



Norfolk County Council

Planning (Regulatory) Committee

Date: **Friday, 15 March 2019**

Time: **10:00**

Venue: **Edwards Room, County Hall,
Martineau Lane, Norwich, Norfolk, NR1 2DH**

Persons attending the meeting are requested to turn off mobile phones.

Membership

Mr C Foulger - Chairman

Mr S Askew Mr B Long - Vice-Chairman

Mr R Brame Mr W Richmond

Mr D Collis Mr M Sands

Mr D Harrison Mr E Seward

Mr B Iles Mr M Storey

Dr C Jones Mr A White

At meetings of this Committee, members of the public are entitled to speak before decisions are made on planning applications. There is a set order in which the public or local members can speak on items at this Committee, as follows:

- Those objecting to the application
- District/Parish/Town Council representatives
- Those supporting the application (the applicant or their agent.)
- The Local Member for the area.

Anyone wishing to speak regarding one of the items going to the Committee must give written notice to the Committee Officer (committees@norfolk.gov.uk) at least 48 hours before the start of the meeting. The Committee Officer will ask which item you would like to speak about and in what respect you will be speaking. Further information can be found in [Part 4.4 of the Constitution](#).

**For further details and general enquiries about this Agenda
please contact the Committee Officer:**

Julie Mortimer on 01603 223055 or email committees@norfolk.gov.uk

Under the Council's protocol on the use of media equipment at meetings held in public, this meeting may be filmed, recorded or photographed. Anyone who wishes to do so must inform the Chairman and ensure that it is done in a manner clearly visible to anyone present. The wishes of any individual not to be recorded or filmed must be appropriately respected.

When the County Council have received letters of objection in respect of any application, these are summarised in the report. If you wish to read them in full, Members can do so either at the meeting itself or beforehand in the Community and Environmental Services Department, County Hall, Martineau Lane, Norwich.

A g e n d a

1. **To receive apologies and details of any substitute members attending**

2. **To confirm the minutes from the Planning (Regulatory) Committee meeting held on 26 October 2018.**

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3. **Declarations of Interest**

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an **Other Interest** in a matter to be discussed if it affects, to a greater extent than others in your division

- Your wellbeing or financial position, or
- that of your family or close friends
- Any body -
 - Exercising functions of a public nature.
 - Directed to charitable purposes; or
 - One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

Of which you are in a position of general control or management.

If that is the case then you must declare such an interest but can speak and vote on the matter.

4. **Any items of business the Chairman decides should be considered as a matter of urgency**

5. **C/2/2017/2010: Waste Recycling Centre, Station Road, West Dereham**
Report by the Executive Director of Community and Environmental Services.

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6. **C/2/2018/2022: Land north of Willows Road, Willows Industrial Estate, King's Lynn**
Report by the Executive Director of Community and Environmental Services.

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7. **ITEM WITHDRAWN FROM THE AGENDA. C/2/2018/2006: Land adjacent to Riverside Farm, Garage Lane, Setchey, King's Lynn**
Report by the Executive Director of Community and Environmental Services.

Chris Walton
Head of Democratic Services
County Hall
Martineau Lane
Norwich
NR1 2DH

Date Agenda Published: 14 March 2019



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STANDING DUTIES

In assessing the merits of the proposals and reaching the recommendation made for each application, due regard has been given to the following duties and in determining the applications the members of the committee will also have due regard to these duties.

Equality Act 2010

It is unlawful to discriminate against, harass or victimise a person when providing a service or when exercising a public function. Prohibited conduct includes direct discrimination, indirect discrimination, harassment and victimisation and discrimination arising from a disability (treating a person unfavourably as a result of their disability, not because of the disability itself).

Direct discrimination occurs where the reason for a person being treated less favourably than another is because of a protected characteristic.

The act notes the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The introduction of the general equality duties under this Act in April 2011 requires that the Council must in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by this Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- Foster good relations between people who share a relevant protected characteristic and those who do not.

The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Crime and Disorder Act, 1998 (S17)

Without prejudice to any other obligation imposed on it, it shall be the duty of the County Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The requirements of the Human Rights Act 1998 must be considered.

The human rights of the adjoining residents under Article 8, the right to respect for private and family life, and Article 1 of the First Protocol, the right of enjoyment of property are engaged. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity.

The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. A refusal of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

**Planning Regulatory Committee
Minutes of the Meeting Held on Friday 26 October 2018
at 10am in the Edwards Room, County Hall**

Present:

Mr B Long, Vice-Chairman (In the Chair)

Mr S Askew
Mr D Bills
Mr R Brame
Mr D Collis
Mr D Harrison
Mr B Iles

Mr W Richmond
Mr M Sands
Mr E Seward
Mr M Storey
Mr A White

1 Apologies and Substitutions

Apologies for absence were received from Mr C Foulger (Mr D Bills substituted) and Dr C Jones.

2 Minutes from the meeting held on 14 September 2018

2.1 The minutes from the Planning (Regulatory) Committee meeting held on Friday 14 September 2018 were agreed as a correct record by the Committee and signed by the Vice-Chairman.

3 Declarations of Interest

No declarations of interest were made.

4 Urgent Business

There was no urgent business.

Applications referred to the Committee for determination.

The Committee **agreed** to consider agenda items 5 (C/7/2015/7018) and 6 (C/7/2015/7019) concurrently.

5 C/7/2015/7018: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay.

5.1 Proposal and applicant: Variation of conditions 2, 3, 8, 16 and 18 of planning permission C/7/2013/7010 to extend duration of extraction and restoration until 31/12/25, allow for revised plans and plant details (part retrospective) and increase in quantity of imported aggregates, with increased depth of working and revised restoration: LP Pallett Quarry.

5.2 C/7/2015/7019: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay, NR35 2HJ.

5.3 Proposal and applicant: Variation of conditions 1, 4 and 18 of planning permission C/7/2013/7008 to extend duration of extraction and restoration until 31/12/2025, with increased depth of working and revised restoration: LP Pallett Quarry Ltd.

5.4 The Committee received the reports by the Executive Director of Community and Environmental Services.

5.5 During the presentation of the reports the Senior Planning Officer read out the following statement which had been received from Mrs M Stone, Local Member for Clavering Division which covered the application site:

“I have not been asked by the Parish Council to attend and have nothing to add to the comments from local residents. I am mindful that this quarry has been open for some considerable time and extension after extension can seem quite intolerable for local people. However, I am mindful of the need for minerals but would appreciate an in-depth review so locals can be assured that this will come to an end and the site returns to its original state and landscaped.”

5.6 Mr D Harrison left the room at 10.10, returning at 10.20 and was therefore not eligible to take part in the vote to determine the application.

5.7 The following points were noted in response to questions from the Committee:

5.7.1 One recent telephone call had been received, complaining about excessive noise from the site. The Planning Authority’s Monitoring team had visited the quarry to monitor the noise levels although, due to the proximity of the A143, it had not been possible to determine that excessive noise was arising from activities at the site. The Committee noted that the Environmental Health Officer had not raised any objection to the application.

5.7.2 The application site was within a Site of Special Scientific Interest (SSSI) as there were geological features present which provided an opportunity for research into the impact of climate change. The eastern face had been covered with sand to protect it from weathering; upon restoration the faces would be seeded with acid grass mix to allow access for future geological study.

- 5.7.3 It was proposed that working and restoration would be carried out in five successive phases – the first four phases would be around the sides of the void, with the final phase on the floor of the void. Regular monitoring of the site would take place which should reassure nearby residents that the site would be progressively worked and restored.
- 5.7.4 The comment which had been received from a local resident about lorries travelling past their house between the hours of 06.30 and midnight had been discussed with the applicant. It had not been possible to establish that the lorries were associated with the quarry as there were other activities in the vicinity which used HGVs. The Committee was notified that a weighbridge had now been installed at the site.
- 5.8 One Member commented that the application company was a well-run business which was courteous to its neighbours.
- 5.9 Upon planning application No. **C/7/2015/7018** being put to a vote, with all those Committee Members eligible to vote voting in favour, the Committee unanimously **RESOLVED** that the Executive Director of Community and Environmental Services should be authorised to:
- i. Grant planning permission subject to the conditions outlined in section 12 of the report.
 - ii. Discharge conditions (in discussion with the Chairman and Vice-Chairman of the Committee) where those detailed in the report require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.
 - iii. Delegate powers to officers (in discussion with the Chairman and Vice-Chairman of the Committee) to deal with any non-material amendments to the application that may be submitted.
- 5.10 Upon planning application No. **C/7/2015/7019** being put to a vote, with all those Committee Members eligible to vote voting in favour, the Committee unanimously **RESOLVED** that the Executive Director of Community and Environmental Services should be authorised to:
- i. Grant planning permission subject to the conditions outlined in section 12 of the report.
 - ii. Discharge conditions (in discussion with the Chairman and Vice-Chairman of the Committee) where those detailed in the report require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.
 - iii. Delegate powers to officers (in discussion with the Chairman and Vice-Chairman of the Committee) to deal with any non-material amendments to the application that may be submitted.

- 6 **C/7/2018/7005: Quarry of Beacon Hill, Loddon Road, Norton Sub Course.**
- 6.1 Proposal: Variation of Conditions 9 (dust scheme) and 11 (protection of existing trees) of planning permission C/7/2012/7017. Cemex UK.
- 6.2 The Committee received the report by the Executive Director of Community and Environmental Services seeking planning permission for the variation of Conditions 9 (dust scheme) and 11 (protection of existing trees) of planning permission C/7/2012/7017.
- 6.4 In response to a question about whether provision had been made to check and replace wooden fence posts if they became rotten or unstable, the Trainee Planner advised that the Enforcement Officer would check the fencing as part of the monitoring of the conditions and advise the applicant if any fence posts needed to be replaced. It was also noted that the fence was positioned behind a tree belt and therefore would not cause any visible nuisance.
- 6.5 Upon the application being put to the vote, the Committee unanimously **RESOLVED** that the Executive Director of Community and Environmental Services should be authorised to:
- i. Grant planning permission subject to the conditions outlined in section 13 of the report.
 - ii. Discharge conditions (in discussion with the Chairman and Vice-Chairman of the Committee) where those detailed in the report require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.
 - iii. Delegate powers to officers (in discussion with the Chairman and Vice-Chairman of the Committee) to deal with any non-material amendments to the application that may be submitted.

The meeting concluded at 10.30 am.

Chairman



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Planning (Regulatory) Committee

Report title:	C/2/2017/2010: Waste Recycling Centre, Station Road, West Dereham, King's Lynn
Date of meeting:	15 March 2019
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Proposal and applicant: Retrospective installation and use of waste shredding plant, with associated wall constructed using concrete blocks for noise attenuation purposes (Glazewing Ltd: Mr Jonathan Miles).	

Executive summary

Planning permission is sought retrospectively at the existing waste management facility to install and use waste shredding plant including a generator and a concrete block noise attenuation wall. The application does not seek to make any changes to any of the currently approved operations authorised by previously issued Planning Permissions.

Objection has been raised by 32 respondents. No objections have been raised by statutory consultees subject to suitably worded conditions being imposed on any grant of planning permission.

The key issues are the principle of development, impacts of the development on residential amenity, the highway network & visual amenity. The environmental impacts of the proposal have been carefully considered. It is considered that the proposal is in accordance with the policies contained within the development plan and national planning guidance, and therefore conditional planning permission is recommended.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- I. Grant planning permission subject to the conditions outlined in section 13.**
- II. Discharge conditions where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- III. Delegate powers to officers to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

- 1.1 Type of development : Use of waste shredding plant to manage existing waste streams.
- 1.2 Site area : 0.12 hectare (contained within the wider site).
- 1.3 Annual tonnage : 17,500 tonnes of municipal waste, no increase in the permitted per annum tonnage.
- 1.4 Duration : Permanent
- 1.5 Hours of working / operation : Operation of plant:
07:00 to 19:00 weekdays.
07:00 to 17:00 Saturdays.
No working Sundays and Public Holidays.
- 1.6 Average daily in/out vehicle movements : No additional HGV movements.
- 1.7 Access : Existing direct access to Station Road, on to the B1160 (College Road), via West Dereham Road.
- 1.8 Plant : Waste Shredding Plant.

1.9 Planning permission is sought retrospectively for the waste shredding plant within the existing waste management facility. The purpose of the plant is to shred a proportion of the waste that is already permitted for importation on to the site. The waste figures equate to 17,500 tonnes of municipal waste, no additional waste importation is being proposed. The waste once shredded would be baled for transportation off the site. The baled waste is then incinerated off site for electricity generation. Associated with the shredding plant is a wall (yet to be constructed) along one side of the plant, formed using concrete blocks, to assist in the attenuation of noise generated by the plant.

2. Site

- 2.1 The application site is located within an existing waste management facility on Station Road, West Dereham which is located approximately 3.5 miles southeast of Downham Market and 1.5 miles south-west of the village of West Dereham. The site lies within the parish of West Dereham in the borough of King's Lynn & West Norfolk.
- 2.5 The waste management use at the site is historical and became lawful in 1993 (Norfolk County Council reference C/2/1993/2016: Certificate of lawfulness).

3. Constraints

- 3.1 The following constraints apply to the application site:
- According to the Environment Agency's (EA) flood zone maps the application

site is situated within flood zones 1, 2 and 3.

- The application site is located above the Mintlyn Sand Member Principal Aquifer.
- The application site is located above Cam and Ely Ouse Woburn Sands which is a Water Framework Directive Groundwater Body.
- The application site is in close proximity to the Cut-Off Channel which has a potable water supply abstraction.

4. Planning History

4.1 Norfolk County Council reference C/2/1993/2011: Extend breakers yard, extend & improve existing skip & waste transfer facilities. Approved June 1996.

Norfolk County Council reference C/2/1993/2016: Certificate of lawfulness. Approved March 1994

Norfolk County Council reference C/2/2002/2013: Construction of building to house offices/workshop/metals recycling. Approved November 2002.

Norfolk County Council reference C/2/2004/2030: Extension to existing steel framed building. Approved March 2005.

Norfolk County Council reference C/2/2008/2015: Retention of vehicle viewing platform and variation of C6 of PP C/2/93/2011 to increase storage height to 6.5m. Approved October 2008.

Norfolk County Council reference C/2/2009/2008: Certificate of lawfulness: for existing use. Approved July 2010.

Norfolk County Council reference C/2/2014/2016: Erection of a building to house a replacement waste baler and generator with associated improvements to bunding and landscaping arrangements along the southern site boundary. Approved February 2015.

Norfolk County Council reference C/2/2017/2022: Application for a lawful development certificate for the importation, handling and onward transfer of lead acid batteries, tyres, waste electrical & electronic equipment and mixed municipal wastes. Approved September 2018.

5. Planning Policy

Development Plan Policy

5.1 **Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF)**

CS6: General waste management considerations
CS13: Climate change and renewable energy generation
CS14: Environmental protection
CS15: Transport
DM3: Groundwater and surface water
DM4: Flood Risk
DM8: Design, Local landscape and townscape character
DM10: Transport
DM12: Amenity
DM15: Cumulative impact

5.2 Borough Council of King's Lynn and West Norfolk – Local Development Framework – Core Strategy (Adopted July 2011)

CS06: Rural Areas
CS08: Sustainable Development
CS10: The Economy
CS11: Transportation
CS12: Environmental Assets

5.3 Borough Council of King's Lynn and West Norfolk – Local Development Framework – Site Allocations and Development Management Policies Plan (Adopted September 2016)

DM15: Environment, Design and Amenity
DM21: Sites in Areas of Flood Risk

5.4 Adopted Neighbourhood Plan

N/A

Other material Considerations

5.5 The National Planning Policy Framework (2019)

- 1: Building a strong competitive economy
- 14: Meeting the challenge of climate change, flooding and coastal change
- 15: Conserving and enhancing the natural environment
- 16: Conserving and enhancing the historic environment

5.8 National Planning Policy for Waste (2014)

5.9 Our Waste, Our Resources: A Strategy for England (2018)

6. Consultations

- 6.1 The Borough Council of King's Lynn & West Norfolk (Planning) : No objection. The proposal constitutes an expansion of an existing rural enterprise, which is supported by national and local planning policies.

- 6.2 Environmental Health Officer (North Norfolk District) : Air quality – no objection
Noise – no objection
Lighting – no objection
Drainage – no objection
- 6.3 West Dereham Parish Council : Object, due to fly infestation caused by waste material stockpile. Site management, environmental, fire safety, visual amenity and amenity concerns
- 6.4 Environment Agency (EA) : No objection, subject to condition
- 6.5 Lead Local Flood Authority (LLFA) (NCC) : Standing advice.
- 6.6 Highway Authority (NCC) : No objection on the basis that there will be no change to either the type or frequency of vehicle movements to and from the site
- 6.7 Water Management Alliance : No comment, not within their jurisdiction.
- 6.8 Downham Market Group of Internal Drainage boards : At the time of writing the report no comments received.
- 6.9 Ecologist (NCC) : No objection.
- 6.10 Green Infrastructure and Landscape (NCC) : No objection subject to landscaping condition re implementation of this and previous scheme.
- 6.11 Public Rights of Way Officer (NCC) : No comment, not relevant to Public Rights of Way
- 6.12 County Councillor (Mr Brian Long) : At the time of writing the report no comments received.
- 6.13 Norfolk Fire and Rescue Service (NCC) : No objection, providing the proposal meets current building regulations.
- 6.14 Representations

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.

