

Planning (Regulatory) Committee

Date: **Friday, 14 September 2018**

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 R Brame

Mr D Collis

Mr D Harrison

Mr B Iles

Dr C Jones

Mr B Long - Vice-Chairman

Mr W Richmond

Mr M Sands

Mr E Seward

Mr M Storey

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 13 July 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

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

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/5/2017/5007: SPC Atlas Works, Norwich Road, Lenwade**
Report by the Executive Director of Community & Environmental Services.

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

Date Agenda Published: 06 September 2018



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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 13 July 2018
at 10am in the Edwards Room, County Hall**

Present:

Mr S Askew
Mr R Brame
Mr D Collis
Mr C Foulger
Mr D Harrison
Dr C Jones
Mr B Long

Mr W Richmond
Mr E Seward
Mr C Smith
Mr M Storey
Mr A White

1 Apologies and Substitutions

An apology for absence was received from Mr M Sands.

2 Election of Chairman

Mr B Long proposed, seconded by Mr A White, that Mr C Foulger be elected Chairman of the Planning (Regulatory) Committee for the ensuing year.

There being no other nominations, it was **RESOLVED** that

Mr C Foulger be elected Chairman of the Planning (Regulatory) Committee for the ensuing year.

Mr C Foulger in the Chair.

3 Election of Vice-Chairman

Mr A White proposed, seconded by Mr M Storey, that Mr B Long be elected Vice-Chairman of the Planning (Regulatory) Committee for the ensuing year.

Dr C Jones proposed, seconded by Mr E Seward, that Mr D Collis be elected Vice-Chairman of the Planning (Regulatory) Committee for the ensuing year.

Upon being put to a vote, with 7 votes in favour of Mr Long and 4 votes in favour of Mr Collis, it was **RESOLVED** that

Mr B Long be elected Vice-Chairman of the Planning (Regulatory) Committee for the ensuing year.

4 Minutes from the meeting held on 23 March 2018

4.1 The minutes from the Planning (Regulatory) Committee meeting held on Friday 23 March 2018 were agreed as a correct record by the Committee and signed by the Chairman.

4.2 Matters arising from the minutes

In response to a question about the site visit to Gayton (Application Y/2/2017/2009: Agricultural field at the junction south of Back Street and east of Winch Road in Gayton) the Planning Services Manager advised that Norfolk County Council had not yet received confirmation from the applicant that all the issues raised by the Internal Drainage Board (IDB) had been resolved. Once this confirmation had been received a site visit would be arranged.

5 Declarations of Interest

No declarations of interest were made.

6 Urgent Business

There was no urgent business.

7 Nominations to Serve on the Planning (Regulatory) Urgent Business Sub-Committee.

7.1 The Committee was asked to nominate five Members of the Committee to serve on the Planning (Regulatory) Urgent Business Sub-Committee (3 Conservative, 1 Labour, 1 Liberal Democrat). The Terms of Reference for the Sub-Committee are "To exercise all the powers of the main Committee where a decision is required urgently (having been agreed as such by the Head of Democratic Services and relevant Chief Officer)".

7.2 The Committee **RESOLVED** to appoint the following Members to serve on the Planning (Regulatory) Urgent Business Sub-Committee:

Chairman	–	Mr C Foulger
Vice-Chairman	–	Mr B Long
Labour	–	Mr D Collis
Conservative	–	Mr A White
Liberal Democrat	–	Mr D Harrison

- 8 **C/2/2018/2001: Land at West Field (MIN 76) Watlington Road, Tottenhill Row, Watlington, King's Lynn (the first application).**
- 8.1 Proposal: Extension to quarry with continued use of ground conveyor (part), culvert and service track: Frimstone Ltd.
- 8.2 The Committee received the report by the Executive Director of Community and Environmental Services concerning the application for planning permission for physical extension of sand and gravel extraction onto a parcel of land west of the existing plant site, over a period of three years with additional time for completion of restoration, to agriculture and nature conservation, until 31 December 2023. The proposal included retention of a section of ground conveyor for transport of mineral to the existing plant site and use of an existing service track and private road for all plant and vehicles to access and exit the extension area.
- 8.3 The Committee concurrently considered application number C/2/2018/2002 for continued use of the plant site for processing mineral from the proposed quarry extension as the two were inherently linked.
- 9 **C/2/2018/2002: Watlington Quarry, Watlington Road, Tottenhill, Nr Watlington, King's Lynn, PE33 0RG (the second application).**
- 9.1 Proposal: Variation of conditions 1, 3 and 18 of planning permission C/2/2015/2007 to extend time period for restoration of Sixty Acre Field and allow continued use of plant site to service proposed quarry extension (MIN 76) until 31 December 2023: Frimstone Ltd.
- 9.2 The Committee received the report concerning the application for planning permission to vary three no. conditions of planning permission C/2/2015/2007 in order to continue use of the plant site, including silt lagoons and operational area, for processing mineral from the proposed quarry extension at West Field, Tottenhill (MIN 76) (subject of planning application reference C/2/2018/2001) and extend the time period for restoration of Sixty Acre Field.
- 10.1 During the presentation of the reports the Senior Planning Officer advised, should planning permission be granted for the first application, that Condition 12.14 would be amended to read "Dewatering of the site shall only be carried out in accordance with Annex 10 – Groundwater Protection and Hydrogeological Impacts, reference 10312-R01, dated December 2017. There shall be no dewatering below **0m** AOD" and not as stated in the report.
- 10.2 In response to a question about whether the site restoration works would be progressive or completed within a set timescale, the Senior Planning Officer advised that mineral working and full restoration could take up to five years to complete after the cessation of all operations and would be progressive, with the water body being the last phase of restoration. Regular monitoring would be undertaken to check the restoration works complied with the appropriate conditions.

- 10.3 Ms Catherine Downes, local resident, had registered to address the Committee in objection to the application but had been unable to attend the meeting. The Chairman read out a statement on her behalf, a copy of which is attached at Appendix A.
- 10.4 The Chairman welcomed Mr Brian Rhodes, resident of Tottenhill Row who lived approximately 100 metres from the boundary of the site. Mr Rhodes addressed the Committee in objection to the applications, raising particular concerns regarding pollution, unacceptable noise, the location of the present conveyor being only 250m away from the boundary and the location of the water pump, which worked 24 hours every day. Mr Rhodes also referred to conservation site buffer zone guidelines.
- 10.5 The following points were noted in response to questions about Mr Rhodes' presentation:
- 10.5.1 The Planning Services Manager advised that, as far as he was aware, Norfolk County Council had not been made aware of any complaints about noise from the site. The Environmental Health Officer at King's Lynn & West Norfolk Borough Council had confirmed they had no objection to the proposal, subject to appropriate conditions regarding protection of amenity if permission was granted.
- 10.5.2 Except for a power unit on the central area of site MIN 76, the conveyor was screened by a low bund.
- 10.5.3 The noise level emitted from the quarry was not considered sufficient to cause a nuisance.
- 10.5.4 Bunds would be installed around the perimeter of the site and would be completed before any extraction work commenced. The edge of the extraction area would be a minimum of 100 metres from any residential property with the bund situated within the 100m margin.
- 10.5.5 The bunds would be formed from stripped top soil and sown with grass seed; no trees or shrubs would be planted on or adjacent to the bunds.
- 10.5.6 The application site was separate to the 1960's original extraction site.
- 10.6 Mr S Daw, Stephen Daw Ltd, agent for the applicant addressed the Committee in support of the application. Mr Daw advised that the applicant had taken care to ensure the proposal met the specifications required by the Development Plan Policy MIN 76. He added that there would be no significant impact on the amenities of local residents from noise and dust; no objections had been received from statutory consultees and he asked the Committee to approve both applications, as recommended by officers.
- 10.7 Mr B Long, as Local Member for Fincham Division, which covered the application

site, advised that he had not received any representations from residents or the Parish Council about the application. Mr Long added that the need for minerals, especially sand and gravel was vitally important as Norfolk County Council was required to hold a strategic stockpile. Mr Long urged the applicant to be a good neighbour to the nearest residents and also urged residents to contact him as the Local Councillor if they had any complaints that were not resolved by contacting the applicant directly.

