lye. The site is also known as West of Engine Lane under housing allocation DUH003 (site assessment ref. SA-0227-DUD). A site location plan is provided at appendix EP3.
- 9.2 The site comprises the existing premises of Pegasus Grab Hire Ltd, with the existing use for the recycling of aggregate material granted temporary planning permission until 1<sup>st</sup> September 2026 under application P20/1801. Since the grant of previous planning permission P18/0218, the site has been occupied by our client and been fully operational. During this period, the site has operated in accordance with the planning permissions, without causing harm to the amenity of the nearby existing residential properties. The site has an area of 2.13ha.
- 9.3 It is proposed that the land be removed as a housing allocation and instead forms part of the Local Employment Areas.

### Proposed allocation

- 9.4 It is our client's intention to seek permanent permission for the use of the site at Bott Lane as employment land in connection with aggregate sorting and recycling facilities. Although allocated for residential development, the viability of delivering housing on the site is unknown due to its former and current uses, a point acknowledged in the plan and referenced earlier above. These representations and the limited long-term prospects highlight that the site would be more suitable for employment / waste recycling.
- 9.5 Pegasus Grab Hire Ltd has made improvements to the site and site management procedures when compared to its previous use by Helix. 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.



- 9.6 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.
- 9.7 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.
- 9.8 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.
- 9.9 The removal of the site as a housing allocation would not have an adverse effect on the Core Regeneration Area as the continued use of the site as an aggregate sorting and recycling facility would be sustainable and would assist in meeting the needs indicated in the BCP and discussed throughout these representations.

## **Site Assessment Report**

- 9.10 We object to the site assessment of our client's site at Bott Lane (ref. SA-0227-DUD).
- 9.11 The assessment refers to developing the site for housing in association with the land to the north as the best opportunity for the site. The site to the north, The Vanguard Foundry, no longer forms part of the housing allocation, therefore the allocation cannot be justified.
- 9.12 The assessment conclusion also states that the aggregate recycling use has the potential to create noise, dust and disturbance to new residential properties. The site has had no significant impact on residential uses in the surrounding area, a point underscored by the fact that a further

planning permission has recently been granted with all the matters fully assessed. The recycling of aggregate material has been in operation on site since the granting of planning permission P18/0218. Since then, the site has operated in accordance with the planning permissions, without causing harm to the amenity of the nearby existing residential properties, therefore it is unlikely to have a significant effect on any future developments if the use were to remain. The assessment also identifies that there is great potential for contamination as a result of the use and the landfill site to the north, which may have an effect on any future housing developments.

- 9.13 As discussed in paragraph 5.2, The Vanguard Foundry is also likely to affect any future developments in the area, including our client's site if it were to be delivered for housing.
- 9.14 The assessment is outdated and should not inform the allocation of the site for housing. The factors involved in assessing the site have changed significantly and the site is not a suitable housing allocation.

## **Planning considerations**

### **Policy CSP2**

- 9.15 Policy CSP2 aims to regenerate both housing and employment. The employment use of the site would not be detrimental to the policy as it would still generate sustainable development within The Black Country. The Core Regeneration Area would still meet the BCP objectives.
- 9.16 The site at Bott Lane is currently in an employment generating use and comprises an existing aggregate sorting and recycling facility. As outlined above in Section 1 of this statement, the site benefits from a temporary planning permission (ref: P20/1801) for the current operations on site, with our client looking to obtain a planning permission to secure their continued use of the site.
- 9.17 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 CSP2.

9.18 The site currently forms employment land which is fully operational and is not underused or of poor quality. Additionally, and as discussed in Section 3 of these representations, there is a shortfall of employment land which the site can help to address.

9.19 The continued use of the site for recycling would not conflict with Policy CSP2.

### **Waste sites**

9.20 Policy W2 of the plan relates to waste sites, the safeguarding and proposals for housing on such sites.

9.21 The Waste Study 2020 found that the Black Country is currently short of recycling sites. Housing and employment growth is predicated to increase over the plan period which will further increase the shortfall, therefore more recycling sites are required to address the need.

9.22 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.

9.23 Although the site is allocated for housing within one of the Core Regeneration Areas, 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.

9.24 The BCP has also not identified any other potentially suitable sites for the business to relocate to. Our client has also looked at potential relocation sites, however none are available.

9.25 Policy W2 states that proposals for housing will not be permitted unless certain criteria are met, which are addressed as follows:

- The site has temporary permission, however the site and infrastructure are considered to be suitable for the continued use as a recycling site.
- The likelihood of the site being delivered for housing is unlikely and the regeneration area proposals are not considered to be sound. The benefits of delivering housing on the site do not outweigh those provided if the site were to remain as a waste site.

- No suitable replacement site or infrastructure has been identified or permitted through the BCP as discussed in Section 5.

9.26 The existing recycling facilities located at Bott Lane are unique within the Black Country area, and are highly efficient enabling 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.

9.27 Overall, the proposed use for housing would lead to a loss of a recycling site which the BPC has an identified need for, therefore the allocation cannot be justified.

## 10. Summary and conclusions

10.1 We do not consider that the plan as drafted is sound for the following reasons:

- The plan fails to meet employment land need, which results in significant social and economic adverse impacts.
- There is insufficient justification for failing to meet the Black Country's employment needs within the Black Country.
- There are no firm agreements with neighbouring authorities to meet the identified unmet needs.
- The proposed designation of Land at Bott Lane for housing is not justified and is outdated.
- The site assessment is flawed. The impacts of the recycling facility are overstated and unjustified. The site has been operating since the granting of planning permission P18/0218 with no significant harm to the nearby residential properties.

10.2 The site should be designated as Local Employment Land. There is an identified need for employment land in the BCP.

10.3 The Jewellery Line Core Regeneration Area is not sound and cannot be delivered as currently proposed. The site to the north is no longer allocated for housing, which undermines the specific housing regeneration of the area and further impacts on the proposal for housing on our client's site. Our client and The Vanguard Foundry are not likely to dispose of the sites.

10.4 The permanent use of the site for recycling of aggregate material would address the growing need for such facilities and conform with Policy W2.

10.5 Overall, the site can bring benefits to the Core Regeneration Area through sustainable development which is already present on site. The site at Bott Lane should be reallocated as Local Employment Land / Waste Site for the reasons stated in these representations.

## 11. Appendices

- EP1. Decision notice P20/1801  
EP2. Pegasus Grab Hire Ltd representations to Call for Sites, August 2020  
EP3. Location Plan

EP1