- 6.15 Thirty-two letters of objection from thirty-two respondents have been received. All the

letters raise planning related objections. The objections relate to the following:

- Amenity concerns because of fly infestation.
- Health concerns because of fly infestation.
- Increased HGV movements would cause safety concerns.
- Amenity concerns because of odour.
- Amenity concerns because of pollutants.
- Amenity concerns because of noise.
- Amenity concerns because of increased fire risk.
- Amenity concerns because the hours of operation.
- The noise screening proposed would be ineffective.
- The use of the machine would result in unbearable environmental concerns.
- Would prefer the plant to be positioned and used inside a building.
- Recommend a limit on the quantities of waste to be stored on the site.
- Concern that the pesticides used to reduce the flies would cause a hazard to health.
- Concerned that the application is retrospective.
- The operator has a history of poor site management.
- When the plant breaks down the site management should manage the fly infestation.
- The site operator does not communicate with residents.
- Environmental impact of hauling the material to site long distance.
- There is a petition signed by 412 people.
- The site is currently being operated outside of hours 6pm?
- Existing operations a causing unacceptable levels of noise disturbance.
- Stockpiles generate the flies.

7. Assessment

7.1 The issues to be assessed for this application are: the principle of development, and impacts on the landscape, amenity, health, highways/transport, ecology (biodiversity), sustainability, heritage assets (the scheduled monument), groundwater & surface water and flood risk.

7.2 Principle of development

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- 7.3 In terms of the development plan, the County Planning Authority considers the relevant policy documents in relation to this application to be the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (the “NMWDF Core Strategy”), Borough Council of King’s Lynn & West Norfolk, Core Strategy (July 2011 & Site Allocations and Development Management Policies Plan (September 2016). Whilst not part of the development plan, policies within the National Planning Policy Framework (2018), and the Government’s National Planning Policy for Waste (2014) and their Waste Management Plan for England (2013) are also a further material consideration of significant weight.
- 7.4 The continued use of the site for waste management purposes is lawful through either planning consents or lawful development certificates. As such the principle of the waste use on the site and the tonnages of waste material being brought on to the site for processing is not for consideration in this application. This application is only concerned with the siting and continued use of the waste shredder to shred the waste which is being lawfully brought on to the site and the associated concrete blocks for noise attenuation purposes.
- 7.5 In principle officers consider that it would reasonable to expect the applicant in connection to the lawful use of the site to process waste at the site. Machinery which is reasonably required to assist the applicant in carrying out the lawful use of processing waste on the site in principle should also be considered acceptable and in accordance with NMWDF policy CS5 “General Waste Considerations.” This is subject to a full appraisal of all material considerations and the policies of the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011).
- 7.6 The Government’s National Planning Policy for Waste (2014) is the most direct relevant national guidance. This document underlines that the planning system is pivotal to the timely and adequate provision of waste facilities and it sets out the Government’s strategy for sustainable waste management. This scheme would assist with the overarching thrust of dealing with waste in a more sustainable manner i.e. through recycling and recovery of waste and therefore driving waste management up the waste hierarchy (and only disposing of it as a last resort). The application is therefore considered to comply with the aims and objectives of this and the Government’s ‘Our Waste, Our Resources: A Strategy for England’ which similarly seeks to promote the management of waste up the waste hierarchy.
- 7.7 **Design**
King’s Lynn & West Norfolk, Core Strategy Policy CS 08 (Sustainable Development) states that all new development in the borough should be of high quality design and should demonstrate its ability to respond to the context and character of the place.
- 7..8 Section 12 of the NPPF (Achieving well designed places) encourages a high standard of design in new development and emphasises the importance attached to good design as a key aspect of sustainable development.

- 7.9 The shredder is proposed in an active waste management facility which in turn is located in open countryside. The shredder would extend to 8.3 metres (approx.). The finish colour is red. The wall would extend for the full distance of the shredder 25.1 metres (approx.) and be 2.4metres high.
- 7.10 The scale of the shredder and the wall would be consistent with the scale of equipment currently used at the site. Officers consider that the appearance of the shredder and the proposed wall are robust and functional, the colours are acceptable in the context of the site. Therefore, in the context of the site the external appearance, siting and scale represent an acceptable form of design and would not conflict with Policy CS 08 (Sustainable Development).
- 7.11 **Amenity (odour, noise, dust, lighting, fire risk)**
- The protection of amenity for people living in-close proximity of waste management facilities is a key consideration and NMWDF policy DM12: *Amenity* states that development will only be permitted where "...unacceptable impact to local amenity will not arise from the operation of the facility." This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. The Borough Council of King's Lynn and West Norfolk, Site Allocations and Development Policies Plan policy DM15 also gives regard to the protection of existing residential amenity and permitting development that would not have significant adverse impact on amenity. NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on, Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 170 requires that new and existing development should be prevented from contributing to unacceptable levels of air pollution.
- 7.12 The nearest residential property to the site is a permanent static caravan which is located approximately 210 metres to the north east of the site.
- 7.13 With regards to the actual regulation of an operation such as this, in accordance with paragraph 183 of the NPPF and the National Planning Policy for Waste, the County Planning Authority needs to focus on whether proposed development is an acceptable use of land, rather than the control of processes or emissions, and the CPA needs be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency (EA)). However, it is the role of the Environmental Permit (which the facility would also require before it can operate) as issued by the Environment Agency to actually-control emissions such as noise, odour and dust through conditions, and Planning Authorities should assume this regime will operate effectively.
- 7.14 The EA has confirmed in their representation that the site has a permit which allows for up to 75 tonnes of waste per day to be treated in shredders. The EA confirms that if the daily amount of waste treated in shredders is greater than 75 tonnes a variation to the permit would be required. The tonnage of material being proposed for shredding by this application does not exceed the 75 tonne per day figure.
- 7.15 Concerns relating to a fly infestation, has been raised by a significant number of residents. In response to the application the EA notes that the shredder underwent maintenance between 27th August to 12th October 2018. This resulted in waste being stockpiled on site, which in turn prompted residents to make complaints to the EA

regarding increased numbers of flies. The EA has confirmed that following the complaints spraying of insecticide commenced and waste importation ceased for a time. The EA confirmed that the fly numbers reduced and were deemed under control on site on 28th September 2018.

7.16 Odour

The applicant has provided an air quality assessment which very briefly covers the issue of odour. It states that there are no statutory limits for ambient odour concentrations in the UK and that the direction of spread of odours is dependent on wind direction and the intensity is dependent on distance. A local resident has raised concern that the development is creating odour issues.

7.17 The EA in providing their view must satisfy themselves under Article 13 of the Waste Framework Directive subject to the EA permit that the proposed development will not give rise to an unacceptable impact. The EA has not raised an odour related objection to the proposal. In addition the EHO at the Borough Council has not raised an odour related objection.

7.18 Noise

As part of the planning application, a noise impact assessment was undertaken. The assessment concluded that the cumulative impact of the new waste shredder with the existing operational plant been considered at the nearest receptor positions. The resultant change in noise level is negligible in terms of impact significance.

7.19 The EHO has not raised a noise related objection subject to a condition which requires compliance with the noise control measures contained in sections 5.3.1 & 5.3.2 in the noise impact assessment. The EHO also considers that any development which does not exceed 5dB above the existing background levels would not cause any adverse impact on residents.

7.20 Dust

The air quality assessment contains a section relating to dust and a dust management plan. The dust management plan includes operational dust control measures and site management measures. The assessment concludes that the majority of dust generated from the new plant will be larger particles. Particles of this size generally deposit within 100m of the source. The report also concludes that it is highly unlikely that any significant decrease in local air quality will occur due to the development. Any dust occurrence event will be minimised by implementation of the dust control recommendations outlined in the Dust Management Plan. With regard to smaller particle levels from the plant, the applicant has made analysis of the projected air quality data from the DEFRA website. They also combined this with the extra burden of the waste handling operations and conclude that the Air Quality Objectives (AQO) will not be exceeded.

7.21 The EHO considers that operation of the shredding plant is unlikely to cause an exceedance of air quality standards locally and therefore has no objection on air quality grounds subject to the measures in the dust management plan being followed. The EHO recommends that approval of the dust management plan be required by condition and that the plant be operated in accordance with the DMP. a condition.

7.22 Lighting

The applicant proposes five separate 100w floodlights in and around the shredder. All lighting is proposed to be angled at 45 degrees downward, four would be 6 metres high and one 3 metres.

7.23 The EHO raises no objection on the grounds of lighting on the basis that the lighting “*should not impact on residents,*” subject to compliance with the submitted scheme.

7.24 Fire Risk

The National Planning Policy for Waste (2014) requires that re-use, recovery and disposal of waste should take place without endangering human health. Objectors have raised concerns that the development will lead to increased fire risk at the site, particularly given the instances of fires that have taken place at this and other facilities in recent years, both within the County and further afield. The facility will have a Fire Prevention Plan which forms part of the site’s Environmental Permit. It should be noted that this is a matter of the management of the proposed facility, and not of the requirement for new development that would require recourse to the planning system.

7.25 Norfolk Fire and Rescue Service in their response has not raised an objection providing the proposal meets building regulation requirements. Officers consider this to be an issue for the applicant to resolve should permission be granted.

7.26 Subject to conditions including those discussed above, there are no outstanding objections from the EHO, the Environment Agency or the Fire Service with regards to matters relating to amenity and health. Accordingly, it is not considered that there would be an unacceptable impact to local amenity and the application complies with both NMWDF Policies CS14 and DM12, the Borough Council of King’s Lynn and West Norfolk, Site Allocations and Development Policies Plan policy DM15 and Section 15 of the NPPF and the National Planning Policy for Waste (2014). It is not considered that the proposal would lead to the designation of a new AQMA and the proposal accords with NMWDF policy DM13.

7.27 **Landscape**

NMWDF Policies CS14: Environmental protection and DM8: *Design, local landscape and townscape* character both seek to only permit development that does not have unacceptable impacts on the character and quality of the landscape.

7.28 King’s Lynn & West Norfolk, Core Strategy Policy CS 06 (Development in Rural Areas) states beyond the villages and in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty, the diversity of its landscapes.

7.29 King’s Lynn & West Norfolk, Core Strategy Policy CS 12 (Environmental assets) states that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area, the landscape setting and features.

7.30 The site is located on an existing waste management site which is outside any areas designated to be protected for its landscape value (such as would be the case with a Conservation Area or AONB) in terms of the NMWDF policies and the NPPF.

- 7.31 The waste shredder plant occupies a footprint of approximately 310.5m² (approximately 27.0m long by 11.5m wide). The plant is not contained within an external housing. The highest element is the discharge hopper and feed conveyor which reach a maximum height of 8.26m. The second highest element is the feed hopper which sits at 5.4m above the existing concrete pad. A 2.4m high concrete block screen wall lies to the northeast edge of the unit. The shredder has been constructed perpendicular to the existing main building at the southern end of the building's north-western facing elevation.
- 7.32 Planning Permission Ref C/2/2014/2016 for the erection of a building to house a replacement waste baler and generator included landscaping improvements i.e. bunding and landscaping arrangements along the southern site boundary. These improvements are said by the applicant to mitigate the visual effects of the waste shredder. In addition, the applicant is proposing further landscaping which includes re-grading the existing boundary bunding and improved boundary planting.
- 7.33 The Natural Environment Team (NCC) raise no objection and the proposed landscaping is considered to be acceptable. This is subject to a condition requiring implementation
- 7.33 Subject to compliance with the condition to implement, it is considered that there are no unacceptable landscaping impacts with the scheme and it would not undermine the development plan policies outlined above, namely, NMWDF policies CS14 and King's Lynn & West Norfolk, Core Strategy policies CS 06 & CS12.
- 7.34 **Biodiversity and geodiversity**
 NMWDF policy CS14 states developments must ensure there are no unacceptable adverse impacts on biodiversity including nationally and internationally designated sites and species.
- 7.35 King's Lynn & West Norfolk, Core Strategy Policy CS 12 (Environmental Assets) states that development should seek to avoid, mitigate or compensate for any adverse impacts on biodiversity. Development should also seek to enhance sites through the creation of features of new biodiversity. Paragraph 175 of the NPPF seeks only to grant planning permission where it would not result in the loss or deterioration of irreplaceable habitats.
- 7.35 The County Ecologist raises no objection. Officers considered that the proposed development would not cause any adverse effects on the location in terms of ecology/biodiversity and the provision of a native species hedge would enhance the area. It is considered that the proposal complies with Mineral and Waste Core Strategy policy CS14, King's Lynn & West Norfolk, Core Strategy Policy CS 12 and the aims and Section 15 of the NPPF: Conserving and enhancing the natural environment.
- 7.36 Appropriate Assessment
 In accordance with Article 61 of The Conservation of Habitats and Species Regulations 2010, an Appropriate Assessment is not considered necessary because

the proposal is considered very unlikely to have a significant effect on a European designated site or species.

7.37 Transport / Highways

Norfolk County Council's, Core Strategy and Minerals and Waste Development Management Policy Policies CS15: *Transport* and DM10: *Transport* requires that proposed new waste facilities in terms of access will be satisfactory where anticipated HGV movements, taking into account any mitigation measures proposed, do not generate, inter alia, unacceptable risks/impacts to the safety of road users and pedestrians, the capacity and efficiency of the highway network, or to air quality and residential and rural amenity, including from air and noise.

7.38 King's Lynn & West Norfolk, Core Strategy Policy CS11 (Transport) states that development proposals should demonstrate that they have been designed to provide for safe and convenient access for all modes.

7.39 Access to the site would be via the existing arrangements, along Station Road which is a narrow single-track road with a number of properties along its length. The Highway Authority is aware that given the sites position on the highway network there has been concern expressed locally regarding the traffic generated at the site through current activities.

7.40 There has been a number of objections received which relate to the current highways issues and the affect this is having upon the amenity of the residents. The Applicant has confirmed that the proposal will not increase the throughputs of waste recycled or lead to any wastes being handled which are not currently brought onto the site. Vehicle movement numbers will therefore remain the unchanged.

7.41 The Highway Authority has not raised an objection on the basis that the application seeks to regularise activities on site only, with no change to the currently approved volumes of material accepted on site. The 17,500 tonnes are included in the current throughput figures.

7.42 Subject to a suitably worded condition limiting the tonnage of material and thus HGV generation to the current levels, the proposal would be in accordance with the requirements of Norfolk County Council's, Core Strategy and Minerals and Waste Development Management, Core Strategy Policies CS15 (Transport) & DM10 (Transport) and King's Lynn & West Norfolk, Core Strategy Policy CS11 (Transport).

7.43 Sustainability

Norfolk County Council's, Core Strategy and Minerals and Waste Development Management Policy CS13 (Climate change and renewable energy generation) states that all opportunities for new waste developments (both brand new sites and extensions to existing sites) to generate renewable energy on-site will be welcomed and should be explored fully, with a minimum of 10 per cent generated from decentralised and renewable or low-carbon sources, wherever this is practicable.

7.44 King's Lynn & West Norfolk, Core Strategy Policy CS08 (Sustainable Development) states that opportunities to promote and encourage high standards of sustainability and energy efficiency in new development should include measures such as layout,

orientation, appropriate insulation maximised to improve efficiency, good access links for walking & cycling and sustainable drainage systems.

- 7.45 In response to these policy requirements the Applicant states that when assessing the sustainability credentials of the proposed development consideration needs to be given to how the waste treated on site is to be used. In this case the shredded waste would be baled onsite then transported off site to be incinerated to make electricity using heat and steam generated in Energy from Waste Plants in Europe. Officers consider that very little weight if any at all should be given to this process. The policy requires the generation of renewable energy on-site to be explored. Transportation of materials to another country for treatment does not satisfy the policy requirement.
- 7.46 The Applicant has submitted an appraisal of the options for the generation of on-site energy generation including wind & solar power and biomass generation all of which have been dismissed by the applicant. Wind power is said, would severely compromise the integrity of this screening and bring to the attention of residents, visitors and nearby land users the presence of the waste management site. Solar is considered unacceptable due to space and orientation of the roof lines. Biomass generation, on a practical scale is said, only likely to be able to make a negligible contribution towards the energy requirements of the proposed development.
- 7.47 Officers are satisfied that the Applicant has explored the options for generating renewable energy on the site in accordance with the requirement of Norfolk County Council's, Core Strategy and Minerals and Waste Development Management Policy CS13 (Climate change and renewable energy generation). Whilst it is regrettable that the Applicant has been unable to incorporate renewable generation in to the scheme Officers accept the reasons provided by the Applicant. In conclusion in this instance it is not feasible to generate a minimum of 10 per cent generated from decentralised and renewable or low-carbon sources on the application site.
- 7.48 **Flood Risk/Groundwater/surface water**
- NMWDF policy DM4: *Flood risk* only seeks to permit waste management sites that do not increase the risk of flooding applies. NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources applies.
- 7.49 The Environment Agency (EA) has pointed out that the site also lies over a principal and secondary aquifer. The area for the proposed development is noted as being located within Flood Zones 1, 2 and 3 as defined by the EA. The area proposed for development and installation of the waste shredder plant and attenuation wall is approximately 0.065 ha. A site-specific Flood Risk Assessment is a requirement in accordance with the National Planning Practice Guidance to ensure that risk of flooding to the proposed development is minimised and that development of the site will also not increase flooding potential elsewhere.
- 7.50 The Flood Risk Assessment concludes that the site and proposed Shredder and Noise Attenuation Wall development area may be considered as at low risk of flooding and deemed acceptable and will not increase flood risk elsewhere.
- 7.51 In addition the applicant has explained that the drainage system has been designed

such that:

- All flows from the Shredder and Noise Attenuation Wall area will be considered as foul and drained to a detention or holding tank for pumping out and then for removal from site by tanker as required.
- No rainfall from the shredder area is to drain to any other drainage system on the wider site.
- The drainage system serving the Shredder should be a 'closed' system i.e. no outfalls or inflows from other drainage systems should be in place.
- There should be no discharge from the shredder drainage system. Water contained as part of the shredder drainage system is to leave site by tanker to suitable licenced premises for disposal.
- All flood resilience measure will be designed so as to ensure that any flooded volumes for events up to and including the 1 in 100 year + 40% climate change event are retained on site, within the limits of the shredder area.