11 Upon application number **C/2/2018/2001: Land at West Field (MIN 76), Watlington Road, Tottenhill Row, Watlington, King's Lynn** being put to a vote, with 12 votes in favour, the Committee unanimously **RESOLVED** to:

- i. Grant planning permission subject to a legal agreement in respect of provision of bat boxes and retention of conveyor culvert as a bat hibernaculum and the conditions outlined in section 12 of the report.
- 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.

12 Upon application number **C/2/2018/2002: Watlington Quarry, Watlington Road, Tottenhill, Nr Watlington, King's Lynn, PE33 0RG** being put to a vote, with 11 votes in favour, 1 vote against and 0 abstentions, the Committee **RESOLVED** to:

- i. Grant planning permission subject to the conditions outlined in section 12 of the report.
- ii. Discharge conditions 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 to deal with any non-material amendments to the application that may be submitted.

The meeting concluded at 10.50 am.

Chairman



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Statement by Ms C Downs, resident of Tottenhill

Re: Planning application ref C/2/2018/2001 Min 76

On reading the Committee report drawn up for Min 76 which has been prepared for this meeting, there still appears to be no guarantee or concern for the future working of the Spring that feeds the pond known as “Spring Pit” which is located a few metres North of the proposed site, within the Conservation Area and County Wildlife site of Tottenhill Row. Even with the requested Dewatering conditions, the Environment Agency appears to only be able to say that the conditions “should” ensure that it is not impacted. Along with this, both the Hydrological report and Committee report conclude that there is “unlikely” to be any negative impact which is not very reassuring.

If the proposed site excavations did have an impact on the Spring (which is always going to be a possibility) it could cause the potential loss of a valuable natural asset within the Conservation Area and County Wildlife site.

Further to this, the Committee report states in section 6.31 that there is a “relatively small amount of mineral to be recovered. If this is the case, it will surely not have that much of an impact on the landbank reserve, whereas contradictory to the findings in the many consultations, paid for by the applicants, the proposed excavations would have a significant and detrimental impact on the Conservation Area, local residents and the County Wildlife site.

Finally, I would like to draw attention to section 6.30 of the report which says that “the allocated extension provides economic and efficiency benefits in the form of being able to utilise the existing processing plant and a retained section of the field conveyor, which is a material consideration”

Contrary to the above, section 6.167 of the report says “when queried by a local resident whether the cost of installing the Conveyor and Culvert for Min 75 were material considerations” the report appears to answer by saying that “the cost of a development is not a material consideration”

Presumably, planning policy is consistent, therefor can it clarified if the installation cost of the previously installed conveyor and culvert are material considerations in descision making or not?

Planning (Regulatory) Committee

Report title:	C/5/2017/5007: SPC Atlas Works, Norwich Road, Weston Longville
Date of meeting:	14 September 2018
Responsible Chief Officer:	Tom McCabe, Executive Director, Community and Environmental Services
Proposal and applicant: Change of use from B8: Warehousing to a Sui Generis use for waste processing and the production of refuse derived fuel (RDF) with an annual throughput of 150,000 tonnes; Installation of office, 2 x weighbridges and photovoltaic panels and highway improvement scheme consisting of the major upgrade and realignment of the northwestern estate access with the A1067 (Mr Richard Cubitt, Serruys Property Company Ltd)	

Executive summary

Planning permission is sought for the development of a waste processing and RDF production facility on a site that is both industrial land and moreover a site (WAS 78) that is allocated for waste development within the Council's adopted Waste Site Specific Allocations Development Plan Document. Therefore, in land use terms the proposal accords with the development plan.

The application is for the same proposal as reference C/5/2015/5007 which was previously refused by this committee in March 2017 following an initial deferment in October 2016. The applicant has since appealed that decision and in August 2018 the Planning Inspectorate granted planning permission for that development subject to conditions. This is a material consideration of significant weight in the assessment of this current application.

Whilst 71 representations have been received raising concern about the proposal (49 explicitly oppose or object to the development), it is considered that subject to conditions, the scheme can be operated without unacceptable impacts on amenity (including both local residents/businesses and users of the Marriott's Way), the landscape, the highway network, ecology, groundwater and surface water (including the River Wensum SAC), and flood risk.

The proposal 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 Waste Management Plan for England (2013).

Recommendation:

The Executive Director of Community and Environmental Services be authorised to:

- I. **Grant planning permission subject to the conditions outlined in section 13 and a Unilateral Undertaking relating to the £7500 contribution for maintenance of the Marriott's Way.**

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|-------------|--|
| II. | Discharge conditions (in discussion with the Chairman and Vice Chairman of the committee) 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 (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. |

1. The Proposal

- | | | |
|------|---|--|
| 1.1 | Type of development | : Waste processing and production of Refuse Derived Fuel (RDF). |
| 1.2 | Site area | : 2.1 hectares (including access) |
| 1.3 | Annual tonnage | : Up to 150,000 tonnes per annum |
| 1.4 | Duration | : Permanent |
| 1.5 | Hours of working / operation | : 24 hours a day, seven days a week. Hours of deliveries and collection of waste would be between 07.00 - 18.00 Monday to Saturday. |
| 1.6 | Average daily in/out vehicle movements | : Worst case scenario if incoming and outgoing trips are separate vehicles (the aim is backfill vehicles when waste is deposited at the site):
Articulated bulk carrier (25t payload): 45-72
Tipper and large skip (15t payload): 30 – 53
Smaller skips (1t payload): 8 – 40
Total: 83-165 |
| 1.7 | Access | : Direct (new) access to A1067 Norwich Road. |
| 1.8 | Plant | : Trommels, picking lines, shredders, balers and bale wrappers for the production of Refuse Derived Fuel (RDF) and processing of municipal waste |
| 1.9 | Planning permission is sought for the change of use of part of the existing SPC Atlas works site to enable a waste processing and refuse derived fuel (RDF) production operation to take place within an existing warehouse building on the site. The proposal would also include the siting of an office and 2 no. weighbridges to the south east of the main building as well as the installation of photovoltaic panels on the roof of the building in order to provide a proportion of the site's power requirements. The plant once operational would deal with a maximum of 150,000 tonnes of commercial, industrial and household waste per annum. | |
| 1.10 | The application proposes that up to 100,000 tonnes of the proposed throughput would be commercial and industrial wastes which have been pre-treated to remove the majority of recyclables: the main treatment process here would be to produce the RDF with the removal of any remaining metals and aggregates for recycling, and biodegradable waste for treatment elsewhere (off site). Capacity for up to 50,000 tonnes of household waste (including 'black bag waste') would also be | |

available at the site either for bulking ahead of treatment elsewhere, or for on-site treatment where materials that require removal prior to the production of RDF are extracted from the waste. Wastes accepted on site would be non-hazardous with the exception of up to 5,000 tonnes of Waste Electrical and Electronic Equipment ('WEEE') such as fridges, televisions etc. that the applicant proposes to deal with. All treatment of waste including splitting of black bags would take place within the existing building.

- 1.11 With regards to the RDF production, within the building, plant would be installed and used including a waste shredder, conveyors, electromagnets and picking lines to process the waste and metals, glass and other non-combustible wastes before it is ready to be baled and wrapped in plastic. In terms of the household waste, similar (separate) plant would be installed for this including a bag splitter, trommel (to size segregate materials) and a picking line in order to ensure it can be transported off site and utilised in anaerobic digestion plants. Small volumes of skip waste including furniture, WEEE items etc would be sorted by hand.
- 1.12 The existing building that the operation would take place in consists of four linked warehouses which give a total floor area of some 5700 metres² located in the north-western area of the site. The applicant considers this adequate to accommodate all required plant and machinery, and no significant works are required beyond repair and maintenance of the existing cladding to improve its cosmetic appearance. New lighting would be attached to the outside of the building to ensure a safe working environment (given the 24 hour operation proposed). In addition, weighbridges and an office would be located on site to the east of the building to monitor payloads of HGVs entering and leaving the site. The boundary of the site is currently secured with fencing and retaining walls and where this is found to be damaged it would be secured by replacement chain link fencing.
- 1.13 A new vehicular access including a right hand turn lane would be created onto the A1067. No direct access is proposed to the Marriott's Way however a small pedestrian gate would provide access to the north of the site adjacent to the proposed vehicular security gate. From here pedestrians could then walk the short distance to the Marriott's Way however any formal access or security arrangement onto the trail itself (such as a turnstile) would need to be the subject of a separate planning application considered on its own merits.
- 1.14 The applicant proposes to operate 24 hours a day seven days a week with deliveries and removal of waste being limited to between the hours of 07:00 and 18:00 Monday to Saturday. According to the application the proposal would eventually create up to 50 full time jobs (it would initially be 35).
- 1.15 The planning application is essentially for the same proposal as Members of the Planning (Regulatory) Committee resolved to refuse in March 2017 under reference C/5/2017/5007. The supporting application documentation however is materially different. In this instance the County Planning Authority has discretion as to whether it entertains the application and given that the proposed site is allocated in the adopted Waste Site Allocations DPD (2013) and therefore the principle of a waste use at this site is acceptable, the CPA entertained the application to determine whether sufficient information had been submitted to overcome the grounds of refusal of the previous application where Members of the Planning (Regulatory) Committee considered insufficient information had been

submitted.

2. Site

- 2.1 The application site comprises a strip of vacant industrial land adjacent to the north of the A1067 Norwich Road and measuring some 2.1 hectares in size and occupying land in both the parishes of Morton on the Hill and Weston Longville. The applicant advises that the main building on the site was previously used for the manufacture and storage of polythene products
- 2.2 The Marriott's Way footpath, bridleway and cycle route lies directly adjacent to the north of the site, and beyond this, the River Wensum (a Special Area of Conservation SAC) some 200 metres to the north at its closest point, and the Tumulus in the Warren, a Bronze Age Barrow classified as a scheduled ancient monument, 35 metres to the north of the site. Directly adjacent to the west/northwest of the site lies the access drive to the nearest residential property 'The Warren': the dwelling house itself of which is some 180 metres away from the boundary of the application site. Further west is the Shepherds Business Park which itself is 10 metres away from the application site with the nearest unit 12 metres away from the application site.
- 2.3 To the east/south east of the site is the remainder of the Atlas works used largely for heavy industry/manufacturing. In May 2016, prior approval was granted by Broadland District Council on part of this land for the 'Change of use of Offices to Residential Units (Prior Notification)' under reference 2015/0525. The proposed residential units are some 130 metres (eastwards) from the boundary of this application site where the new access would be created, and some 350 metres from the main warehouse building where waste would be processed within etc.
- 2.4 Broadland District Council also granted planning permission for additional development at the neighbouring Polyframe site in August 2016 under reference 20161061 which is some 275 metres for the main warehouse building. Most recently in July 2018, Broadland District Council granted planning permission for 'Erection of Industrial Units (Classes B1, B2 and B8 Uses) and Vehicular Access (Outline)' under reference 20180558. The site is some 210 metres westwards of the main warehouse building for application beyond the Shepherds Business Park and Emmerson Industrial Estate.
- 2.5 The site is allocated for waste development within the adopted Waste Site Specific Allocations Development Plan Document which was adopted in 2013 (site WAS78).

3. Constraints

- 3.1 The following constraints apply to the application site:
- Site is 200 metres from River Wensum Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).
 - Site is approximately 1 kilometre from Alderford Common Site of Special Scientific Interest (SSSI)
 - Site is located within Norwich Airport consultation zone.
 - Site is some 35 metres from Tumulus in the Warren scheduled ancient monument, a Bronze Age Barrow.

4. Planning History

- 4.1 Planning permission was granted by Broadland District Council in February 1994 for '1) Sub-division of site for industrial, warehouse and office uses; 2) Hardstanding and car parking areas; 3) General purpose bulk mixing plant; 4) Metal Recycling / Waste Yard' for the wider SPC Atlas Works site within which the current application site is located.
- 4.2 In recent years the County Council has granted a number of permissions for development on land to the east of the application site but within the wider SPC Atlas Works complex which has had planning permission for a 'Metal Recycling Plant' since 1996. The most recent of these applications was approved in 2011 under reference C/5/2011/5012 for 'Retrospective planning permission for a covered storage building for the storage of recycled materials'. At that time, the site was operated by Sita UK Ltd Metal Recycling however it is now understood that site is owned and operated by EMR Group.
- 4.3 Most recently, the County Planning Authority refused a planning application for a very similar description to this one in May 2017 under reference C/5/2015/5007. This followed a committee resolution to refuse the application on the 31 March 2017 after the committee's earlier deferral of determination of the application on 10 October 2016. The grounds of refusal were on the basis that the planning application had not demonstrated that there would not be adverse impacts on groundwater and the surface water including the River Wensum SAC, and, the proposal would adversely impact on the setting of the nearby Tumulus in the Warren Scheduled Monument, and sufficient public benefits had not been demonstrated to justify the less than substantial harm that would be caused to it.
- 4.4 An appeal was subsequently lodged by the applicant with the Planning Inspectorate (PINS) against that decision under reference APP/X2600/W/17/3187973. The Appeal was determined by the Written Representations procedure and on the 22 August 2018 the Planning Inspectorate granted planning permission for the development. The full Inspector's Report and Decision Notice is attached as Appendix 3. The appeal decision was also subject to a costs-claim by the appellant however the Inspector opined that the County Planning Authority had not behaved unreasonably in refusing the application. The Costs decision is attached as Appendix 4.
- 4.5 The site is allocated for waste development within the adopted Waste Site Specific Allocations Development Plan Document which was adopted in 2013 (site WAS78).