7.52 Residents and the Parish Council has raised concern that the current drainage system can't cope and that the proposed system would not be adequate.

7.53 The EA has not objected to the application subject to a condition requiring the submission of a remediation strategy detailing how unsuspected contamination shall be dealt with, should contamination be identified. The Lead Local Flood Authority (LLFA) has not provided bespoke advice but has rather provided standing advice. For this particular type of development the standing advice "2" is most relevant. The LLFA recommends that LPAs satisfy themselves of the following considerations prior to granting permission major development below LLFA thresholds:

- Is the development site currently at risk of flooding? - As set out above.
- How does the site currently drain? - Excess surface water or runoff is currently drained from hardstand areas internally to a series of sumps, which are pumped out to tanker for removal as required. Clean areas of drainage from the site, as are situated around the proposed development area and used for the processing of inert wastes such as concrete and clean soils, and those drained from roof tops, are currently discharged to the surrounding drainage network at a nominal Greenfield discharge rate via a 150 mm diameter vitrified clay pipe line. This pipe is located to the south of the proposed development.
- How will the site drain? - As set out above.
- What sustainable drainage measures have been incorporated into the design? – Officers consider this not to be appropriate due to the nature of the proposed activities on this part of the site.

7.54 On this basis it is considered that the proposal would not adversely impact on flood risk groundwater or surface water and is therefore compliant with NMWDF DM4 &

DM3 & policy DM21 of the Borough Council of King's Lynn and West Norfolk – Local Development Framework – Site Allocations and Development Management Policies Plan (Adopted September 2016).

7.55 Impact on Heritage Assets / Archaeology

The Planning (Listed Buildings and Conservations Areas) Act 1990, NMWLDF CS policies CS14 and DM8, King's Lynn & West Norfolk, Core Strategy policy CS 12 (Environmental Assets) & King's Lynn & West Norfolk, Site Allocations and Development Management Policies Plan policy DM15 (Environment, Design and Amenity) and Section 16 of the NPPF apply.

7.56 The closest heritage asset is a scheduled ancient monument "site of St. Mary's Abbey," which is located approximately 900 metres north-east of the site. A combination of distance, topography, landscaping and surrounding soil bunds results in the existing site being concealed from the heritage asset. The application under consideration would also add to the screening. The development proposal is within previously permitted land and would not result in further encroachment into surrounding land. It is therefore considered that the proposal would not have a detrimental impact on the character, appearance, setting or views into or out of the monument.

7.57 The proposal is also not considered to undermine NMWDF Policy DM9 or King's Lynn & West Norfolk, Core Strategy policy CS 12 (Environmental Assets) & King's Lynn & West Norfolk, Site Allocations and Development Management Policies Plan policy DM15 (Environment, Design and Amenity) and Section 16 of the NPPF given that the site can be developed with the scheduled monument remaining in situ, and without adversely affecting it.

7.58 Public Rights of Way

NPPF paragraph 98 states that planning policies should protect and enhance public rights of way and access.

7.59 Although there are not any Public Rights of Way running through the application site, public rights of way references, West Dereham RB16 & RB15 are located south and south east of the application site. Norfolk County Council's Public Rights of Way Officer has no comment regarding the proposal.

7.60 Officers consider that the existing landscaping and proposed enhancements will assist in screening the shredder and the activities from the public right of way. The development is considered acceptable in this regard and compliant with the NPPF.

7.61 Cumulative impacts

NMWDF Policy DM15: Cumulative Impacts seeks to consider fully the cumulative impact of developments in conjunction with existing proposals. This echoes the National Planning Policy for Waste which also identifies the cumulative effect of existing and proposed waste facilities on the well-being of the local community as a material consideration.

7.62 In this instance, there are no other existing permitted waste management facilities in the vicinity. On this basis the proposal is considered compliant with the policy.

7.63 **Environmental Impact Assessment**

In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2017 the application was screened on receipt and re-screened at the determination stage and it is that it does not meet the criteria contained within Schedules 1 or 2 for an Environmental Impact Assessment. Therefore an Environmental Impact Assessment is not required.

7.64 **Responses to the representations received**

The application was advertised by means of neighbour notification letters, site notices, and advertisements in the Eastern Daily Press newspaper in accordance with statutory requirements.

7.65 The issues raised largely relating to impacts on amenity (dust, noise, odour etc) the public highway, ecology and biodiversity, fire risk, groundwater and surface water, landscape, have been addressed above along with the suitability of the site in land use policy terms, the need for the development at this location, the cumulative impacts of the development. The issues of flies and fire risk would all be matters controlled by the Environmental Permit (issued by the EA).

7.66 The following issues have been raised (responses in *italics*):

- Would prefer the plant to be positioned and used inside a building.

This is not what the applicant has applied for and no adverse impacts have been identified.

- Recommend a limit on the quantities of waste to be stored on the site.

The existing permissions limits the size of the stockpiles.

- Concern that the pesticides used to reduce the flies would cause a hazard to health.

This issue is covered by the EA permit and the COSHH regulations.

- Concerned that the application is retrospective.

See below sections 7.67 to 7.69.

- The operator has a history of poor site management.

This a permitting issue. The County Planning Authority must assume that other regulatory regimes will operate effectively and that this will not be an issue.

- When the plant breaks down the site management should manage the fly infestation.

This is an issue for the EA through the Environmental Permit.

- The site operator does not communicate with residents.

This is at the discretion of the operator.

- Environmental impact of hauling the material to site long distance.

Ideally waste will be managed close to source but this application will not alter the process.

- There is a petition signed by 412 people.

The petition has not been submitted for consideration.

- The site is currently being operated outside of hours 6pm.

The County Planning Authority currently monitors the site and the current permission allows the site to operate until 7pm.

7.67 Intentional Unauthorised Development

Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development is now a material consideration in the determination of all planning applications received after 31 August 2015. This is therefore capable of being a material consideration in the determination of this application.

7.68 In this instance the applicant has inferred that naivety was the cause of this unauthorised development and the need for planning permission was therefore overlooked. Moreover, in making unauthorised development a material consideration, the Government was particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. In this case, whilst the development has taken place on a greenfield site, it is not in the Green Belt.

7.69 Whilst regrettable, in this instance it is not felt that the retrospective nature of the application would represent a ground for refusing planning permission for this development and no weight is given to this in the planning balance.

7.70 The Community Infrastructure Levy

The development is not CIL liable given that the proposals would not create new floor space greater than 100 square metres.

7.71 Local Finance Considerations

In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.72 In this instance it is not considered that there are local finance considerations material to this decision.

8. Resource Implications

8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.

8.2 **Staff:** The development has no staffing implications from the Planning Regulatory

perspective.

8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.

8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

9.1 Human rights

9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.

9.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to enjoyment of their property. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents. In any event, in this case it is not considered that Article 1 of the First protocol is infringed by the grant of the planning permission applied for.

9.5 Equality Impact Assessment (EqIA)

9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

9.8 **Communications:** There are no communication issues from a planning perspective.

9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

10. Section 17 – Crime and Disorder Act

10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.

11. Risk Implications/Assessment

11.1 There are no risk issues from a planning perspective.

12. Conclusion and Reasons for Granting Planning Permission

- 12.1 Planning permission is sought retrospectively at the existing waste management facility to install and use waste shredding plant and a concrete block noise attenuation wall. The application does not seek to make any changes to any of the currently approved operations authorised by previously issued Planning Permissions.
- 12.2 Thirty-two representations have been received raising concern about the proposal, however it is considered that subject to conditions, the scheme can be operated without unacceptable impacts on amenity and health, the landscape, the highway network, ecology, groundwater and surface water and flood risk.
- 12.5 There are no objections from statutory consultees, the proposed development is considered acceptable and there are no other material considerations indicating it should not be permitted. Accordingly, full conditional planning permission is recommended.

13. Conditions

- 13.1 The development must be carried out in strict accordance with the application form, plans and documents as submitted.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 13.2 Within 3 months of the date of this permission the acoustic barrier hereby approved shall be constructed in accordance with the details shown on drawing titled Shredder Plant Details, drawing number G5_LAN_013, dated August 2017.

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.3 No operation authorised or required under this permission or under Part 23 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:

07:00 to 19:00 weekdays.

07:00 to 17:00 Saturdays.

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.4 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179 and Environment Agency Groundwater Protection Position Statements. Contamination can still be missed by an investigation and this condition gives the Local Planning Authority the ability to require a new, or amendments to an existing, remediation strategy to address any previously unexpected contamination.

- 13.5 No plant or machinery shall be used on the site unless it is maintained in a condition whereby it is efficiently silenced in accordance with the manufacturer's specification.

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.6 No additional external lighting shall be installed on the site unless it is maintained such that it will not cause glare beyond the site boundaries.

Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.7 All planting, seeding/turfing and alteration to the bunds comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of each phase of the development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.8 From the date of this permission the operators shall maintain records of their monthly input of waste and shall make them available to the County Planning Authority at any time upon request. All records shall be kept for at least 6 months.

Reason: In order that the County Planning Authority can monitor the input of waste, to protect the amenity of the area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.9 No material other than municipal waste shall be brought onto the site for shredding.

Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

Waste Site Specific Allocations Development Plan Document (DPD) 2013

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

Borough Council of King's Lynn & West Norfolk, Core Strategy (July 2011)

https://www.west-norfolk.gov.uk/info/20219/core_strategy/112/core_strategy_explained

Borough Council of King's Lynn & West Norfolk, Site Allocations and Development Management Policies Plan (September 2016)

https://www.west-norfolk.gov.uk/info/20220/site_allocations_and_development_management_policies_plan/514/adopted_plan

The National Planning Policy Framework (NPPF) (2019)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

National Planning Policy for Waste (2014):

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Our Waste, Our Resources: A Strategy for England (2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf

Government's Ministerial Statement on Intentional Unauthorized Development

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457632/Final_Chief_Planning_Officer_letter_and_written_statement.pdf

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

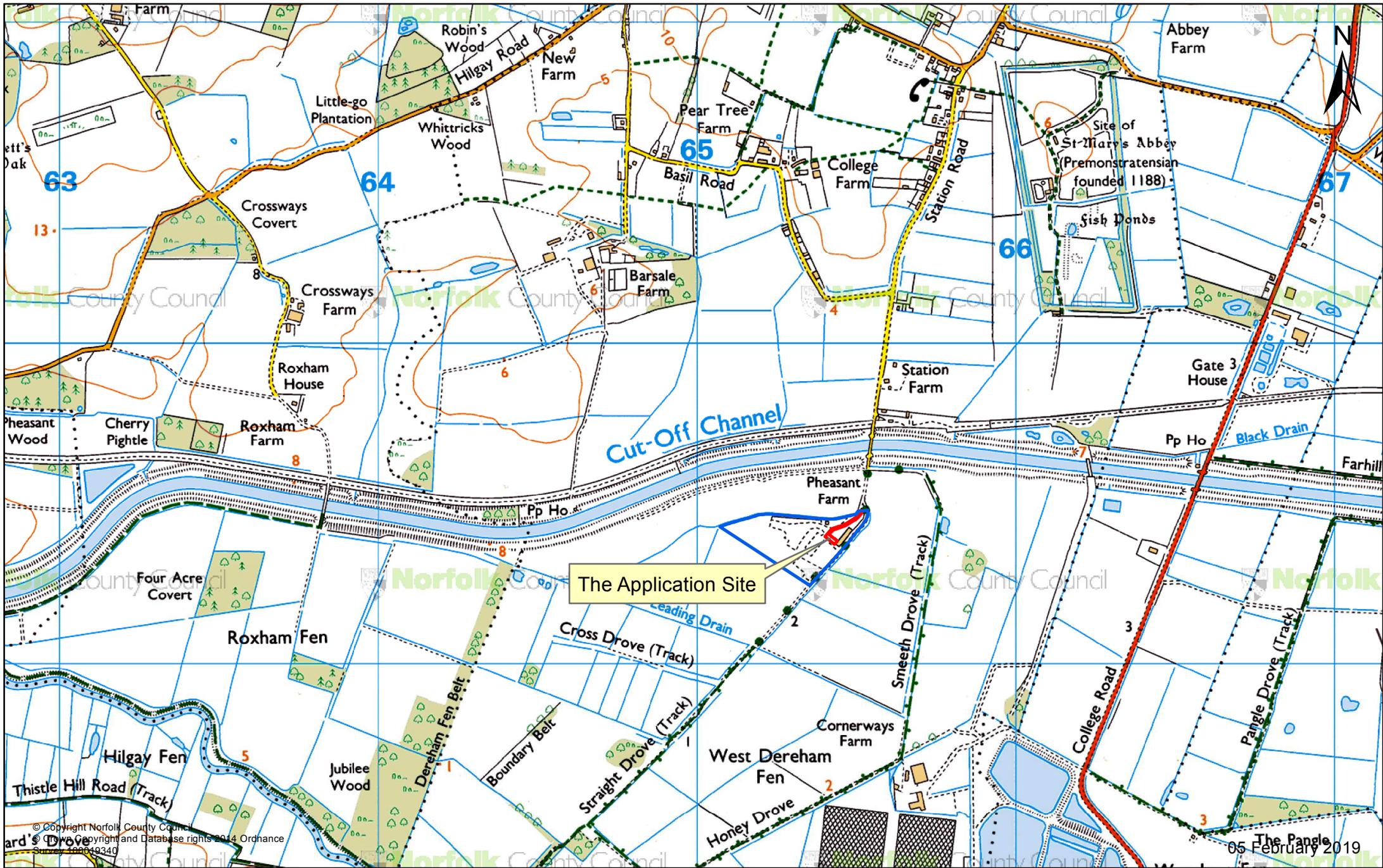
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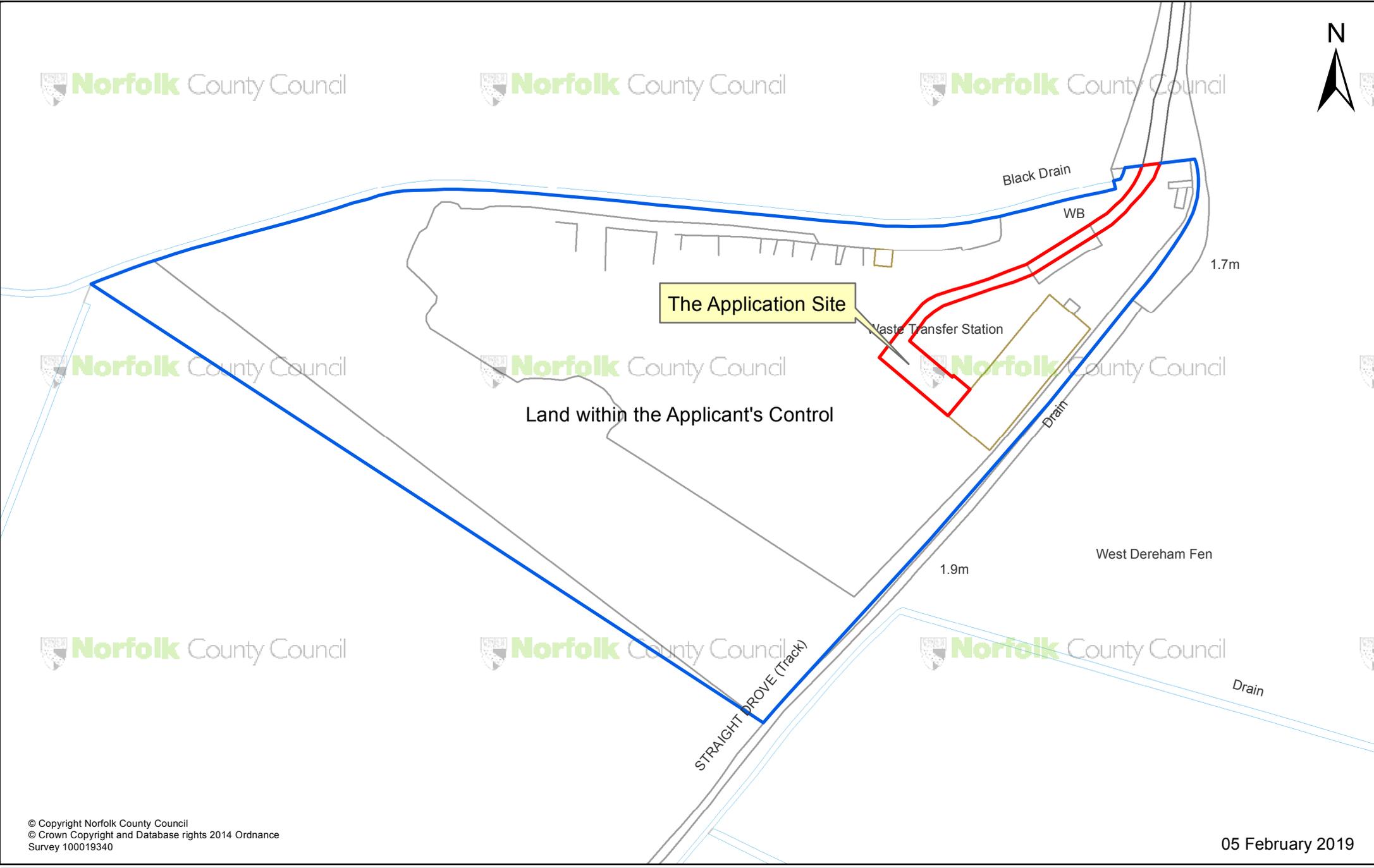


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05 February 2019

C/2/2017/2010
West Dereham



Appendix B - Site Plan  Norfolk County Council

1:2,000

Planning (Regulatory) Committee

Report title:	C/2/2018/2022: Land north of Willows Road, Willows Industrial Estate, King's Lynn
Date of meeting:	15 March 2019
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Proposal and applicant: Construction and operation of replacement Household Waste Recycling Centre, including associated works and vehicular access (Director of Community & Environmental Services, Norfolk County Council)	

Executive summary

Planning permission is sought for the development of a replacement Household Waste Recycling Centre (HWRC) at Willow Road, King's Lynn. The HWRC is being relocated in order to facilitate proposals for the construction and operation of a new gas-fired power station (the 'King's Lynn 'B' CCGT Power Station Project') which will consume the existing HWRC site.