5. Planning Policy

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| 5.1 Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011) | : | CS3 | Waste management capacity to be provided |
| | | CS4 | New waste management capacity to be provided |
| | | CS5 | General location of waste management facilities |
| | | CS6 | General waste management considerations |
| | | CS8 | Residual waste treatment facilities |
| | | CS13 | Climate change and renewable energy |

			generation
		CS14	Environmental Protection
		CS15	Transport
		DM2	Core River Valleys
		DM3	Groundwater and surface water
		DM4	Flood risk
		DM7	Safeguarded aerodromes
		DM8	Design, local landscape and townscape character
		DM10	Transport
		DM12	Amenity
		DM13	Air Quality
5.2	Norfolk Minerals and Waste Local Development Framework: Waste Site Specific Allocations DPD (2013)	: WAS 78	Land at SPC Atlas Works, Lenwade
5.3	Broadland Development Management DPD (2015)	: GC1	Presumption in favour of sustainable development
		GC4	Design
		GC5	Renewable Energy
		EN1	Biodiversity and Habitats
		EN2	Landscape
		EN3	Green Infrastructure
		EN4	Pollution
		E1	Existing strategic employment site
5.4	Broadland Development Management DPD Landscape Character Assessment (Updated 2013)	: A1	Wensum River Valley
5.5	Joint Core Strategy for Broadland, Norwich and South Norfolk (2014)	: Policy 1	Addressing climate change and protecting environmental assets
		Policy 2	Promoting good design
		Policy 3	Energy and Water
		Policy 5	The economy
5.6	Adopted Neighbourhood Plan	:	The site falls within the parishes of both Weston Longville and Morton on the Hill. Neither of these parishes have an adopted Neighbourhood Plan or a Neighbourhood Plan in progress. Furthermore, a Neighbourhood Plan would not explicitly deal with waste management development.

5.7	The National Planning Policy Framework (2018)	:	1 14 15 16	Building a strong, competitive economy Meeting the challenge of climate change, flooding and coastal change Conserving and enhancing the natural environment Conserving and enhancing the historic environment
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5.8 National Planning Policy for Waste (2014)

5.9 Waste Management Plan for England (2013)

6. Consultations

6.1	Broadland District Council	:	No objection. Reiterated both EHO's initial concerns that there was a lack of an odour assessment report given the nature of waste to be dealt with, and that the shredder should only be operated between the hours of 07.00 and 19.00 and collections between the hours of 07.00 to 18.00. Also, note that the office accommodation approx. 370m south east of the site received prior approval for conversion to residential units under reference 20160525 in May 2016 (at the date of the consultation response (December 2017) the works had not been implemented).
6.2	Morton-on-the-Hill Parish Council	:	No response received.
6.3	Weston Longville Parish Council	:	Object to the application. Do not feel application has addressed any of their original concerns. Object on basis of increased HGV movements in local area, impact on amenity from odour and the management of fire should an incident occur on site.
6.4	Swannington with Alderford and Little Witchingham Parish Council	:	Object to the application on the basis of noise, pollution, transport impacts and planning creep (the potential for the operators to apply to build an energy producing plant on site [to treat the RDF produced]. The processes described are inappropriate to be located adjacent to private houses, important water sources, SSSI sites and food processing plants such as Bernard Matthews.
6.5	Hockering Parish Council	:	No response received.
6.6	Great Witchingham Parish Council	:	Object to the proposal on the grounds of the condition of the building itself, fire risk, odour, noise, dust, vermin, water pollution, that the facility would be a 'bad neighbour, and that no mitigation

- measures are proposed.
- 6.7 Environmental Health Officer (Broadland District) : Environmental Health Officer
- No objection. Initially raised concerns regarding the lack of an odour report. Following receipt of additional information regarding odour, a comparison was made to a similar site which processes RDF and from household waste (with much closer sensitive premises) and which does not give rise to complaints and has no odour abatement installed. On this basis would find it difficult to object to this application and does not perceive the operation would give rise to odour complaints. Suggests odour abatement measures proposed are conditioned as well as that wrapped bails are not stacked or stored outside the building.
- The noise report suggests that the operation should not give rise to disturbance, on the basis that the operation of the shredders will only take place between the hours of 07:00 to 19:00, to ensure that there will be no disturbance to receptors during noise-sensitive periods. This time restriction should be conditioned to ensure compliance.
- Pollution Control Officer:
- Notes the desk study concludes that there is not a high risk of contamination. However considers there is a need to carry out an assessment of ground conditions prior to the development to be sure that there is nothing that is likely to have an impact on the wider environment or the development itself from histrionic contamination including from unknown tanks that may have been present on site. Agrees that this can be secured by condition in the event planning permission granted.
- 6.8 Natural England : No objection. Defers to the Environment Agency's technical expertise with reference to the pollution risk posed by this application (the Environment Agency has determined that subject to the scheme being implemented as proposed and an Environmental Permit being granted subsequently, the pollution risk to the natural environment can be addressed. As a result, NE agrees with the conclusion of the Habitats Regulation Assessment that there would not be an adverse impact upon the integrity of the River Wensum SAC either

- alone or in combination with other projects.
- 6.9 Historic England : No further or additional comments and refer to previous advice provided [in respect of previous refused planning application]. Therefore, no objection subject to developer providing a contribution to the sum of £2848.84 in respect of an information board for the Tumulus in the Warren SAM.
- (Has been advised that information board is no longer regarded as necessary following the Planning Inspectorate's decision to application reference C/5/2017/5007, however no further comments have been received).
- 6.10 Environment Agency (EA) : No objection. The drainage strategy proposed in the HRA corresponds to that previously reviewed. Remind the applicant that the site will require an Environmental Permit before becoming operational – failure to address discharges from the site is likely to result in the permit application being refused.
- The submitted draft Fire Prevention Plan (PP) would not pass permit determination rules without further work - however a full assessment of the FPP will be carried out during determination of the Environmental Permit.
- 6.11 Water Management Alliance (Norfolk Rivers IDB) : No objection. Advise that the proposal is outside of their Internal Drainage District and that a positive discharge to a watercourse is not proposed as part of this application. It does however believe that the ability to drain the site is fundamental to the principle of development and should therefore be a key factor in determining the sustainability of this proposal.
- Notes that discharge is proposed via existing infiltration features. The Board supports the EA's and LLFA's expression of concern regarding the presence of groundwater and the risk of direct discharge to groundwater [the EA's and LLFA's concerns have now been resolved]. As such although it supports in principle the EA proposal of a prior to commencement condition for detailed drainage design to be applied to the permission, it also supports the concerns of the LLFA whereby the principle of the ability to drain the site should be secured at the point of granting permission. Therefore, recommends that the information requested by the LLFA is provided as well as

		information to support the requirements of the site-specific allocations DPD.
6.12	Anglian Water	: Proposed site lies within the surface water catchment of the Wensum upstream of their river abstractions at Costessey Pits and Higham Water Treatment Works. Expects mitigation measures to be put in place in order to prevent any pollution from the site entering surface water or ground water both during construction and operation and fully support the EA's proposed condition concerning surface water disposal.
6.13	UK Power Networks	: No response received.
6.14	Norwich International Airport	: No objection.
6.15	Lead Local Flood Authority (LLFA) (NCC)	<p>: No objection subject to conditions concerning</p> <p>i) Further detailed designs, modelling calculations and plans of all parts of the drainage conveyance network in the:</p> <ul style="list-style-type: none"> - 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site; - 1 in 100 year critical rainfall plus climate change. <p>ii) A maintenance and management plan detailing the activities required and who will adopt and maintain the surface water drainage features for the lifetime of the development.</p> <p>Initially raised an objection on the basis that it did not have confirmation from the EA that a direct discharge to groundwater (of surface water collected from the site) would be supported – this has now been withdrawn.</p>
6.16	Highway Authority (NCC)	: No objection subject to conditions.
6.17	Norfolk Fire and Rescue Service (NCC)	: No objection. Position is as previous application – the EA has primacy over sites such as this where the applicant would need to fully comply with any Fire Prevention Plan that the EA stipulate. The Fire Service's access to the site and provision of hydrants appears generally unchanged and any access on site will be dealt with under Building regulations subsequent to planning being granted

		if that is the case.
6.18	Waste Disposal Authority / Waste Infrastructure Manager (NCC)	: No response received.
6.19	Norfolk Historic Environment Service (Archaeology) (NCC)	: No objection: the development would not have any significant impact on the historic environment and there are no recommendations for archaeological work.
6.20	Norfolk Environment Service (Conservation) (NCC)	: No response received.
6.21	Ecologist (NCC)	: No objection. Agrees with the conclusions of the Preliminary Ecological assessment (PEA) undertaken by The Landscape Partnership, September 2017. The recommend a condition to reduce the impact on bat foraging, along with a condition that a survey for reptiles takes place prior to the start of any works and mitigation/licences provided to the planning authority prior to the start of works as appropriate. Is satisfied with the conclusions of the Habitats Regulations Assessment and that an adequate assessment has been carried out of the potential impacts on the River Wensum if unmitigated, and subsequently with the outlined mitigation in place.
6.22	Arboriculture and Landscape (NCC)	: No objection subject to a landscaping scheme to be submitted and implemented that includes provision for three semi-mature replacement oaks to mitigate the loss of the existing mature oak adjacent to the A1067 in order achieve the required visibility splays.
6.23	Public Rights of Way Officer (NCC)	: No objection on the basis the full legal extent of the adjacent Marriott's Way trail must remain open and accessible for the duration of the development and subsequent occupation.
6.24	Trails Officer (NCC)	: Recommend a scheme (in addition to the £7500 contribution for the Marriott's Way) to secure the recording and retention of remaining archaeology from the former Marriott's Way railway line.
6.25	NHS Norfolk and Waveney Public Health Directorate	: No objection: Nothing to add to EA's and Broadland District Council's comments. It's a given

- (NCC) that any operations would comply with the EA requirements which would control operational activity and risks. Also considered cumulative effect of background PM (particulate matter), dust from operations and potentially additional PM from delivery lorries and site traffic operations, however it appears there are no nearby dwellings / receptors which would likely be affected.
- 6.26 County Councillor (Mr Gregg Peck) : To be reported – wishes to speak at the Planning (Regulatory) Committee itself.
- 6.27 Representations
The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 6.28 Letters of **objection/concern** have been received from 71 individuals / households and businesses (49 explicitly object or oppose the development). These include representations from both the Royal Norwich Golf Club and Bernard Matthews. Concerns/objections raised are:
- Transport/traffic impacts including noise, pollution and congestion from increased HGVs using the already busy A1067;
 - Increased risk of accidents on highway due to increased volumes of traffic;
 - Traffic Impacts would be compounded by opening of NDR which itself will create more noise and pollution and result in increased rat running
 - Noise that would be generated from the proposal;
 - Possible pollution of the environment including to the River Wensum SAC / SSSI, to the Wensum Valley, to land and air, and to local wildlife;
 - No study or evidence produced that the proposal would not exceed legal air pollution figures;
 - Threat posed to the water environment generally – this includes a commissioned technical review of water management concerns (including the Environment Agency’s response)
 - Increased vermin including scavenger birds;
 - Loose debris/waste being blown around;
 - Decrease in property values;
 - Village / surrounding area suffered for many years from ‘Pimlotts rendering plant’;
 - The adverse impact on other local businesses such as the Dinosaur Park, Golf Club, local Inns/Hotels, and private membership fishing lake which bring much needed income to the local community supporting shops, pubs and restaurants etc;
 - The adverse impact on the Marriott’s Way cycling/walking/bridleway path as well as several fishing lakes used for recreation;

- Plant would detract from tranquil setting opposite the site where the new Royal Norwich gold course is being constructed;
- The merits of transporting the RDF to foreign countries as we do not have incineration facilities in the UK;
- The substantial fire risk posed by the development particularly given those at other plants around the country;
- The impacts a fire would have on the River Wensum from the run off that would occur;
- Impact of the development on the adjacent nationally significant Scheduled Monument (Bronze Age barrow) – this includes a commissioned Heritage Impact Assessment;
- ‘Catastrophic’ impacts on the wildlife and geology of the area now and for future generations;
- Impact on local ecology including endangered Crucian Carp;
- That the application should undertake an Habitats Regulation Assessment further to the People Over Wind v Coillte Teoranta C-323/17 decision;
- Severe negative impacts on local economy as well as the that of the whole of Norfolk should businesses surrounding the Atlas works site relocate;
- The major physical impact (including health) on people living and working in the surrounding area (their wellbeing and public health should be paramount);
- Impact of waste and associated vermin on local businesses including those producing or dealing with food (reference is made to, and on behalf of both the Shepherds Business Park and the Bernard Matthews factory);
- The existing asbestos clad building is not fit to accommodate a facility such as this;
- The impact of the development on recreational fishing of the River Wensum;
- The flood risk posed due to the nearby tributaries of the River Wensum;
- The impact on drinking water (supplied by the River Wensum and boreholes elsewhere);
- The application has not been subject to an independent Environmental Impact assessment (EIA);
- That the County Council has not followed best practice by insisting the Environmental Permitting process is run in tandem;
- The reliance on the Environmental Permit to deal with issues at a later stage;
- A more suitable location should be used for the transfer station;
- The facility should be run by a local authority and not a private enterprise;
- The inadequacy of the drainage strategy proposed;

In addition five letters of **support** have been received from local

residents/businesses on the grounds that:

- Atlas works is a heavy industrial use site;
- The whole estate is already allocated for waste use in the County Council's Waste and Minerals Plan;
- the new business is entirely appropriate for the application site given the proposal is for a use within the adopted allocation for the land;
- Proposed operation would increase waste diverted from landfill;
- The business will also deliver further trading opportunities to other business currently on the Atlas works site and others in the locality
- Proposal would bring the redundant building back into economic use
- Business would bring jobs to the locality;
- Business would bring overdue benefits to the local community and local business;
- Business would bring new business and employment to the opportunities to the site and generate additional local revenue;
- Would encourage other new businesses to start up or relocate to Lenwade.

7. Assessment

7.1 The issues to be assessed for this application are: the principle of development, and impacts on the landscape, amenity and health, highways/transport, ecology (biodiversity), sustainability, heritage assets (the scheduled monument), groundwater and 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”), the Joint Core Strategy for Broadland, Norwich and South Norfolk (2014), and the Broadland Development Management DPD (2015). 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 In the context of Policy CS5: *General location of waste management facilities* of the NMWDF, the proposal is regarded as a ‘major’ or ‘strategic’ facility on the basis the proposed throughput would exceed 10,000 tonnes per annum (the proposal is to deal with a maximum of 150,000 per annum). Although the site is some 3 miles

outside the Norwich Policy Area referred to in this policy, it would nonetheless be well related to Norwich given the location of the site on the A1067. Although the proposal would be both on industrial land and largely contained within an existing building as referred to in the policy, it also requires consideration to be given to the nearby River Wensum SAC, as set out in the ecology section below.