No objections have been received from statutory consultees or members of the public and under the constitution the application could be approved under delegated powers. The application is being reported to Members of the Planning (Regulatory) Committee at the request of the Local Member, Alexandra Kemp.

The proposal accords with the development plan and National Planning Policy Framework and would deal with waste in a sustainable manner, driving waste management up the waste hierarchy in accordance with both the National Planning Policy for Waste (2014), and the Resources and Waste Strategy for England (2018).

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- I. **Grant planning permission subject to the conditions outlined in section 13.**
- II. **Discharge conditions where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- III. **Delegate powers to officers to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

- | | | |
|-----|---------------------|--|
| 1.1 | Type of development | : Household Waste Recycling Centre (HWRC) |
| 1.2 | Site Area | : 1.04 ha (new HWRC would extend to approximately 0.5ha) |

- 1.3 Annual tonnage : 8000 tonnes of household and trade waste (including 80 tonnes of hazardous waste and 80 construction demolition and excavation).
- 1.4 Market served : King's Lynn and surrounding area
- 1.5 Duration : Permanent
- 1.6 Hours of working / opening to public : Hours of operation
 1 April – 30 September: 07:00 – 20:00
 1 October – 31 March: 07:00 – 17:00
Opening Hours
 1 April – 30 September: 09:00 – 17:00
 1 October – 31 March: 09:00 – 16:00
- 1.7 Access : Three new access/egress points onto Willow Road (public entrance and exit and separate operations/egress) an unadopted road. Willow Road connects to Saddlebow Road which in turn connects to the A47.
- 1.8 Landscaping : Four replacement trees to replace four to be removed on frontage of the site; grassed area around perimeter of site.

Description of proposal

- 1.9 The application seeks full planning permission for a replacement relocated Household Waste Recycling Centre on land to the north of Willow Road, at the Willows Industrial Estate, King's Lynn, and Norfolk.
- 1.10 The replacement HWRC is required in order to facilitate proposals for the construction and operation of a new gas-fired power station (the 'King's Lynn 'B' CCGT Power Station Project') on land at the Willows Industrial Estate.
- 1.11 Householders and trades people would be able to deposit non-hazardous waste from their vehicles into separate waste containers at the site. Waste would then be taken off site for recycling, recovery or disposal as appropriate. The site would also accept a limited amount of chemical and hazardous items once a year.
- 1.12 A one-way system would operate within the site with vehicles circulating the HWRC in a clockwise direction and would allow the public to stop and deposit waste in the relevant waste receptacle/bin. To facilitate this, new access and exit points would be created onto Willow Road at the south of the HWRC for public vehicles. A third access and egress point would also be created to the site from Willow road for operational purposes and to remove wastes once they have been bulked up and separated for further treatment recovery or disposal.
- 1.13 The proposed new HWRC would be of a similar layout to the one it seeks to replace. A number of the existing facilities such as waste containers would be relocated from the current site. In terms of buildings etc, a single storey 're-use building' measuring some 14 metres x 5 metres would be constructed for the sale

of recovered products that can be re-sold rather than recycled. This would be situated near to the site entrance along with a single storey staff welfare unit measuring some 10 metres x 7 metres and providing an office, WC facilities and other amenities. In addition, two canopies would be provided with one along the north-eastern part of the circular road / car parking area and another larger one in the south eastern area of the site. These would be 5 metres and 28.75 metres in length respectively and approximately 5 metres in height. Photovoltaic panels would be placed on the roof of the canopies in order to provide a proportion of the site's energy requirements. The site would be enclosed by a 2.4 metre high palisade fence topped with three strands of barbed wire.

- 1.14 It is anticipated the throughput of waste would be in the region of 8,000 tonnes per annum and the site would have separate winter and summer operational and opening hours as set out in 1.6 above. The site would not open Christmas Day, Boxing Day or New Year's Day. The scheme also makes provision for the ancillary small-scale sale of non-recycled products such as Christmas trees, green waste sacks, composting bins and logs, as sold at the existing site. The HWRC would be operated by Norse Environmental Waste Services Limited on behalf of Norfolk County Council.

2. Site

- 2.1 The proposed site is located approximately 2.8 kilometres south-east of King's Lynn Town Centre on the Willows Industrial Estate. The replacement HWRC would be located on the northern side of Willow Road on an area of predominantly vacant greenfield land, and extend to approximately 0.5 hectares in area, a similar size to the existing HWRC. The other circa 0.5 hectare required for the development would be for a compound to be used for parking and storage of plant and construction materials during the construction phase. The largely undeveloped site (with the exception of an Anglian Water pumping station) is characterised by low level vegetation and scrub. Willow Road, an unadopted road, connects to Saddlebow Road which in turn connects to the A47 at the Saddlebow Interchange.
- 2.2 The aforementioned Anglian Water pumping station lies within the western most part of the application site occupying an area of some 126 metres². This is not however located in the site of the proposed HWRC, but within the temporary construction area that will be required to be reinstated after its use. Once the site is developed it would be approximately 35 metres from the HWRC. Beyond the pumping station is an electricity substation which falls entirely out of the planning application site.
- 2.3 Further to the west of the site is vacant industrial land and beyond this the existing Centrica operated King's Lynn 'A' Power Station which is located some 200 metres to the west and in turn borders the eastern bank of the River Great Ouse. Also to the west of the site, around 125 metres away but on the southern side of Willow Road, is the existing County Council HWRC which this scheme seeks to replace. To the south of the site on the other side of Willow Road are commercial premises occupied by C&A Superbikes. Immediately to the east is a Police Investigation Centre, adjoined by Saddlebow Industrial Estate, which also includes the speedway stadium.

- 2.4 The nearest residential properties to the site are located approximately 350 metres to the southwest, along High Road. The entirety of the site is on land that is entirely within the ownership of Norfolk County Council.

3. Constraints

- 3.1 The following constraints apply to the application site:

- The application site is within Flood Zone 3a.
- The application site is 400m from a National Grid Gas Pipe.
- An Anglian Water pumping station sits within the red line boundary of the application (adjacent to land to be used for the construction compound).

4. Planning History

- 4.1 C/2/2011/2020: Proposed Energy from Waste facility (Withdrawn 8 January 2015).

5. Planning Policy

Development Plan Policy

- 5.1 **Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF)**

CS5: General location of waste management facilities

CS6: General waste management considerations

CS14: Environmental protection

CS15: Transport

DM3: Groundwater and surface water

DM4: Flood Risk

DM6: Household Waste Recycling Centres

DM7: Safeguarding Aerodromes

DM8: Design, Local landscape and townscape character

DM10: Transport

DM12: Amenity

DM15: Cumulative impact

DM16: Soils

- 5.2 **Norfolk Minerals and Waste Local Development Framework: Waste Site Specific Allocations DPD (2013)**

- WAS 65 – Land at the Willow's Business Park, King's Lynn

- 5.3 **Borough Council of King's Lynn and West Norfolk – Local Development Framework – Core Strategy (Adopted July 2011)**

CS06: Rural Areas

CS08: Sustainable Development

CS11: Transportation

CS12: Environmental Assets

- 5.4 **Borough Council of King’s Lynn and West Norfolk – Local Development Framework – Site Allocations and Development Management Policies Plan (Adopted September 2016)**
 DM1: Presumption in Favour of Sustainable Development
 DM2: Development Boundaries
 DM10: Retail Development
 DM15: Environment, Design and Amenity
 DM21: Sites in Areas of Flood Risk

Other Material Considerations

- 5.7 **The National Planning Policy Framework (2019)**
- 1: Building a strong competitive economy
 - 14: Meeting the challenge of climate change, flooding and coastal change
- 5.8 **National Planning Policy for Waste (2014)**
- 5.9 **Our Waste, Our Resources: A Strategy for England (2018)**

6. Consultations

- 6.1 Borough Council of King’s Lynn and West Norfolk : No response received.
- 6.2 Defence Infrastructure Organization : No response received.
- 6.3 Ministry of Defence : No response received.
- 6.4 Environmental Health Officer (KL&WN) : Environmental Quality
 No comments to make regarding contaminated land or air quality.
Community Safety and Neighbourhood Nuisance
 No objection. Request conditions concerning submission of a detailed construction management plan prior to commencement of development, submission of a lighting scheme prior to first use of the site, operating hours as proposed in the planning application, and that no material other than household or trade waste be brought onto and sorted on the site.
- 6.5 Emergency Planning Officer (KL&WN) : Because of its location in an area at risk of flooding and in line with best practice in business continuity suggests that:
- the site operators should install services at high level to avoid the impacts of flooding;
 - sign up to the Environment Agency flood warning system; and,

- Prepare a site flood evacuation plan.
- 6.6 Environment Agency : No objection.
A flood plan should be prepared for the development.
- 6.7 Lead Local Flood Authority (NCC) : No objection: the application falls below the consultation threshold.
- 6.8 Water Management Alliance : Confirmed the site lies within the area East of Ouse, Polver and NAR IDB – advised that the relevant body should therefore be consulted.
- 6.9 East of Ouse, Polver and Nar IDB : No response received.
- 6.10 Anglian Water : No objection, confirm the presence of their assets (sewage pumping station) within the site and recommend conditions concerning:
 - A scheme for on-site foul water drainage;
 - A surface water management strategy.
- 6.11 UK Power Networks : No response received.
- 6.12 Highway Authority (NCC) : No objection: Requests submission of traffic management plan prior to commencement of development and compliance thereafter.
- 6.13 Norfolk Historic Environment Service (NCC) : No objection: Based on currently available information the proposed development will not have any significant impact on the historic environment
- 6.14 Ecologist (NCC) : No response received.
- 6.15 County Councillor Alexander Kemp (Clenchwarton and King's Lynn South) : Has requested the planning application be determined by the Planning (Regulatory) Committee. Raises the following concerns and suggestions for an improved design:
 - The County Council needs to move with the times, so thought needs to be given to improved design to make the new Household Waste Recycling site more user-friendly.
 - Construct a platform with raised bins so people can tip the products into the bins. This works well for residents in other areas and should be introduced here. Think about incorporating an automatic lifting platform to bins.
 - Residents also want more parking spaces

close to the bins - this should be easy to achieve.

- The consultation asked for both improvements and it is important to listen.
- What was really needed on this site was a park-and-ride, to relieve congestion and air pollution in Lynn but the Government decided that there will now be a Power Station next door and this is why the Household Waste Site is to be moved. Another madness is the Transport Plan thinking about opening a bus lane to general traffic.

6.16 Representations

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.

No objections or other representations were received by members of the public.

7. **Assessment**

7.1 The issues to be assessed for this application are:

Principle of development

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (the “NMWLDF Core Strategy”), the Borough Council of King’s Lynn and West Norfolk Local Development Framework Core Strategy (Adopted July 2011), and the Borough Council of King’s Lynn and West Norfolk Local Development Framework Site Allocations and Development Management Policies Plan (Adopted September 2016). Whilst not part of the development plan, policies within the National Planning Policy Framework (2018) and National Planning Policy for Waste (2014) are also further material considerations of significant weight.

7.2 Policy CS6: *Waste management considerations* of the NMWDF Core Strategy states that waste sites should be developed in accordance with Policy CS3 and will be acceptable, provided they would not cause unacceptable environmental impacts, on the following types of land:

- a) land already in waste management use;
- b) existing industrial/employment land of land identified for these uses in a

Local Plan or DPD;

- c) other previously developed land; and,
- d) contaminated or derelict land.

- 7.2 The site is Greenfield land, albeit within the defined area of the town (as identified in the King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan (SADMP)), which does not have an existing authorised use. The site does however form the eastern most part of site WAS 65 which is allocated in the NMWDF Waste Site Specific Allocations DPD for uses including waste recycling. Therefore, subject to the proposal not causing *environmental* impacts as also referred to in Policy CS6 and discussed in the report below, the proposal complies with this policy. In the context of NMWDF Core Strategy Policy CS5: *General location of waste management facilities*, the HWRC would be regarded as a 'non-strategic' waste facility however it is nonetheless well related to King's Lynn and therefore compliant with this policy. Additionally, NMWDF Core Strategy Policy CS7 supports the development of new recycling facilities, provided these would not cause unacceptable environmental, amenity and/or highway impacts. Therefore, subject there not being unacceptable impacts, as discussed below, the principle of the development at the site is considered acceptable.
- 7.3 The Government's National Planning Policy for Waste (2014) is the most direct relevant national guidance which underlines that the planning system is pivotal to the timely and adequate provision of waste facilities. This scheme would assist with the overarching thrust of dealing with waste in a more sustainable manner i.e. through recycling and recovery of waste and therefore driving waste management up the waste hierarchy (and only disposing of it as a last resort). The application is therefore considered to comply with the aims and objectives of this policy and the Government's 'Our Waste, Our Resources: A Strategy for England' which similarly seeks to promote the management of waste up the waste hierarchy.
- 7.4 Although King's Lynn and West Norfolk policy DM10: *Retail Development* seeks to locate retail uses in town centres, in this instance retail would be low key/small scale and secondary to the main use of the site as a Household Waste Recycling Centre. The retail element would not impact on the vitality and viability of King's Lynn town centre and the proposal would not undermine the aims of this policy.

Amenity (noise, dust, light pollution etc)

- 7.5 Policy DM12 states that development will only be permitted where it can be demonstrated that the scale, siting and design of a proposal is appropriate and that unacceptable impacts to local amenity would not arise from the construction and/or operation of a facility. This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. King's Lynn and West Norfolk Policy DM15: Environment, Design and Amenity also seeks to safeguard both existing and neighbouring occupiers from development that would have a significant adverse impact on amenity. NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the

designation of new ones. Furthermore, NPPF paragraph 170 requires that new and existing development should be prevented from contributing to unacceptable levels of air pollution.

- 7.6 The nearest residential property to the site is located 350m to the southwest. As stated in the report above the site is neighboured by other existing commercial uses, the police investigation centre, and also by vacant industrial land.
- 7.7 With regards to the actual regulation of an operation such as this, in accordance with paragraph 183 of the NPPF and the National Planning Policy for Waste, the County Planning Authority needs to focus on whether proposed development is an acceptable use of land, rather than the control of processes or emissions, and the CPA needs be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency). However, it is the role of the Environmental Permit (which the facility would also require before it can operate) as issued by the Environment Agency to actually control emissions such as noise, odour and dust through conditions, and Planning Authorities should assume this regime will operate effectively.
- 7.8 The applicant has submitted both dust and noise assessments for the site which assess potential amenity impacts during the construction period. Both assessments concluded that the residual impacts of the construction of the site would be not be significant or negligible subject to appropriate mitigation. Whilst it is regrettable that the surveys did not include analysis of the use of the site, given the existing site has operated to date without complaint, it is not anticipated that the new replacement site would give rise to unacceptable impacts once operational. In raising no objection to the proposal, the Borough Council EHO has recommended conditions concerning the submission of both a construction management plan and a lighting scheme. Subject to this, the proposal would not have an unacceptable impact on neighbouring amenity or air quality and the proposal complies with the policies outlined above.

Design/Landscaping

- 7.9 NMWDF Policies CS14: Environmental protection and DM8: *Design, local landscape and townscape* character both seek to only permit development that does not have unacceptable impacts on the character and quality of the landscape. The proposed new replacement HWRC would be built on vacant land on the existing Willows Industrial Estate that is allocated for a waste recycling in the Council's adopted Waste Site Allocations DPD.
- 7.10 In terms of physical development on site, this would comprise of two five metre high canopies, and both a single storey welfare unit and re-use shop. The site would be hard landscaped, with a central concrete slab surrounded by a grass strip running up to the fence line which would be a 2.4 metre high palisade fence topped with three strands of barbed wire. The proposed design, which is very similar to the existing site which it seeks to replace, is considered in keeping with the wider industrial estate.

- 7.11 Whilst four trees will need to be removed from the frontage of the site adjacent to Willow Road, the applicant has committed to replanting four new trees to mitigate for their loss. The planting specification is proposed to be agreed by planning condition and the County's Arboriculturist has recommended that these be two alder and two rowan. Two other trees that adjacent to the application site in front of the police investigation centre would be required by condition to be protected by heras fencing during development of the site and retained thereafter. Subject to these conditions the proposal is considered to be in accordance with these development plan policies.

Biodiversity and geodiversity

- 7.12 NMWDF Core Strategy policies CS14 and DM1 both seek to protect adverse impacts on biodiversity including nationally and internationally designated sites and species. The County Ecologist, whilst not objecting to the principle of an HWRC at this site, initially raised concern whether the ecological assessment was insufficient to inform the level of mitigation required to conserve biodiversity / protected species or to guide opportunities for biodiversity enhancements particularly as the survey was undertaken at a suboptimal time of year.
- 7.13 Further to a site meeting with the applicant, the developer agreed to revisit its plans and a revised scheme was lodged which included an additional grassed area within the boundary of the HWRC to replace the previously proposed stone chip fill. This is proposed in order to mitigate the loss of biodiversity habitat on the site itself, and on the north-western margin of the site this will extend to some 9.5 metres and some 2-3 metres around the north-eastern and south-eastern margins.
- 7.14 The developer has also cited the mitigation also provided by the King's Lynn B Power Station proposal which if it comes to fruition would include net ecological benefits for the whole of the project's wider site. The applicant advised that the only instance the new HWRC would be built would be if the new Power Station is constructed which would also deliver the proposed ecological enhancements so these should be taken into account.
- 7.15 Notwithstanding this, the proposed new grassed area along with the replacement trees that are referred to in 7.10 are considered sufficient mitigation for the habitats and trees that would be lost by the development and accordingly the proposal is consistent with policies CS14 and DM1.

7.16 Appropriate Assessment

The site is situated within 6.5 kilometres of The Wash Special Protection Area (SPA) and The Wash and North Norfolk Coast Special Area of Conservation an internationally protected site. The application has been assessed in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017, and based on the information submitted to the County Planning Authority (CPA), it is considered that the development would not have a significant impact on this or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required.

Transport

- 7.17 Policy CS15: *Transport* and DM10: *Transport* states that waste management facilities must not result in unacceptable risks to road users and pedestrians or

unacceptable impacts on the capacity or efficiency of the highway network, the applicant has submitted a transport statement for the application. Access to the site would be from Willow Road, an unadopted private road. Because of the one-way system that would be in operation, the HWRC would have a separate access and egress for the public, and a third access/egress point solely for operational purposes (not open to the public).

- 7.18 Construction traffic would at its peak be a maximum of 30 two-way HGV movements per day (15 in and 15 out) during the first two months and during the fourth month and reduce to 10 two way movements in the remainder of the six month construction period. This would be coupled with up to a maximum of 40 movements (cars / vans) for construction staff.
- 7.19 Once operational the site is expected to continue at its current level of dealing with some 8,000 tonnes of waste per year which it is expected would generate average visitor numbers of 400 per day (800 car movements) with a peak of up to 900 per day. The Highway Authority raised no objection to the proposal acknowledging the site would operate on a similar scale to the current facility it would replace, also on Willow Road, subject to conditions concerning the submission and implementation of a traffic management plan. The Highway Authority also raised no objection to the planting of four replacement trees given the set back where they would be planted and the geometry of the road visibility from the proposed access points. On this basis the proposal accords with policies CS15 and DM10.

Sustainability

- 7.20 NWMDf Core Strategy Policy CS13 encourages new waste developments to generate renewable energy on-site with a minimum of 10 per cent generated from decentralised and renewable or low-carbon sources. A Sustainability Statement was submitted as part of the application. This set out a number of sustainability measures that would be employed relating to the design and construction of the proposed development. The replacement facility would include solar PV panels on the two canopies to be erected on the site. Notwithstanding the above, the proposed development itself would contribute to sustainability objectives by supporting the reuse and recycling of waste. Given this the application is considered to accord with the aforementioned policy.

Impact on Heritage Assets

- 7.21 There are not listed building or Scheduled Monuments within a kilometre of the application site (the closest listed building is some 1.6kilometres away. Therefore, in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 it is not considered that the development would cause any harm to any heritage assets given that the development is in an existing industrial estate and given the distance from the site of the historic assets.
- 7.22 Furthermore, the County Historic Environment Service did not make any recommendations for archaeological work during development of the site and given this, the application is considered in accordance with policy NMWDF Policy DM9: Archaeological Sites.

Groundwater/surface water

- 7.23 NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. As detailed in the FRA and Drainage Strategy, the applicant proposes that surface water scheme would be designed to reflect the one at the existing site whereby water would discharge through a surface water pipe network and a full retention and oil separator and silt trap before entering the existing surface water sewer to the south of the site. It is also proposed that foul water would drain to Anglian Water's foul pumping station to the south of the site and within the application boundary. Anglian Water raised no objection to the scheme subject to full detailed schemes for both foul water drainage and surface water disposal. The Environment Agency raises no concerns with regards to groundwater pollution and confirmed the proposal would also be likely to require an Environmental Permit to be in place in order to operate. This would also ensure appropriate measures are in place to safeguard groundwater. Subject to the above conditions the proposal is compliant with policy DM3.

Flood risk

- 7.24 Policy CS13 states that applicants must ensure that flood risk is not increased as a result of the waste management sites and that these can be developed and operate without unacceptable flood risk to the site itself and surrounding area. Policy DM4 (Flood risk) states that Norfolk LPA's Strategic Flood Risk Assessments will be used to inform decisions for waste management facilities and the Sequential Test must be applied to all proposals. In accordance with paragraph 163 of the NPPF, a site specific flood risk assessment is required for all developments in Flood Zones 2 and 3.
- 7.25 As confirmed by policy the WAS 65 of the Waste Site Specific Allocations Document and by the Environment Agency, the application site is in Flood Zone 3a. Accordingly a Flood Risk Assessment (FRA) and Drainage Strategy was submitted with the planning application. The FRA concluded that the HWRC would be subject to a minimal risk of flooding and that the scheme would not create an unacceptable risk of flooding elsewhere.
- 7.26 On the basis that the facility would accept a small amount of hazardous waste (on specific amnesty days each year), the developer was also asked to undertake an Exception Test in accordance with the Government's Planning Practice Guidance. This is because waste management facilities for hazardous waste are classed as 'more vulnerable' in the Government's Flood Risk Vulnerability Classification table.
- 7.27 As stated by the applicant, a Sequential Test (looking at other reasonably available sites with a lower probability of flooding) was not however required on the basis one was carried out by the County Council prior to adoption of the Waste Site Specific Allocations Document (WSSA) (2013) and that this development would on an allocated site.
- 7.28 The Exception Test within the revised FRA submitted by the applicant underlined that the proposed site already benefits from flood defences and is at low risk of flooding from tidal, fluvial, pluvial, groundwater or sewer flood sources. On re-

consultation on this additional information the Environment Agency maintained their position of no objection to the scheme. The LLFA also raised no objection to the application providing standing advice on the basis the scheme falls below their consultation threshold. On this basis, it is not considered the proposal would increase flood risk (on or off site) and the proposal complies with policies CS13 and DM4 and section 14 of the NPPF.

Aerodrome Safeguarding

- 7.29 The site is within the consultation area for RAF Marham for any development that exceeds 91.4 metres in height. The Defence Infrastructure Organization has been consulted but no comments have been received. However on the basis the maximum height of any buildings on site (the canopies) are only going to be circa 5 metres in height the proposal is compliant with NMWDF Core Strategy Policy DM7: Safeguarding Aerodromes.

Soils

- 7.30 Whilst the site of the HWRC has been identified to be grade 2 agricultural land, the site is not in productive agricultural use and given its location on the Willows industrial estate, is never feasibly likely to. On this basis the proposal does not undermine NMWDF Core Strategy Policy DM16: *Soils*.

Environmental Impact Assessment

- 7.31 In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2017 the application was screened on receipt and re-screened at the determination stage and it is not considered that the development would have significant impacts on the environment. No Environmental Impact Assessment is therefore required

Responses to the representations received

- 7.32 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 7.33 No representations were received from local residents. In response to the concerns raised by the Local Member, Cllr Kemp, which largely relate to a preferred alternative design, the committee has a duty to determine the application before it. In this instance the design proposed is an acceptable form of development and complies with the development plan. Furthermore, the County Planning Authority is unaware of any plans to develop the site for Park and Ride purposes or for any other proposed use(s). On this basis very little weight can be afforded to alternative uses of the site including a Park and Ride site.

The Community Infrastructure Levy

- 7.34 The development is CIL liable on the basis the floorspace proposed by the development exceeds 100 metres².

Local Finance Considerations

- 7.35 In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that

will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

- 7.36 In this instance it is not considered that there are local finance considerations material to this decision

8. Resource Implications

- 8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.
- 8.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.
- 8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.
- 8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

9.1 Human rights

- 9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.
- 9.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.
- 9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1 that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.
- 9.5 **Equality Impact Assessment (EqIA)**
- 9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.
- 9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.
- 9.8 **Communications:** There are no communication issues from a planning perspective.

- 9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.
- 9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.
- 10. Section 17 – Crime and Disorder Act**
- 10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.
- 11. Risk Implications/Assessment**
- 11.1 There are no risk issues from a planning perspective.
- 12. Conclusion and Reasons for Granting/Refusing of Planning Permission**
- 12.1 The planning application seeks to use a site that is allocated for waste development within the adopted Waste Site Specific Allocations Development Plan Document (site WAS 65). Therefore, in land use terms the proposal accords with the development plan.
- 12.2 No objections have been received from consultees or members of the public. The application is being reported to this committee on the basis it has been called in by the Local Member Alexander Kemp; it would otherwise be dealt with under delegated powers.
- 12.3 It is considered that subject to conditions, the scheme can be operated without unacceptable impacts on amenity and health (including to both local residents and businesses), the landscape, the highway network, ecology, groundwater and surface water, and flood risk.
- 12.4 The proposed development is considered acceptable and there are no other material considerations why it should not be permitted. Accordingly, full conditional planning permission is recommended.
- 13. Conditions**
- 13.1 The development hereby permitted shall commence not later than three years from the date of this permission.
- Reason: Imposed in accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 13.2 The development must be carried out in strict accordance with the application form and the following plans and documents (including their recommendations):
- i. Site Layout Plan, reference KLNb-ACM-WR-XX-CE-00202 Rev P.04, dated 27 January 2019;
 - ii. Site Sections Plan, reference KLNb-ACM-WR-XX-CE-00203 Rev P.03, dated 8 October 2018;
 - iii. Application Site Boundary, reference KLNb-ACM-WR-XX-CE-00202,

dated 8 October 2018;

- iv. Plan and External Elevations of Welfare Unit, Recycling Shelter & Security Fencing, reference KLN-B-ACM-WR-XX-CE-00209 Rev P.02, dated 10 October 2018;
- v. Plan and External Elevations of Reuse Shop, reference KLN-B-ACM-WR-XX-CE-00210 Rev P.01 dated 11 October 2018;
- vi. Environmental Report (including appendices A-J), dated October 2018;
- vii. Flood Risk and Drainage Strategy, dated January 2019.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 13.3 Prior to operation of the facility a flood evacuation plan shall be submitted to the County Planning Authority for approval in writing and implementation thereafter for the lifetime of the scheme.

Reason: In the interests of the safe operation of the site in accordance with Policy DM4 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.4 Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding in accordance with Policy DM4 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.5 No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the County Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the approved strategy.

Reason: To safeguard hydrological interests, in accordance with Policy DM3 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026 and paragraph 170 of the NPPF.

- 13.6 Prior to the commencement of any works a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway together with wheel cleaning facilities shall be submitted to and approved in writing by the County Planning Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic.

Reason: In the interests of maintaining highway efficiency and safety in accordance with. This needs to be a pre-commencement condition as it deals with safeguards associated with the construction period of the development.

- 13.7 For the duration of the construction period all traffic associated with (the construction of) the development will comply with the Construction Traffic

Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the County Planning Authority.

Reason: In the interests of maintaining highway efficiency and safety in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.8 Prior to the commencement of development a detailed scheme of landscaping shall be submitted to and agreed in writing by the County Planning Authority. The scheme as may be so agreed shall be implemented within the first planting season following the commencement of development. The scheme shall include details of size, species and spacing of the four new trees to be planted along the site frontage as identified on drawing number KLN-B-ACM-WR-XX-SK-CE-00202 Rev. P.04. It shall also make provision for:

(a) the protection and maintenance of existing trees with which are to be retained on the site as identified in red on drawing number KLN-B-ACM-WR-XX-SK-CE-00202 Rev. P.04 with heras fencing;

(d) A management plan to include the replacement of any damaged or dead trees (within a period of five years from the date of planting) with trees of similar size and species at the next appropriate season.

Reason: To ensure protection of the existing trees and to protect the amenities of the surrounding area in accordance with Policies DM9 and DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.9 No material other than 8,000 tonnes per annum of household or trade waste shall be brought onto and sorted on the site.

Reason: To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.10 No operation authorised or required under this permission shall take place on Christmas Day, Boxing Day or New Year's Day or other than from:
07:00 to 20:00 hours between 1 April to 30 September, and;
07:00 to 17:00 hours between 1 October to 31 March.

The premises shall not open to the public except between
09:00 to 17:00 hours between 1 April to 30 September, and;
09:00 to 16:00 hours from 1 October to 31 March.

Reason: To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.11 No development shall take place (including demolition ground works, vegetation clearance) until a construction environmental management plan has been submitted and approved in writing. The CEMP shall make provision for the following:

- Risk Assessment of potentially damaging construction activities;
- Identification of 'biodiversity protection zones';

- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented through construction phases strictly in accordance with the approved details.

Reason: To safeguard biodiversity interests in accordance with Policies CS14 and DM1 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.12 No development shall take place (including demolition ground works, vegetation clearance) until an ecological management plan (EMP) shall be submitted to, and approved in writing by the LPA prior to commencement of development. The content of the EMP shall include the following.
- a) Description and evaluation of features to be managed;
 - b) Ecological constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives including mitigation detailed in the ES submitted with the application namely that for;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organization responsible for implementation of the plan;
 - h) On-going monitoring and remedial measures.

The EMP shall also set out (where the results of monitoring show that conservation aims and objectives of the EMP are not being met) how remedial action will be identified, agreed and implemented so the development

Reason: To safeguard biodiversity interests in accordance with Policies CS14 and DM1 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.13 The development shall not commence until a lighting scheme, in accordance with details supplied in Appendix I of the Environmental Report dated October 2018, including measures to prevent the upward spill of light, glare or outward spill of light beyond the site boundaries has been submitted to and approved in writing by the County Planning Authority. The development shall be carried out in accordance with the approved lighting scheme and adhered to for the lifetime of the development.

Reason: To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.14 Measures shall be taken to prevent dust nuisance and waste blow from operations at the site.

Reason: To protect the amenities of the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.15 The photo-voltaic panels shown on drawing number Plan and External Elevations of Welfare Unit, Recycling Shelter & Security Fencing, reference KLN-B-ACM-WR-XX-CE-00209 Rev P.02, dated 10 October 2018 shall be installed prior to first use of the building and retained for the lifetime of the development.

Reason: In the interests of sustainability and to ensure the principles of sustainable development are met in accordance with Policy CS13 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

The National Planning Policy Framework (NPPF) (2019)

<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance (2014)

<http://planningguidance.planningportal.gov.uk/>

National Planning Policy for Waste (2014):

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Our Waste, Our Resources: A Strategy for England (2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf

Government's Ministerial Statement on Intentional Unauthorized Development

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457632/Final_Chief_Planning_Officer_letter_and_written_statement.pdf