- 7.5 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.
- 7.6 The application site is located on previously developed land that is identified as a Strategic Employment Site in the Broadland Development Management DPD. That policy itself seeks to reserve employment sites of strategic importance for employment use. Furthermore, the site forms the western most part of site WAS 78 which is allocated in the NMWDF Waste Site Specific Allocations DPD for uses including waste transfer, metal recycling, inert waste recycling, mixed waste processing and other forms of residual waste treatment. Therefore, subject to the proposal not causing *environmental* impacts as also referred to in Policy CS6 and discussed in the report below, the proposal is also compliant with this policy. In addition, the applicant states that the proposal would create up to 50 jobs once fully operational (it would initially be 35) and on that basis the proposal is considered to be compliant with Broadland Development Management DPD policy E1.
- 7.7 The proposal would provide treatment capacity for up to 150,000 tonnes per annum of household, commercial and industrial waste: therefore policy CS8: Residual waste treatment facilities (RWTFs) is applicable to this proposal. Because of the location of the site on a brownfield site which is allocated in a Development Plan Document for waste uses, in land-use terms the proposal is compliant with the policy, again subject to it not having unacceptable environmental, amenity or highway impacts, as examined in the report below. The policy (CS8) also states that RWTFs should not result in an over-provision of residual waste treatment capacity based on the figures outlined in NMWDF Policy CS4: *New waste management capacity to be provided* which states that 703,000 tonnes of recovery (residual treatment) facilities will be needed by the end of 2026. This proposal would provide some of that treatment capacity and is therefore in accordance with CS4.
- 7.8 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 Waste Management Plan for England (2013) which similarly seeks to promote the management of waste up the waste hierarchy. The National Planning Policy for Waste also underlines that the need for a facility is only required to be demonstrated where a proposal is not consistent with an up to date plan. Because of the allocation of the land for waste uses, and because of the compliance with the land use policies detailed above, there is not a requirement to demonstrate a need for this facility at this location.

7.9 **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." This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. Broadland Development Management DPD policies GC4 and EN4 also give regard to the protection of existing residential amenity and permitting development that would not have significant impact on human health. 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.

7.10 The nearest residential property to the site is The Warren: although the drive to this house is adjacent to the site, the dwelling house itself is 180 metres away and the garden some 150-160 metres away. Furthermore, the Marriott's Way footpath, bridleway and cycle route lies directly adjacent to the north of the site which is used for recreational purposes. Further west is the Shepherds Business Park which itself is 10 metres away from the application site with the nearest unit 12 metres away from the application site.

7.11 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.

7.12 Odour

In raising no objection to the application, the EA in their consultation response commented that the emissions and the efficacy of odour management plan will be assessed as part of the environmental permit application determination. Whilst also noting that the proposal would need be subject to the Environmental Permitting Regulations in order to operate, the Environmental Health Officer (EHO)

initially commented that he had concerns regarding the lack of an odour assessment report citing that the storage of household waste on site could give rise to significant nuisance if not controlled, particularly in summer months. Accordingly further information in respect of odour was requested from, and submitted by the applicant in respect of odour in the form of an odour strategy. This outlined that waste would only be unloaded in the building and that a series of measures would be employed for the management of odour. This would include the targeted removal of malodours through the means of extractor hoods (providing draught/localised negative pressure) and carbon filters. If any of these measures required external changes to the fabric of the building this would require further recourse to the planning system (through a planning application) where necessary.

- 7.13 The EHO's final comments to this information were that he did not perceive the operation would give rise to odour complaints and did not object to the application.

In coming to this conclusion, a comparison was made to a similar site which processes RDF from household waste (with much closer sensitive premises) and which does not give rise to complaints and has no odour abatement installed.

The EHO did recommend that odour abatement measures proposed are conditioned as well as that wrapped bales are not stacked or stored outside the building.

- 7.14 Noise

As part of the planning application, a noise assessment was undertaken in accordance with British Standard 4142: 2014. The Assessment concluded that noise from the waste processing operations inside the existing building is predicted to meet the criteria of BS 4142: 2014, with the overall cumulative noise impact predicted to be less than the 'low' level suggested. Notwithstanding the BS 4142 assessment, however, it was considered that the potential tonal character and volume of the shredding plant may be noticeable at the receptor during particularly

quiet and noise-sensitive night-time periods. On that basis the applicant has committed to only operating the shredders between the hours of 07.00 and 19.00 to ensure there would be no disturbance to receptors during noise sensitive periods. Noise from vehicle movements on site is predicted to have an

insignificant impact on the existing traffic noise however the applicant has proposed no deliveries or collections from the site outside the hours of 07.00 to 18.00.

- 7.15 Dust

With regards to dust and air quality, a Dust Assessment was submitted as part of the application documentation. Although it recognized that there is potential for dust impacts arising from vehicle movements including their exhaust emissions, and also from storage of inert materials, these could be controlled through mitigation measures and day to day site management such as avoiding dry sweeping of the site by using wet swept methods, switching off vehicles engines while stationary etc. With regards to treatment of waste itself, this would be undertaken within the existing building. Similarly to noise and odour, this would be a matter that would be controlled through the site's Environmental Permit issued by the Environment Agency, however the report

concludes it is considered that there are no significant air quality and/or dust effect issues that would hinder the proposed development. Therefore it is not expected the development would have an unacceptable adverse impact on amenity with regards to dust or significantly impact on air quality.

7.16 Lighting

Whilst the applicant proposes to install lighting both to the existing building and around the site to ensure a safe working environment given the 24 hour working proposed, this would be LED and designed to be low spill. A condition of any planning consent would nonetheless be that that any lighting installed should not cause glare beyond the site boundary.

7.17 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. A number of objectors have raised concerns with regards to the fire risks that would be posed by a facility such as this particularly given the instances of fires that have taken place at other facilities in recent years, both within the County and further afield. Should permission be granted, the facility would be subject to a Fire Prevention Plan which would form part of the site's Environmental Permitting requirements. Whilst a draft has been submitted with this application, the EA has advised that the submitted draft Fire Prevention Plan would not pass permit determination rules without further work, but a full assessment of the FPP will be carried out during determination of the Environmental Permit. However, 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.

7.18 In raising no objection to the proposal the Norfolk Fire and Rescue Service underlined that the EA has primacy over sites such as this where the applicant would need to fully comply with any Fire Prevention Plan that the EA stipulate. The Fire Service's access to the site and provision of hydrants appears generally unchanged and any access on site will be dealt with under Building Regulations subsequent to planning being granted if that is the case. Whilst fire risk is a material consideration, there is no evidence to suggest the facility would pose any greater or lesser risk than if an industrial operation was carried out under the existing B8: Warehousing use where high quantities of potentially flammable materials could also be stored on this site without further recourse to planning. This would be the fall-back position should a waste facility not be developed on this site either under the recent Planning Inspectorate decision (Appendix 3) or through a planning permission that may be granted by this Committee.

7.19 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 including on the users of the Marriott's Way, and the application complies with both NMWDF Policies CS14 and DM12, Broadland Development Management DPD policies GC4 and EN4, 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.