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

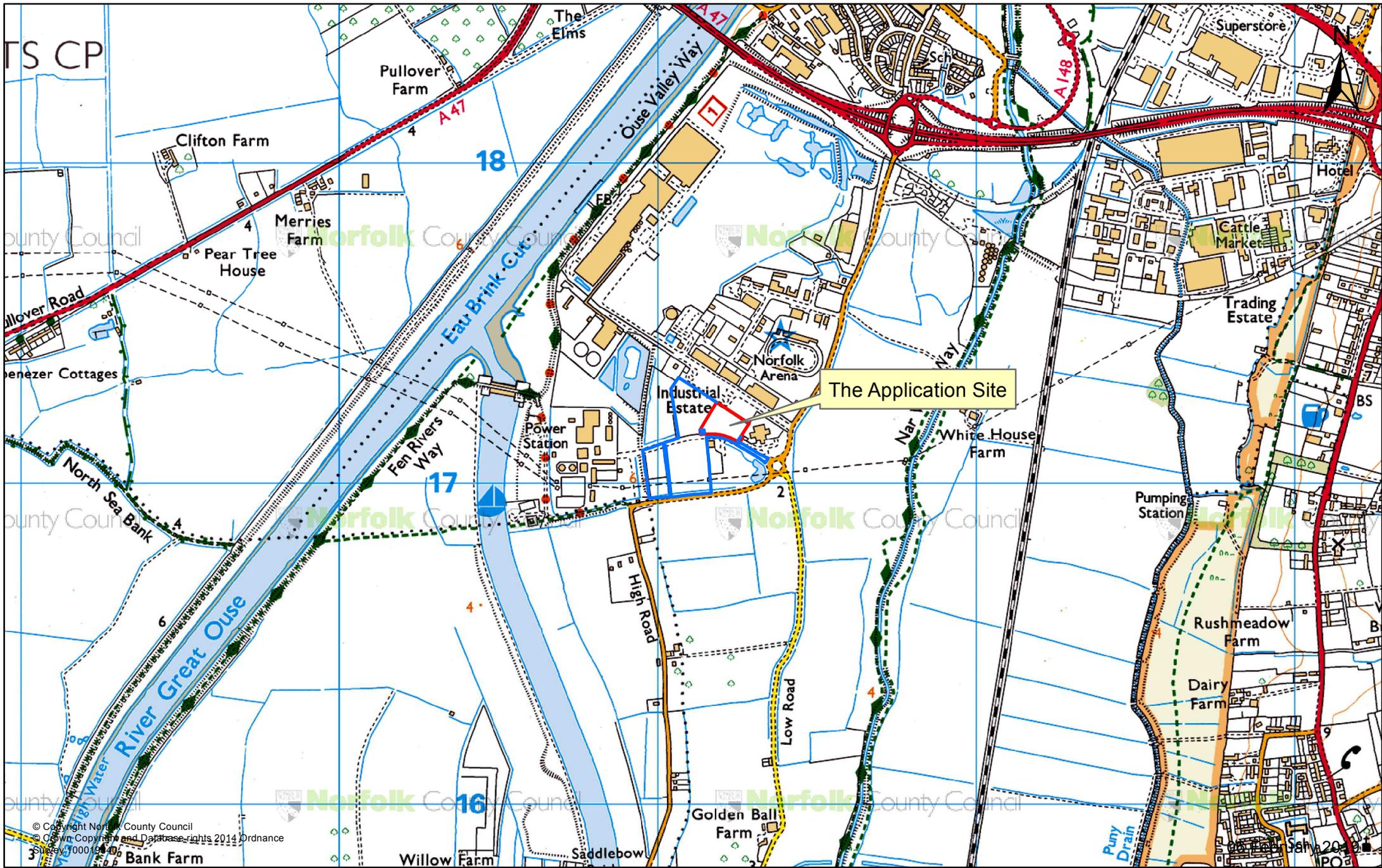
Officer name : Ralph Cox

Tel No. : 01603 223318

Email address : ralph.cox@norfolk.gov.uk



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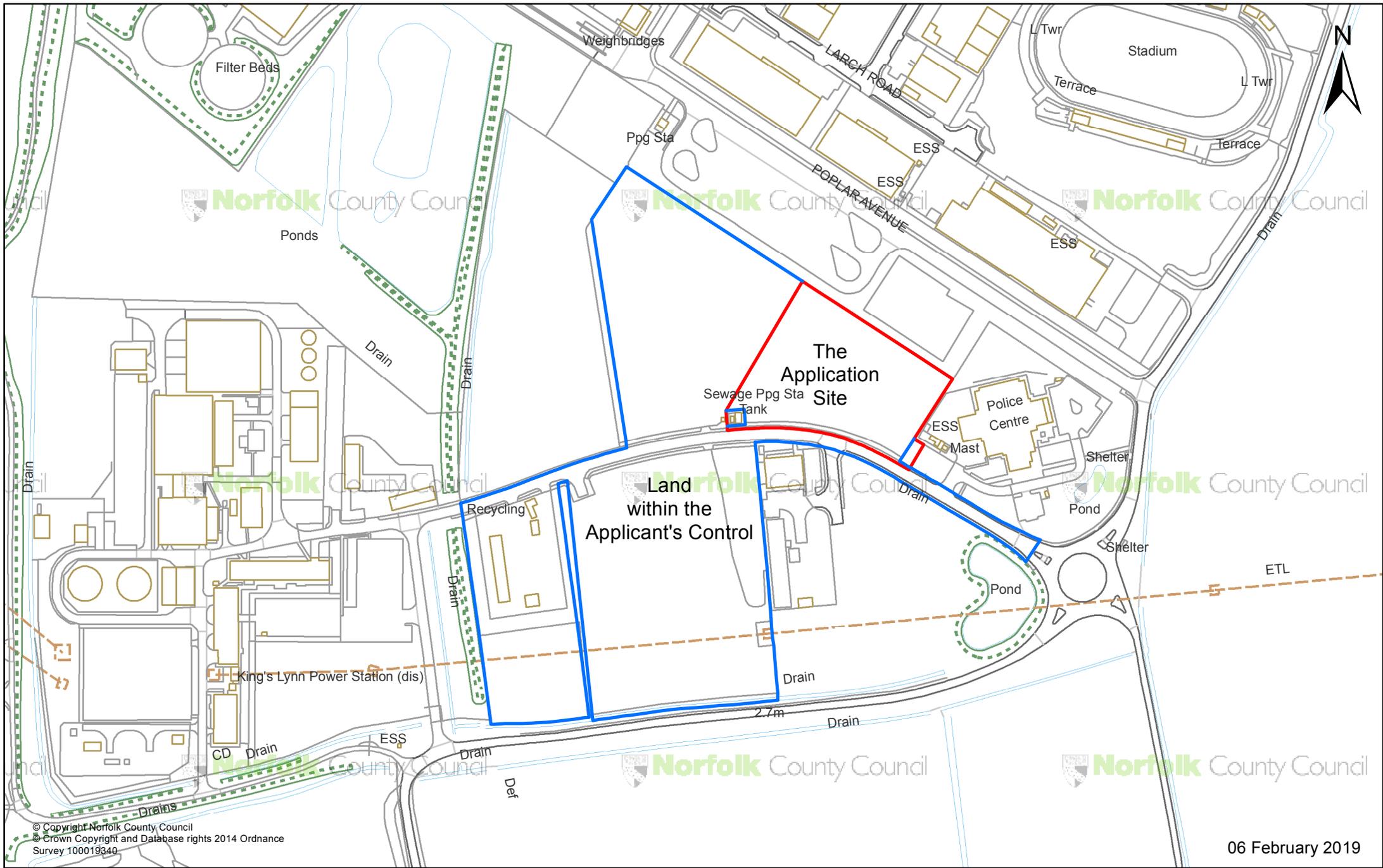


C/2/2018/2022
King's Lynn



Norfolk County Council

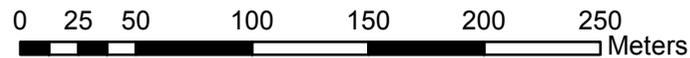
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06 February 2019

C/2/2018/2022
 King's Lynn



Norfolk County Council

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Planning (Regulatory) Committee

Report title:	C/2/2018/2006: Land adjacent to Riverside Farm, Garage Lane, Setchey, King's Lynn
Date of meeting:	15 March 2019
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Proposal and applicant: Change of use of agricultural land to extension of existing waste facility for storage purposes (partly in retrospect) with associated landscaping and provision of 2 no. modular office/welfare units (Applicant: Skippy Skip Hire)	

Executive summary

Part retrospective planning permission is sought for a change of use of agricultural land to an extension of an existing waste facility for storage purposes (partly in retrospect) with associated landscaping and provision of 2 no. modular office/welfare units. The existing waste facility (planning permission ref: C/2/2013/2017) on the adjoining site, has permission to sort and process recyclable material within the existing building.

No objections have been received from statutory or non-statutory consultees subject to conditions, however the Parish Council had concerns. No public representations have been received. The proposal is considered to represent a departure from the adopted Norfolk Core Strategy and Minerals and Waste Development Management Policies DPD 2010-2026 and an inadequate Sequential Test has been received to date.

The application is being reported to this committee on the basis it is a departure from policy and at the request of the local Member, Cllr Alexandra Kemp.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

I. Refuse planning permission

It is considered the proposal is contrary to the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals 2010-2016 Policy CS6: *General Waste Management Considerations* and DM4: *Flood Risk*. It is considered there is insufficient information provided in the information submitted to undertake a Sequential Test, to enable the County Planning Authority to justify a departure from policy; on an unallocated site, designated countryside and in Flood Zone 3. Therefore, there is not considered to be sufficient weighting in terms of material considerations that warrant determining the application otherwise than in accordance with the development plan.

1. The Proposal

- 1.1 Type of development : Change of use of agricultural land to an extension of existing waste facility for storage purposes (partly in retrospect) with associated landscaping and provision of 2 no. modular office/welfare units
- 1.2 Site : 0.87 hectares excluding site access down Garage Lane
- 1.3 Annual tonnage : 7,500 tonnes per annum (as approved in permission ref: C/2/2013/2017)
- 1.4 Duration : Permanent
- 1.5 Hours of working / operation : In accordance with planning permission for the applicant's existing adjacent waste facility (ref: C/2/2013/2017)
Monday to Friday: 08.00 – 18.00
Saturday: 08.00 – 13.00
Sunday/Bank holidays: CLOSED
- 1.6 Vehicle movements and numbers : No increase in throughput/tonnage and therefore no increase in vehicle movements (as approved in permission ref: C/2/2013/2017)
- 1.7 Access : Access to the site is as per the existing waste facility site, down Garage Lane, a private industrial estates road, approximately 700 m from the junction of Garage Lane and the A10.
- 1.8 Landscaping : 2m steel mesh boundary fence; Hedge outside fence boundary; 1.5m screening mound to the south of the site with planting on the outer bank.
- 1.9 Description of proposal

The existing permitted and operational waste facility (permission ref: C/2/2013/2017) on the adjoining site, has permission to sort and process the recyclable material within the existing building. This application seeks to regularize the retrospective change of use of the 0.87 hectare extension of land directly to the east of the existing permitted waste facility site for:

- storage of clean soil and rubble, recyclable waste and wood in skips/containers, and storage of empty skips, containers, plant and overnight vehicle parking.
- creation of new area for site, staff and visitor parking (which increases current site parking capacity from the currently consented 4 spaces to 10);
- siting of 2 no. modular buildings measuring 12 m (length) x 3 m (width) x 3 m (height) for use as office/welfare facilities (part-retrospect)
- Utilising existing site access gates (shown on the plan) for the purpose of providing access to the whole site (i.e. the application site and the existing

waste facility) and maintaining a vehicle access route through the site;

- Fencing the site perimeter using steel mesh fencing to 2m
- Landscaping works

- 1.10 The applicant explains the purpose of utilising the new land within the application area is solely to provide additional storage capacity for the existing adjacent waste management facility. This application does not seek to increase the throughput of the site from the 7,500 tonnes per annum currently consented for the adjacent waste facility (permission ref: C/2/2013/2017).
- 1.11 In the most recent information received shortly before this report was finalised, the applicant has confirmed that wood separated from the existing recycling activities on site will be stored on the proposed application area in a 40yd³ skip along with the storage of clean soil and rubble, recyclable waste in skips/containers, storage of empty skips, containers, plant and overnight vehicle parking.
- 1.12 It is noted that the existing unauthorised development on site, goes beyond the red line demarcating the northernmost boundary of the land proposed for development within the current planning application area, which at present accommodates a bund currently under construction to the north of the site. The agent has stated it is intended to either remove this second bund or to submit a second planning application to regularise this bund will be submitted to the Council upon determination of the existing planning application.
- 1.13 Since mid-2014, following the grant of planning permission for the existing waste facility (adjacent to the current application site), the applicant has brought skips back to the permitted site for processing and separation of recyclable materials from the skips to improve the service offered and increase the revenue received per skip by reducing the tipping costs for the business. As a result of the facility to separate the recyclable fractions of the skip wastes handled by the applicant, the business has grown since 2014.
- 1.14 Therefore, the applicant states that the land to the rear (west) of the recycling building on the adjacent permitted site is no longer adequate for the storage of these materials. As a result, the applicant began utilising the application site for storage purposes under what was believed to be an extant timber storage yard permission. The ongoing use of this land for the purposes outlined in this application is stated by the agent to be essential for the business to operate successfully and sustainably.
- 1.15 The applicant is currently subject to enforcement action, under the Environment Agency (EA). The application area was subject to an enforcement notice under Section 59 of the Environmental Protection Act 1990 with a compliance date to clear the land of waste by 14 December 2018. The EA have confirmed that the requirements of the enforcement notice have not been met and are currently considering further enforcement action to take for failing to comply with that enforcement notice. The agency have taken enforcement action because of the type of material that has been bought and stored on site, which does not accord

with the permit/exemption. As this is being dealt with under separate legislation, and the EA do not have an objection to the proposal as set out in this planning application, limited weighting should be given to this material consideration.

- 1.16 The EA further explained that there is currently waste timber being stored on the application area, which was previously authorised in accordance with a S2 Exemption for Storage of Waste in a Secure Place. However, the EA subsequently de-registered this exemption when non-conformant waste was identified on the land, which became subject to an enforcement notice served on 13 September 2018. The waste timber was not subject to the enforcement notice, however, at the current time there is no permission in force from the EA authorising the continued storage of waste timber within the application area.
- 1.17 The site is regularly monitored by Norfolk County Council monitoring officers and this application was submitted as a result of considering enforcement action. There are two Norfolk County Council enforcement records;
- ENF/1563 on 26 February 2016 recorded concerns over wind blowing litter into the drains, the IDB raising concerns, and the burning of waste. The complaint was closed on 4 May 2016, after a site visit, and referral of the issues to the EA. No further issues were noted and the matter considered complied with in May 2016.
 - ENF/1706 on 18 July 2018 is regarding the result of this planning application being considered, to regularise the unauthorised storage of waste. The EA also de-registered the exemption they granted on the application land, due to non-conformant waste (i.e. mixed skip waste, and construction and demolition waste requiring additional processing).
- 1.18 It is noted in the monitoring records that the applicant is 'barely complying' with conditions relating to the existing permission on the adjacent site, which appears to be due to the growth of the business since 2014. On the most recent site visit, it was noted that an incinerator had been bought onto the site, which is not subject to an existing permission, nor the subject application. The applicant believed this to be part of an existing planning permission, which is not the case. The site will need to be brought back into compliance or subject to appropriate action

2. Site

- 2.1 The site is located on the periphery of the Garage Lane Industrial Estate on what is previously undeveloped agricultural land. The site is in the parish of West Winch and is included within the boundaries of the adopted West Winch and North Runcton Neighbourhood Plan. The site is not allocated in the adopted Waste Site Specific Allocations DPD and is not allocated in the adopted King's Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (July 2016).
- 2.2 The site is adjoined to the western boundary by the existing permitted waste recycling facility, which was granted permission by Norfolk County Council on 26

March 2014 (ref: C/2/2013/2017). The nearest residential development is a group of properties some 320m to the north east of the site, off Garage Lane and two isolated properties 480m to the south west of the site. There are predominantly agricultural fields to the north, west and south of the site. The industrial estate is to the east of the site along the private access road, Garage Lane.

- 2.3 West Winch lies on the western end of a low ridge of land between the Nar and Gaywood valleys, and the Common fringes the Fens stretching beyond to the west.

3. Constraints

- 3.1 The following constraints apply to the application site:

- Flood Zone 3 (High Risk)
- Grade 3 Agricultural Land Class
- Common land - West Winch Common (8m - North East corner of the application site)
- County Wildlife site – West Winch Common (immediately off the North East corner of the application site)
- Core River Valley
- SSSI – Setchey (320m south of the site)
- SSSI – River Nar (300m south of the site)

4. Planning History

- 4.1 The site has one historic and expired permission from Kings Lynn and West Norfolk Borough Council (permission ref: 11/00982/CU), which granted approval for a change of use of 'agricultural area' to 'timber storage yard'. The permission was deemed as not implemented as the prior to commencement conditions were never discharged/fulfilled, which required the implementation of full details to be submitted and approved by the Local Planning Authority, including:

- Hardstanding to be laid (to verify it being impermeable)
- Surface water drainage details
- 2 no. access construction details

- 4.2 The existing and adjacent waste recycling facility, to the western boundary of the application site was approved on 26 March 2014 (permission ref: C/2/2013/2017) for a change of use of HGV maintenance and service yard/building to a waste recycling centre with associated storage round the curtilage of the building. All waste sorting/processing is only permitted within the building and the curtilage of the building is for the storage of those materials. The permission allows 7,500 tonnes per annum to be processed on the existing site.

5. Planning Policy

Development Plan Policy

- 5.1 **Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF)**

CS5 – General location of waste management facilities
 CS6 – General waste management considerations
 CS7 – Recycling, composting, anaerobic digestion and waste transfer station
 CS15 – Transport
 DM2 – Core River Valley
 DM4 – Flood Risk
 DM16 – Soils
 CS13 – Climate change and renewable energy generation
 CS14 – Environmental Protection
 DM1 – Nature Conservation
 DM3 – Groundwater and Surface water
 DM8 – Design, local landscape and townscape character
 DM9 - Archaeological sites
 DM10 – Transport
 DM12 – Amenity
 DM16 – Soils

5.2 **Norfolk Minerals and Waste Local Development Framework: Waste Site Specific Allocations DPD (2013)**

The site is not allocated in the local plan.

5.3 **King’s Lynn & West Norfolk Borough Council Core Strategy (July 2011)**

Rural Areas - Policy CS06
 Sustainable Development - Policy CS08
 The Economy - Policy CS10
 Transportation - Policy CS11
 Environmental Assets - Policy CS12

5.4 **King’s Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (SADMP) (September 2016)**

DM1 - Presumption in Favour of Sustainable Development
 DM2 - Development Boundaries
 DM3 - Development in the Smaller Villages and Hamlets
 DM15 - Environment, Design and Amenity
 DM17 - Parking Provision in New Development
 DM20 - Renewable Energy
 DM21 - Sites in Areas of Flood Risk

5.5 **Adopted Neighbourhood Plan for West Winch and North Runcton (WWNRMP)**

WA04: Providing sustainable drainage
 WA06: Protecting agricultural land and soils
 WA07: Design to protect and enhance local character

5.6 **The National Planning Policy Framework (2019)**

- 1: Building a strong competitive economy
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 14. Meeting the challenge of climate change, flooding and coastal change

5.7 **National Planning Policy for Waste (2014)**

5.8 **Waste Management Plan for England (2013)**

6. Consultations

- 6.1 Borough / District Council : No response received.
Council
- 6.2 *West Winch* Parish : Concerns that there is risk to the River Nar and
Council River Puny from pollution and that the River Nar
and Embankment is an SSSI site. It is against the
West Winch and North Runcton Neighbourhood
Plan Policy GA06 They have also highlighted the
requirements of Policy GA03 and Policy GA07.
Question over what impact will have on the
junction to the A10.
- 6.3 *Middleton* Parish Council : No response received.
- 6.4 *North Runcton* Parish : No response received.
Council
- 6.5 Environmental Health : No objection, but note complaints about the
Officer (district/borough) operations on site from the IDB in relation to
contamination and blocking of the Puny Drain
which runs beyond the north eastern boundary,
and burning of commercial waste at weekends.
Require conditions on the stockpile height, fence
design/layout, covering of skips/containers, dust
control, prohibition of site bonfires, hours of work
and foul drainage.

No objection relating to air quality.
- 6.6 Natural England : No comments and standing advice.
- 6.7 Environment Agency : Three consultation responses which all stated no
objection to the proposals but advise that the
applicant must adhere to advice (i.e. adequate
security/guard against pollution, including fires)
provided in order to be considered for an
Environmental Permit (not necessarily planning
considerations), without which the site would be
inoperable.
- 6.8 Lead Local Flood : Below threshold, standing advice.
Authority (NCC)
- 6.9 Highway Authority (NCC) : No objection.
- 6.10 Ecologist (NCC) : No objections provided that the 9m IDB easement
can be implemented. Due to the distances

- involved and the 9m buffer provided there are unlikely to be impacts on West Winch Common County Wildlife Site.
- 6.11 Norfolk Fire and rescue Service (NCC) : No response received.
- 6.12 East of the Ouse, Polver & Nar Internal Drainage Board : The Board highlighted that they objected to the previous Borough Application. The board is also concerned with the pollution risk to the watercourse from the materials stored on site. Water abstraction does take place from the Puny Drain, so any pollution incident could affect the local farming community.
- 6.13 Defence Infrastructure Organisation No safeguarding objections.
- 6.14 County Councillor (*Alexandra Kemp*) : Wishes to call-in the application in “as it is contentious and there are concerns from Parish Councillors about light pollution, the risk of contamination to the Puny Drain, the burning at weekends of waste and there is insufficient fencing in the plans. Stockpiled waste has blown into the drain in the past and there are ongoing enforcement issues. Waste should not be stockpiled over 1.5m high so it does not blow over the fence, and the waste should be covered. There should be an ecology report because the Nar is a SSSI.”
- 6.15 Representations
The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 6.16 No representations have been received from members of the public.

7. Assessment

7.1 The issues to be assessed for this application are:

7.2 Principle of development

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.3 In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the Norfolk Minerals and

Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (the “NMWDF Core Strategy”), the *West Norfolk and King’s Lynn Borough Council Core Strategy* (2011), the *West Norfolk and King’s Lynn Borough Council Site Allocation and Development Management Policies* (2016), and the adopted Neighbourhood Plan for West Winch and North Runcton (2017). Whilst not part of the development plan, policies within the National Planning Policy Framework (2018) and National Planning Policy for Waste (2014) are also a further material consideration of significant weight.

- 7.4 The principle of the development is changing the use of agricultural land to an extension of the existing waste facility for storage purposes (partly in retrospect) with associated landscaping and provision of 2 no. modular office/welfare units.
- 7.5 In the context of Policy CS5: *General location of waste management facilities of the NMWDF*, due to the throughput of the waste management facility (7,500 tpa), the site is a ‘non-strategic’ facility. The application site is located at Setchey, which is approximately 3 miles from King’s Lynn and therefore the site is located in accordance with this policy.
- 7.6 The land on which the application is located does not have any extant planning permission and was previously undeveloped. The site was an arable agricultural field prior to the current development for which planning permission (part retrospective) is being sought. Policy CS6: *General waste management considerations* requires that waste sites will be acceptable on the following types of land, provided they would not cause unacceptable environmental impacts:
- a) land already in waste management use;
 - b) existing industrial/employment/allocated land
 - c) other previously-developed land; and
 - d) contaminated or derelict land.
- 7.7 The land on which the application is located is not in accordance with any of the types of land listed above in Policy CS6 and therefore is not in accordance with this policy.
- 7.8 As an agricultural field, the land is also not an unused or under-used agricultural or forestry building and is also not within the curtilage of an unused or under-used agricultural or forestry building. The adjacent buildings to the field are in industrial use and waste management use and therefore are not agricultural buildings.
- 7.9 King’s Lynn and West Norfolk Borough Council granted a change of use permission for the subject land in 2012 (ref: 11/00982/CU) from agricultural land to timber storage yard, as an extension to store timber as part of an existing HGV Maintenance Yard facility (which is now the permitted recycling facility). The permission, however, has expired without being implemented as the pre-commencement conditions had not been satisfied. Had the permission been implemented including the laying of an impermeable hardstanding, the land would have met caveat c) above as previously developed land.

- 7.10 Therefore, despite the adjacent permitted waste facility, the application site occupies what would be agricultural land apart from the unauthorised use. The site is not allocated in the adopted Waste Site Specific Allocations Plan and is therefore not recognised as an allocated waste management site to be provided for the plan period until 2026. The development therefore represents a departure from the NMWDF development plan and is considered a ground for refusal.
- 7.11 In terms of NMWDF policy CS7: *Recycling, composting, anaerobic digestion and waste transfer stations*, it states that “the expansion of ... recycling facilities and waste transfer stations to handle all types of waste would be considered favourably, so long as they would not cause unacceptable environmental, amenity and/or highways impacts. The planning officer considers that given the highways officer and District EHO has no objections, subject to mitigating the development through conditions, that it does fulfil the requirements of this policy.
- 7.12 West Winch is defined in the SADMP Policy CS02: *The Settlement Hierarchy* as a settlement adjacent to King’s Lynn and the main towns, however, the site is in designated countryside as it is outside the development boundary. Policy DM2: *Development Boundaries* and Policy DM 3: *Development in the Smaller Villages and Hamlets* state that the areas outside development boundaries (excepting specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan, including small scale employment (under Core Strategy Policy CS10). Policy CS10: *The Economy* states that the Council will support the rural economy and diversification through a rural exception approach to new development within the countryside. However, the policy states ‘permission may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need.’
- 7.14 Therefore, in accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, it needs to be determined whether there are sufficient material considerations that would justify a grant of permission and outweigh this land use policy conflict. Also, because the site is not in conformity with the NMWDF development plan, in accordance with the National Policy for Waste (2014), there is also a requirement for the applicant to have demonstrated a need for this facility.
- 7.15 The application explains that the need for the development is due to the growth of the business, and the inadequacy of the existing storage as permitted within the current application. The applicant has been in business in the local area for just over 6 years. The first 4 years were for collection and delivery of skips only. Since mid-2014, following the grant of planning permission for the existing waste facility (adjacent to the current application site), the applicant has brought skips back to this site for processing and separation of recyclable materials from the skips to improve the service offered and increase the revenue received per skip by reducing the tipping costs for the business. As a result of the facility to separate the recyclable fractions of the skip wastes handled by the applicant, the business has grown since 2014. According to the council’s records, for the year 2017/18,

2,748 tonnes was processed, out of a permitted 7,500 tonnes.

- 7.16 In summary, it is recognised there is a business case for expansion, and that the geographical location suits the existing permitted waste recycling business. The proposal is considered to accord with NMWDF policies CS5: *General location of waste management facilities* and CS7: *Recycling, composting, anaerobic digestion and waste transfer stations*. The proposal would also move the management of waste up the waste hierarchy in accordance with the National Planning Policy for Waste (2014) and the Waste Management Plan for England (2013) because materials are being diverted away from disposal, such as Landfill, at the bottom of the hierarchy, to recycling and therefore potential re-use of the materials. However the proposal is not in accordance with policy CS6: *General waste management considerations*, and the existing industrial estate on Garage Lane has not been included within a settlement boundary or employment land allocations in either the NMWDF or the SADMP local plan. The principle of the development for a change of use of land is considered therefore to be unacceptable, and a ground for refusal.
- 7.17 It is recognised that the Borough Council permitted a change of the use of the land in 2012 (ref: 11/00982/CU), through policy CS10: *The Economy* which states that the Council will support the rural economy and diversification through a rural exception approach to new development within the countryside (meeting the specific criteria). However, no Sequential Test was undertaken. Furthermore, the development proposed for a timber storage yard was not considered a waste management development. This application is for a waste management development and subject to the application of the NMWDF policies, as well as the SADMP.
- 7.18 **Amenity (noise, dust, light pollution etc)**
- The protection of amenity for people living in close proximity of waste management facilities is a key consideration and NMWDF policy DM12: *Amenity* states that development will only be permitted where "...unacceptable impact to local amenity will not arise from the operation of the facility." Policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. The SADMP policy DM15: *Environment, Design and Amenity* also seeks to prevent new development causing unacceptable impact on local amenity. NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 109 requires that new and existing development should be prevented 'from contributing to unacceptable levels of air pollution'.
- 7.19 The nearest residential properties are a group of properties some 320m to the north east of the site, off Garage Lane and two isolated properties 480m to the south west of the site. No public representations were received, however the parish council expressed concerns over the impact of existing/current unauthorised activities on site, which are under the jurisdiction and enforced by the Environment Agency, under Environmental Protection Act 1990. This planning application is considering the development only as proposed, which is in part retrospect only, and does not reflect the current unauthorised development

on-site today, hence why the application is part-retrospective.

- 7.20 With regards to the actual regulation of an operation such as this, in accordance with paragraph 122 of the NPPF and the National Planning Policy for Waste, the County Council needs to be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency (EA)). However, it is the role of the Environmental Permit as issued by the Environment Agency to actually control emissions such as noise and dust through conditions.
- 7.21 Both the EA and Borough EHO have no objection to the development, subject to a number of conditions and informatives, namely the covering of skips and containers to prevent the wind blowing any recyclable waste off-site, a stockpile height of 3m, dust mitigation measures, to prevent wind blowing soil/dust into the Puny Drain, site operation hours and the prohibition of site bonfires.
- 7.22 The EHO commented that whilst no details have been provided in relation to external lighting for the site, it is considered that the location and separation distance from residences does not warrant any conditioning of this aspect, or in terms of potential noise impacts. There are many other surrounding businesses on Garage Lane which utilise external lighting and engage in industrial uses, so there should not be any further adverse impact from any current or proposed site lighting or use.
- 7.23 The applicant has commented that a limitation on the stockpile height of 1.5m would be unworkable/unviable for his business and would require a minimum height of 3m. The EHO has advised that 3m will be acceptable, subject to a condition requiring dust mitigation measures.
- 7.24 In the event of an approval, it is recommended that a condition regarding a timed schedule of works is drawn up with the monitoring officers involved, to ensure that the retrospective parts of the site are put into place as soon as is possible, to ensure compliance at the earliest opportunity, to avoid the likelihood of enforcement action being taken against the applicant.
- 7.25 In terms of amenity and landscape, the Landscape Visual Impact Assessment indicates that, given the existing surrounding industrial uses and sparse residential properties, the heights of the stockpiles of soil and rubble would not be of material concern in visual amenity and landscape terms, and is considered to be in accordance with policies DM8: *Design, local landscape and townscape character*, DM12: *Amenity* and CS14: *Environmental Protection* of the NMWDF and DM15 - *Environment, Design and Amenity* of the SADMP.
- 7.26 **Contamination**
In accordance with NMWDF Policy CS14 *Environmental Protection*, developments must ensure that there are no unacceptable adverse impacts on, and ideally improvements to natural resources, including water, air and soil. Councillor Kemp, who requested for the application to be called in, is concerned that there is a risk of contamination to the Puny Drain, and where stockpiled waste which has blown into the drain in the past, which comes from comments

made by the district EHO. The Borough EHO commented that although it has no grounds to object to this proposal, their team has previously received complaints about the operations on site from the IDB in relation to contamination and blocking of the Puny Drain which runs beyond the north eastern boundary. The IDB stated in their consultation response that they were concerned with the pollution risk to the watercourse from the materials stored on site, as water abstraction takes place from the Puny Drain, so any pollution incident could affect the local farming community.

- 7.27 In terms of contamination and determining this planning application, it is the consideration of future uses, as set out in National Planning Policy Guidance (2014) that is being considered. It is therefore the proposed type of material and how it will be stored in the extension area that is being considered (i.e. the storage of clean soil and rubble, recyclable waste, wood in skips/containers, and storage of empty skips, containers, plant and overnight vehicle parking). Any current issues/infringements that have occurred prior to this application, have been referred, as required, in accordance with the appropriate legislation (Part 2A of the Environmental Protection Act 1990) and legislative bodies (Environment Agency).
- 7.28 The EA stated in their extended consultation response “as the only activities proposed in this application are storage either in skips, or of inert material, we don’t have concerns about the water environment being polluted as a result. The EHO has no objection to the proposal subject to appropriate conditions, as previously set out and are therefore satisfied that the risks of pollution to the surrounding environment have been sufficiently mitigated.
- 7.29 There appears to be no planning considerations that would present negative impacts, subject to the implementation of appropriate conditions that have been set out and discussed in the Amenity section above, that would negatively impact the environment or the amenity of surrounding businesses/neighbours. The application is therefore considered to be in accordance with the requirements of NMWDF policy CS14: *Environmental Protection* and SADMP DM15: *Environment, Design and Amenity* and CS06: *Environmental Assets*.
- 7.30 **Design and Landscape**
- The Landscape Visual Impact Assessment indicated that in the wider setting any views of the site facilities are expected to be perceived as part of the existing industrial estate. There are unlikely to be notable identified views from local public access paths and spaces, including West Winch Common, an identified ‘site of local value’. It is unlikely to be intervisible with the main village of West Winch as demonstrated by photos included within the assessment. The report highlights it will not be notable from the Nar Valley Way footpath or be intrusive on the tranquillity of the Nar corridor. Therefore the proposed 1.5m bund to the south of the site, with plants on the outer bank and proposed hedging on the outside of the 2m steel mesh security fence is considered appropriate.
- 7.31 The proposed 2m steel mesh fencing which fully encloses the extended site, is was originally a concern of the Borough EHO and Councillor Kemp, as it was only partially enclosed. In terms of the visual impact of the fencing, it is considered

that given the wider industrial estate setting and surrounding landscape, that the proposed fencing would not be considered to detract from the local landscape. The security aspect of the fence, which is understood to be a requirement of the Environment Agency permit, would help to prevent any loose waste, should there be any that escape the covered skips/containers, blowing into the drain.

- 7.32 In terms of the height of stockpiles, the Borough EHO requested that these be capped at 1.5m; however it is considered given the sparse countryside/industrial nature of the location, with limited visual impacts on the local landscape, the stockpiles would be acceptable at a height of 3m. Particularly given the storage of the loose piles of material will be soils and stones; any recyclable material would be stored in containers/covered skips, and a condition requiring a dust mitigation scheme to be approved and implemented would be recommended, in the event of an approval. The risk of potential inert waste being blown off site into the drain is considered therefore to be minimal and appropriately mitigated. In addition there would also be the boundary fencing to 2m and the hedging outside of this.
- 7.33 Further landscaping mitigation measures were proposed by the developer and given the Council's Green Infrastructure and Landscape Officer also required further clarification of the landscape specification proposed, a condition would be required to ensure these details are appropriate, clear and implemented within an appropriate timescale and maintained, should Members be minded to grant permission.
- 7.34 The 2 no. modular office/welfare units are already installed onsite and are considered acceptable in terms of scale and specification.
- 7.35 The visual impact and scale of the proposed development, including the proposed 2 no. modular office/welfare units, stockpiles of material, the proposed fence, planting/landscaping and bunding to the development are in principle considered to be commensurate with the existing industrial development on Garage Lane Industrial Estate, and in accordance with NMWDF policy DM8: *Design, local landscape and townscape character* and SADMP policy DM15: *Environment, Design and Amenity*.
- 7.36 **Biodiversity and geodiversity**
NMWDF policy CS14: *Environmental Protection* states developments must ensure there are no unacceptable adverse impacts on biodiversity and geodiversity including nationally and internationally designated sites.
- 7.37 Following a site visit by the NCC ecologist, there were no objections to this application provided that the 9m IDB easement can be implemented. Due to the distances involved and the 9m buffer provided it has been considered there are unlikely to be impacts on West Winch Common County Wildlife Site. Informatives relating to protected species have been recommended.
- 7.38 It has been noted during the consultation period that Natural England has no comments on the application. However, Councillor Kemp highlighted concerns

over the impact the development could have on the River Nar, which is a designated SSSI; due to pollution from the waste being stored on site, both by airborne waste, and from surface and ground water freely drainage off the site into the Puny Drain. She also was concerned that no ecology report was provided.

7.39 The potential risk of impacts of the development have been considered and as concluded in the 'contamination' section above, it is concluded that the mitigation measures that could be put in place via condition, as suggested by the Borough EHO, and also the measures endorsed by the applicant themselves, would be acceptable; as the development proposed in this application are storage either in skips, or of inert material, and there are no concerns about the water environment being polluted as a result, as is the considered case on other such sites around the county.

7.40 As the risks of pollution are considered to be appropriately mitigated, there are no material concerns regarding the designated SSSI, and no ecology report is considered to be necessary.

7.41 The application is, therefore, considered to be in accordance with the requirements of NMWDF Policies DM1: *Nature Conservation* and CS14: *Environmental Protection* and SADMP Policy CS06: *Environmental Assets*, which all require developments to ensure that there are no unacceptable adverse impacts on biodiversity.

7.42 Appropriate Assessment

The site is located within 10 kilometres of Roydon Common, which forms part of the Roydon Common and Dersingham Bog Special Area of Conservation. The application has been assessed in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017, and based on the information submitted to the County Planning Authority (CPA), it is considered that the development would not have a significant impact on this or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required.

7.43 **Transport**

NMWDF Policies CS15: *Transport* and DM10: *Transport* require that proposed new waste facilities will be satisfactory in terms of access where anticipated HGV movements, taking into account any mitigation measures proposed, do not generate, inter alia, unacceptable risks/impacts to the safety of road users and pedestrians, the capacity and efficiency of the highway network, or to air quality and residential and rural amenity, including from air and noise.