7.20 **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. NMWDF Policy CS2: *Core River Valleys* states 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. Policy 2 of the Joint Core Strategy and GC4 of the Broadland Development Management DPD promote good design and refer to proposals having regard to the environment, character and appearance of an area. Policy EN2 of the Broadland Development Management DPD states proposals should have regard to the Broadland Landscape Character Assessment SPD and enhance where appropriate, inter alia, Scheduled Ancient Monuments.

- 7.21 The site is located on previously developed land and on land designated as a Strategic Employment Site in the Broadland Development Management DPD. The site is not located within an area that has been 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. As set out above, the site is however within 35 metres of the Tumulus in the Warren Scheduled Ancient Monument.
- 7.22 As stated above, the site is within one of the Core River Valleys designated in the NMWDF and therefore afforded additional protection. With regards to the Broadland Landscape Character Assessment, the site is located within landscape character type A1: Wensum River Valley. The overall strategy outlined for this area is to 'conserve the predominantly rural character, strong pattern of riverside trees and patchwork of habitats.....There are also opportunities for enhancement through protection and management of woodland, wetland and grassland habitats'.
- 7.23 The proposal is for the change of use of an existing brownfield site that has been out of use for a number of years. The production of RDF processing of waste would take place within the existing warehouse building with only storage (of inert waste) and the siting of two weighbridges, an office and other associated infrastructure being located outside. With regards to the building itself, the application states that the developer would repair and replace existing damaged cladding which would make good the building. Not only would it enable it to be fit for purpose for dealing with odorous waste and operating plant and machinery etc, it would also improve the derelict appearance of the building albeit there would be outside storage of waste as part of the proposals. Without this development, there would be a significant likelihood the site would remain vacant and the building may fall into further disrepair. It would be a condition of any consent granted that any replacement cladding would need to match existing materials. Therefore in terms of NMWDF policy DM2, whilst the proposed development is unlikely to enhance the local landscape, any external changes are expected to be in keeping with the existing industrial estate setting and therefore the proposal would not be likely to detract from the local landscape. Due to the location of the development on an existing industrial estate utilising an existing redundant building, the application is

not considered to conflict with this policy.

- 7.24 The site benefits from a significant level of landscaping along its northern and western boundaries between the site and the Marriott's Way and the access/drive to the Warren respectively. There are a number of mature trees along its southern boundary adjacent to the A1067 which provide a significant level of screening to the warehouse building itself. However, because the site is at a lower level to the road itself, there are open views into the operational area of the site which would be used for vehicle manoeuvring, car parking and inert waste storage etc.

To the east of the application site is the Cemex cement works and rest of the industrial estate. The Tree Survey Report submitted detailed that the scheme would require the removal of several birch copses on site where the service yard / roads for the building would be and other associated infrastructure (weighbridge etc). In addition, during refurbishment of the building, there would be likely to be a requirement to trim back the crowns of the aforementioned trees adjacent to the A1067 to avoid conflict with operations

- 7.25 In addition, by virtue of the need to create the new access to the site (including the right-hand turn lane/ghost island from the A1067), two remaining early mature horse chestnuts are also required to be removed. At the time the previous application was considered by this committee in 2016/17, there were a number more trees along the boundary of the site here however these have since been removed in order to allow for sufficient visibility splays for application reference 20161061 approved on the neighbouring 'Polyframe' site as referred to in paragraph 2.4. In order to facilitate the visibility splay for the new access for this current application, a mature oak tree will also need to be removed from the verge to the east of the proposed access. Whilst this is regrettable, in order to mitigate this, the applicant has lodged a landscaping scheme for replacement trees lost as a result of this junction which will include, inter alia, three semi-mature oak trees in order to mitigate the loss of the mature oak tree. The full detailed scheme will be requested prior to the commencement of development on site with implementation in the first planting scheme following construction of the new access. It would also include a 5 year programme of maintenance to for replacement of dead or dying specimens.

- 7.26 With regards to activities outside the building, these would be limited to the above-mentioned infrastructure, aggregate / inert waste storage, existing and replacement fencing (chain link), and car parking provision for some 60 staff and visitor cars. The application proposes that external materials would not be stored above four metres in height (this would be a condition if permission is granted). However the location of the car parking between the A1067 and where the materials would be stored would ensure the development is in keeping with the scale and massing of development in the wider industrial area.

- 7.27 Subject to compliance with conditions requiring replacement landscaping that would be lost, and additional hardwood trees along the site's northern boundary, 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 DM8 and those outlined above in the Broadland Development Management DPD and the Joint Core Strategy. With regards to the Scheduled Ancient Monument referred to in the Broadland Landscape Character

Assessment, this is discussed in section 7.52 – 7.62 below.

7.28 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. The site is only 200 metres from the River Wensum SAC, and protection is also afforded to this through Policy 1: Addressing climate change and protecting environmental assets, and Policy 2: Promoting good design of the Joint Core Strategy which seek to design development to avoid harmful impacts on key environmental assets such as this. Broadland Development Management Policy EN1 also seeks to ensure there are no adverse impacts on the water environment including the River Wensum SAC. Paragraph 175 of the NPPF seeks only seeks to grant planning permission where it would not have an adverse effect on a Site of Special Scientific Interest or where significant harm is caused to biodiversity.

7.29 Appropriate Assessment

As stated in section 3.1, the site is within 200 metres of the River Wensum Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) which is a Natura 2000 European Site under Habitats Directive. In accordance with Regulation 63(1) of the Conservation of Habitats and Species Regulation 2017 (the ‘Habitat Regs’), a competent authority before deciding to give permission for a plan or project must consider whether it is likely to have a significant effect on a European Site either alone or in combination with other plans or projects. Where a plan or project is not initially screened out of this process by the competent authority at stage one of the process, the competent authority moves directly to stage two which is the Appropriate Assessment (or Habitats Regulation Assessment, HRA). In this instance, for the purposes of the assessment of this planning application, Norfolk County Council is the competent authority. For the Environmental Permit which the applicant would also require to operate, the Environment Agency is the competent authority and it would also need to carry out an HRA. Paragraph 177 of the NPPF states that the presumption in favour of sustainable development enshrined in the NPPF does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

7.30 During the determination of this current planning application, a significant piece of case law emerged relating to the Screening stage of the process. The judgement of *People over Wind, Peter Sweetman v Coillte Teoranta* (Case C-323/17) determined that mitigation measures should be assessed within the framework of an Appropriate Assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of a proposed development on a European site at the screening stage. On this basis the applicant was requested to provide the County Planning Authority further information to allow officers to undertake an Appropriate Assessment given that the proposed mitigation (i.e. an upgraded drainage strategy) could not be taken into account at the Screening stage.

7.31 On receipt and scrutiny of the applicant’s HRA, the County Council as competent authority adopted the HRA and is satisfied that adequate assessment had been carried out of the potential impacts on the River Wensum if unmitigated and subsequently with outlined mitigation in place. The conclusion found that there is

not likely to be a direct impact on the designated features of the SAC through water borne pollution with the proposed mitigation in place.