7.44 Whilst the applicant is looking to expand the existing waste facility, the additional land required is for storage purposes only.

In terms of highway considerations, it is noted that the applicant is not looking to increase the existing maximum throughput of waste which can be brought on the overall site per annum (which is 7,500 tonnes as per condition 3 of pp C/2/2013/2017) and will therefore not result in additional traffic movement to / from the site.

- 7.45 It should be noted that in the event of an approval, planning permission C/2/2013/2017 would need to be linked to this permission, to ensure that the land is only used for storage purposes, and does not constitute an additional throughput of 7,500 tonnes per annum, but 7,500 tonnes per annum shared between the two permissions/sites.
- 7.46 **Sustainability**
NMWDF policy CS13: *Climate change and renewable energy generation* seeks to ensure seeks to generate a minimum of 10% renewable energy from new development. The proposed development includes the siting of two modular office buildings for an office and canteen. The power usage for these buildings will be low but it is nonetheless regrettable the applicant has not examined opportunities to generate renewable energy. However, this policy encourages on-site renewable energy generation, in this instance it is considered an additional ground on which to refuse the planning application.
- 7.47 **Impact on Heritage Assets**
Whilst the site is some 500m from a number of listed buildings located on the A10, it is not considered these would be harmed by the development. There are no impacts considered to impact on heritage assets, including archaeology, as covered in policy DM9: *Archaeological sites*.
- 7.48 **Core River Valley**
The site is located within a Core River Valley under Policy DM2 - *Core River Valleys*. Policy DM2 states that “development will only be permitted in Core River Valleys where it can be demonstrated to enhance the local landscape and/or biodiversity and not impede floodplain functionality”. The proposal is therefore not compliant with this policy. It is understood the Core River Valleys were mapped in the 1990s and the whole of the industrial estate to the south of Garage Lane is also within the Core River Valley. As it appears that the land uses to the south have changed significantly since the Core River Valley was defined, it is therefore considered it may no longer be appropriate to consider this particular location to form part of a Core River Valley. Limited weighting is therefore given to this departure from policy.
- 7.49 **Groundwater/surface water**
NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. None of the proposed development site lies above a groundwater protection zone and the Environment Agency has not raised any issues with regards to this.
- 7.50 The IDB responded to the application with comments, but did not state whether they objected to this specific application or not. The Board did comment that they are concerned with the pollution risk to the watercourse from the materials stored on site, as water abstraction does take place from the Puny Drain, so any

pollution incident could affect the local farming community. They further commented that Board also has a Byelaw that restricts any works, structure erected, or materials placed within nine metres of the Board's Drain without the prior consent of the Board. This consent is separate from the planning process, and could be included in the event of an approval as an informative.

- 7.51 The Environment Agency has confirmed that as the only activities proposed in this application are storage either in skips, or of inert material, they do not have concerns about the water environment being polluted as a result and therefore there is no requirement for a formal surface water drainage scheme to be provided on the site. All the processing of waste takes place within the existing waste facility, inside the building, which has its own self-contained drainage scheme, as approved and discharged by Norfolk County Council. The FRA provided by the applicant states that as the graveled site is permeable, no further surface water drainage is necessary. Accordingly, the proposal is considered compliant with NMWDF policy DM3.
- 7.52 In terms of foul drainage, the agent confirmed on 21 February 2019, that the site does not have means to connect to a mains sewer, as there is not one along Garage Lane. Therefore a waste water holding tank ('Tuff Tank') has been proposed to handle the drainage from the site. An example specification has been provided in Appendix 1 of the Additional Information received on 21 February 2019. The Borough EHO requested for details of the foul drainage system to be conditioned, which is considered appropriate in the absence of a confirmed installation of foul drainage – furthermore, no plans have been provided to show the location of the system itself.
- 7.53 **Flood risk**
- NMWDF policy DM4: *Flood risk* only seeks to permit waste management sites that do not increase the risk of flooding. The entirety of the application site falls in flood zone 3, and a Flood Risk Assessment (FRA) was submitted as part of the application in accordance with chapter 10: Meeting the challenge of climate change, flooding and coastal change of the NPPF. A sequential test was requested and the agent submitted additional information shortly before the report was finalised in order to address this.
- 7.54 The FRA stated that the Environment Agency's Flood Risk Team was contacted to discuss the site's flood risk designation prior to the submission of the application for the adjacent waste management facility in early 2014. It was advised that the site is in an area at low risk of flooding due to the works carried out on the River Nar by the Environment Agency and that this should be reflected in the Flood Risk Assessment. The FRA concluded that development would not increase any known flood risk to the site nor incur any known residual risks, due to the fact the site benefits from protection from flood defences installed by the Environment Agency on the River Nar, and the site is therefore in an area at low risk of flooding. However, it is noted the Environment Agency flood risk map show the site as outside of areas that benefit from flood defences.

- 7.55 Notwithstanding this, the Environment Agency has raised no objections with regards to this issue, however it has advised that the site is at residual risk of flooding in the event of failure of the defences. This response suggests that the Environment Agency consider this site to have an adequate degree of protection from the flood defences. They have therefore recommended that an evacuation plan is produced to ensure that the site can be safely evacuated in the event of a breach.
- 7.56 Sequential Test
The NPPF (2018) states that development in flood zone 2 or 3 are subject to the submission of a Sequential Test. Paragraph 155 of the NPPF (2018) states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The Environment Agency commented that the site lies within Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is classified as a 'less vulnerable' development, as defined in in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance.
- 7.57 The agent has not provided the evidence to undertake a Sequential Test, as set out in the National Planning Policy Guidance. There is no information about alternative sites (which are required to be specifically named and described) and no attempted search area. The test is then required to compare the risk of flooding at the site proposed with the risk of flooding at the alternative sites that have been identified, and this has not been undertaken. It is noted that no exception test would have been needed in this case due to its vulnerability classification. There is land in and around Setchey which is in flood zone 1 or 2. There is also an argument that the development does not need to be restricted to being in Setchey itself. There is no evidence provided to demonstrated that there are not other areas of land available in Setchey, or further afield, in an area of lower flood risk.
- 7.58 Therefore the agent is considered to have incorrectly summarised in their additional information, that "the sequential test has been applied...and that the possibility of locating the development proposals in flood zones 1 or 2 has been investigated." Furthermore, the agent is also to have incorrectly concluded that "the site benefits from flood defences which effectively place the site in flood zone 1." There is no principle in place in that respect for this countryside location, nor policy document which supports this assertion. The site is also not shown to be in an area close to, but not actually benefitting from flood defences on the Environment Agency flood risk map. Given that an inadequate evidence to undertake a Sequential Test has been submitted on this basis, the proposal is not considered to have adequately demonstrated compliance with policy DM4: *Flood Risk* of the NMWDF and chapter 11 of the NPPF and is therefore considered to form a ground for refusal.

7.59 **Protection of agricultural land**

The proposed extension site is located on what was previously agricultural land. According to the agent, the applicant was unaware that the pre-commencement conditions required to the 2011 Borough permission for the storage of timber, to install impermeable hardstanding and agree and put in place a drainage strategy were unfulfilled. The agent suggested the applicant was instructed by the landowner to commence construction of the formation levels and acted in good faith in this regard unbeknownst at the time to the fact that no information was submitted by the landowner to satisfy the conditions.

7.60 The agricultural land is recorded by Natural England as Grade 3, however no evidence has been put forward by the applicant as to whether it is grade 3a or 3b land. The additional information received on 21 February 2019 stated that discussions have been carried out with the adjacent landowner's agronomist who has recently has undertaken an ALC survey of the fields adjacent to the site to the immediate north and west. The agricultural land to which the site relates (and the adjacent fields) has been identified as being clay soils which can only be cultivated satisfactorily under a relatively narrow range of soil moisture conditions and are prone to retention of water. As such, the Agricultural Land Classification Grade would be 3b to 4.

7.61 Due to these factors, the proposal is not considered to undermine policy NMWDF Policy DM16: *Soils* which seeks to prevent development only on grade 1 agricultural land and paragraph 112 of the NPPF, given that this not considered to be the significant development of agricultural land. The West Winch and North Runcton Neighbourhood Plan Policy WA06: *Protecting Agricultural Land and soils* requires proposals involving the loss of agricultural land to be accompanied by information which demonstrates how:

- (1) Development site boundaries have been defined so as to ensure, as far as possible, the retention of viable parcels of agricultural land adjacent to, and outside of, the development site.
- (2) Where appropriate, development on locally available brownfield sites has been considered over greenfield sites.
- (3) A soil conservation plan has been prepared and will be implemented, setting out how the topsoil resource on the particular site will be conserved and reused, following DEFRA and other best practice guidance.

7.62 It is clear that the site boundaries ensure the viable retention and use of the remaining agricultural land. The agent points out that it is not appropriate to consider development on locally available brownfield sites over greenfield sites, as that would mean the upheaval of translocating an existing established facility. However, the lack of evidence of considering alternative sites in an area of lower flood risk, which were not provided in the information submitted for the Sequential Test, suggest that it is appropriate to consider this criterion, as it is in the high risk flood zone 3, and is required for consideration by the NPPF and the NMWDF.

7.63 A soil conservation plan has not been prepared, however the applicant states that the landowner had already prepared the ground for occupation and this is unlikely to be relevant at this point, in terms of the development being proposed. The

proposal is not considered to fully comply with this neighbourhood plan policy, however it is considered to be of limited weighting.

7.64 Public Rights of Way

No public Rights of Way would be affected by the development.

7.65 Environmental Impact Assessment

In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2017 the application was screened on receipt and re-screened at the determination stage and it is not considered that the development would have significant impacts on the environment. No Environmental Impact Assessment is therefore required.

7.66 Intentional Unauthorized Development

Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development can now be a material consideration in the determination of all planning applications received after 31 August 2015. This is therefore capable of being a material consideration in the determination of this application.

7.67 Moreover, in making unauthorised development a material consideration, the Government was particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. In this case, whilst the development has taken place on a greenfield site, it is not actually in the Green Belt. Whilst regrettable, in this instance it is not felt that the retrospective nature of the application would represent a ground for refusing planning permission for this development and no weight is given to this in the planning balance.

7.68 The Community Infrastructure Levy

The development is CIL liable.

7.69 Local Finance Considerations

In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.70 In this instance is not considered that there are local finance considerations material to this decision.

8. Resource Implications

8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.

8.2 **Staff:** The development has no staffing implications from the Planning Regulatory

perspective.

8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.

8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

9.1 Human rights

9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.

9.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

9.5 Equality Impact Assessment (EqIA)

9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

9.8 **Communications:** There are no communication issues from a planning perspective.

9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

10. Section 17 – Crime and Disorder Act

10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during

the consideration of the application.

11. Risk Implications/Assessment

11.1 There are no risk issues from a planning perspective.

12. Conclusion and Reasons for Refusing of Planning Permission

12.1 The proposal put forward by the applicant is considered finely balanced. Principally, it is a departure from the NMWDF Policy CS6: *General Waste Management Considerations*. The Sequential Test provided is insufficient in justifying whether the development is being directed away from areas at highest risk (i.e. Flood Zone 3), whether existing or future development. It is unknown whether there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, as the information required as set out in National Planning Policy (2014) has not been submitted. The Sequential Test therefore has not been correctly undertaken or justified, and is therefore contrary to NMWDF Policy DM4: *Flood Risk and the requirements chapter 14 of the NPPF (2018) (Meeting the challenge of climate change, flooding and coastal change)*.

12.2 Whilst the recommendation is for refusal, there are a number of material considerations in favour of the application, namely that:

- The location of the development is considered favourable as a non-strategic waste facility, less than 3 miles to King's Lynn, on the edge of an existing industrial estate in West Winch (however it is not allocated employment land in the SADMP) and in accordance with NMWDF Policies CS5: *General location of waste management facilities* and CS7: *Recycling, composting, anaerobic digestion and waste transfer station*.
- The proposal is for an extension to an existing business rather than a new development and there are benefits of co-locating the two sites together including that there would be no additional impact on the highway network given the proposal does not seek to increase the throughput of the site.
- The development is classified as a 'less vulnerable development' for flood risk and would not materially increase the flood risk elsewhere, given the permeable nature of the site surface.
- The potential amenity and environmental impacts of the development could be sufficiently mitigated via conditions, as agreed by statutory consultees; neither the Environment Agency nor the Borough EHO objected to the proposal. There were also no third party objections or representations made.

12.3 For the reasons set out in the report, the proposal would be contrary to NMWDF Policy CS6: *General Waste Management Considerations* and DM4: *Flood Risk*. It is considered there is insufficient information provided in the Sequential Test submitted on 21 February 2019, to justify a departure from policy, on an unallocated site (both in terms of the NMWDF and the SADMP), designated countryside and in Flood Zone 3. Therefore, there is not considered to be sufficient weighting in terms of material considerations that warrant determining the application otherwise than in accordance with the development plan.

Therefore, the application is recommended for refusal.

- 12.4 Should members refuse the application in accordance with the recommendation, relevant enforcement action will need to be taken in order to clear the site of unauthorised development.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

The National Planning Policy Framework (NPPF) (2018)

<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance (2014)

<http://planningguidance.planningportal.gov.uk/>

National Planning Policy for Waste (2014):

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Waste Management Plan for England (2013)

<https://www.gov.uk/government/publications/waste-management-plan-for-england>

Government's Ministerial Statement on Intentional Unauthorized Development

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457632/Final_Chief_Planning_Officer_letter_and_written_statement.pdf

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

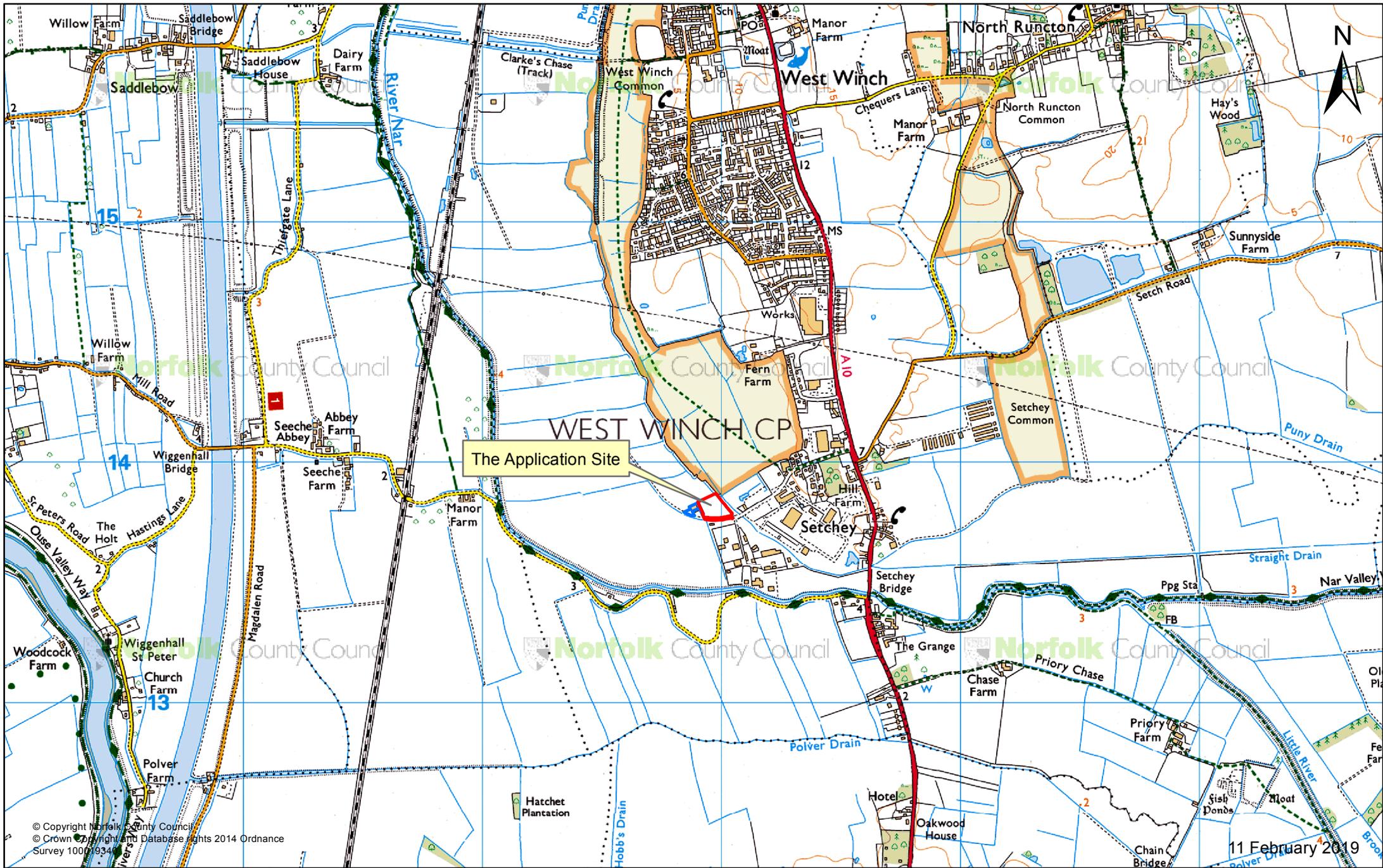
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If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.



C/2/2018/2006
West Winch

0 250 500 1,000
Metres

Appendix A - Location Plan  Norfolk County Council

1:20,000



Norfolk County Council

Land within the Applicant's Control

The Application Site

Pond

Pond

Sluice

Drain

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11 February 2019

C/2/2018/2006
West Winch



Appendix B - Site Plan  Norfolk County Council

1:1,000