- 7.32 This approach was endorsed by Natural England who were consulted as a statutory consultee in accordance with Regulation 63(3) of the Habitats Regs. Natural England advised the County Planning Authority that it agrees with the conclusion of the HRA and there would not be adverse impact on the integrity of the River Wensum SAC either alone or in combination with other projects. The Planning Inspectorate, in considering the applicant's appeal for the previous application reference C/5/2015/5007, also adopted the findings of the HRA for the purposes of the appeal that has now been permitted. A component site of the Norfolk Valley Fens Special Area of Conservation was also identified as being approximately 5 kilometres from the application site however this was scoped out of any further assessment.
- 7.33 Regulation 63(4) of the Habitats Regs states that the competent authority, if it considers appropriate, take the opinion of the general public. In this case, the process followed in determining the application has ensured all information (including the HRA itself) has been publicly available (including on the County Council's website). The County Council considers that the opinion of the general public has been taken into account prior to and during the preparation of the Appropriate Assessment and that it is not necessary to take the opinion of the general public for the purposes of the Appropriate Assessment. As stated above Natural England has been consulted on the Appropriate Assessment, and accept its findings, agreeing that the proposal would not adversely affect the integrity of the identified European designated site. In granting permission for the earlier appealed decision, the Planning Inspectorate was also content with the findings of the HRA carried out by the developer (as set out in Appendix 3).
- 7.34 Prior to the application being lodged, a preliminary Ecological Assessment had also been carried out. This concluded that with mitigation including the replacement tree and scrub along the northern boundary, seasonal constraints to site clearance and measures to reduce impacts of lighting upon features adjacent to the site likely to be used by bat species, the proposal would achieve a neutral impact. A further survey is also recommended along the northern boundary in respect of reptiles and this is also proposed to be conditioned should permission be granted.
- 7.35 Subject to these conditions, the County Ecologist is satisfied with the conclusions of the Ecological Assessment. On this basis the proposal is considered to comply with the above development plan policies and Section 15 of the NPPF: Conserving and enhancing the natural environment.
- 7.36 **Transport / Highways**
- NMWDF 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. Policy WAS 78 of the NMWDF Waste Site Specific Allocations DPD also requires provision of acceptable highway access, including improvements to and rationalisation of

existing highway accesses from the A1067.

- 7.37 The site is adjacent to the A1067 Norwich Road which is a Principal Route in the County Council's Route Hierarchy. The proposed access point to this road would be some 200 metres away from the main processing building itself with the access road skirting to the north of the existing adjacent Cemex buildings and infrastructure on site. The application proposes to realign and upgrade the proposed access to the highway with the installation of a ghost island / right hand turn lane for HGVs accessing the site from the Norwich direction.
- 7.38 The wider site, whilst not part of the application site red line boundary but nonetheless under the ownership of the applicant, also contains two further access points some 115 metres and 250 metres respectively south east of the proposed access point. Whilst the Highway Authority's preference is that the entire Atlas Works site is served by just one access (the new access proposed under this application), it has agreed to the retention of the southernmost access (in addition to the proposed site access) provided the central access point is closed. This is on the basis that on balance, the positive impacts of the mitigation works proposed as part of this application (the right hand turn lane of the A1067 and the improved visibility splays) outweigh the negative impacts of retaining the existing access.
- 7.39 In terms of HGV movements, waste would be imported to the site through a combination of articulated bulk carriers (45%), tippers and roll on/off skips (50%), and smaller skips and vans (5%). Output would obviously be equivalent to input levels but given that the waste would have been processed by that point, the majority would be removed by articulated bulk carriers (90%) with the remainder by tipper and large skips (10%). Although the aspiration of the developer would be to backfill incoming lorries wherever possible with processed waste to maximise efficiencies, the worst case figures where all waste is imported and exported on separate vehicles would be between 83-165 in/out movements as broken down as follows:
- Articulated bulk carrier (25t payload): 45-72
- Tipper and large skip (15t payload): 30-53
- Smaller skips (1t payload): 8-40
- In addition, there would be a workforce of some 50 full time staff creating an additional 90 daily movements (45 in and out). The applicant has also accounted for a further 5 two way movements associated with visitors, courier and post deliveries in cars or light vehicles.
- 7.40 Following the refusal of the earlier application (reference C/5/2015/5007) which proposed 24hour deliveries to the site, this subsequent application proposed a reduction in these hours with all waste delivered to and removed from the site between the hours of 07.00 and 18.00 Monday to Saturday, in accordance with the recommendation of Broadland District Council. Since the application was lodged the applicant has since provided further clarification that the above vehicle movements would actually take place primarily between Monday and Friday with Saturdays only used for breakdowns in the fleet and contingencies etc.
- 7.41 The County Highway Authority has raised no objection to the proposal subject to a number of conditions including provision of the highway access proposed in the application, the permanent closure of the central access to the site, the gradient of

the access to the site not exceeding 1:12, no obstructions being placed across the site access without the approval of the Highway Authority, the implementation and maintenance of a visibility splay for the site accesses, implementation of highway works including a Ghost Island Right Turn on the A0167 Lane following approval of a suitable scheme.

- 7.42 Subject to these conditions it is considered that the proposal complies with NMWDF Policies CS15 and DM10, which considers proposals acceptable in terms of access where anticipated HGV movements do not generate unacceptable risks or impacts.

7.43 **Sustainability**

NMWDF policy CS13: *Climate change and renewable energy generation* seeks to ensure new developments generate a minimum of 10% renewable energy on site. Joint Core Strategy Policy 3: Energy and Water states development in the area where possible will minimise the reliance on non-renewable high-carbon energy sources and maximise the use of decentralised sources and renewable sources, and Broadland Policy GC5 states integration of renewable technology will be encouraged where its impacts are acceptable.

- 7.44 As part of the resubmitted planning application, the applicant submitted a Sustainability Statement that examined three options for feasibly meeting 10% of the site's energy requirements all of which were considered viable. The applicant decided that installation of roof mounted panels is their most appropriate way forward and the applicant proposes to install 250 photovoltaic panels onto the roof of the existing warehouse building. It is considered that this would be acceptable with regards to the design and landscape impacts. If permission is granted, a condition is proposed to secure the implementation of this element of the scheme in order to ensure compliance with these policies.

7.45 **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. As previously pointed out by the Environment Agency (EA), the site also overlays a principle bedrock aquifer. As also stated in section 3.1 above, the site is only 200 metres from the River Wensum SAC, and protection is also afforded to this through Policy 1: Addressing climate change and protecting environmental assets, and Policy 2: Promoting good design of the Joint Core Strategy which seek to design development to avoid harmful impacts on key environmental assets such as this.

- 7.46 Whilst the Environment Agency did not object to the application, it did raise concerns with regards to the management of surface water on site and specifically the strategy for surface water drainage. In order to address this, the EA recommended the submission of a surface water strategy by condition underlining it should not include infiltration of surface water to ground due to the shallow groundwater at this location. This did however result in the Lead Local Flood Authority (LLFA) lodging an objection to the application on the basis that there was insufficient information on surface water drainage and specifically that the proposals would not negatively impact on groundwater and specifically that there was no EA approval for a direct discharge to

groundwater at this location. Whilst the EA had recommended this be dealt with by condition (requesting a surface water drainage strategy be submitted prior to the commencement of development), this was not considered an acceptable approach by the County Planning Authority in ensuring the proposal complies with the above policies concerning protection of both the River Wensum SAC and the principle bedrock aquifer. Furthermore, it was also not supported by the LLFA which had objected to the proposal.

- 7.47 Accordingly the applicant, at the request of the County Planning Authority submitted a revised surface water drainage strategy consisting of two systems which would deal separately with water from the roof of the building and run off from the yard. The roof water would be taken to the existing natural drainage system provided by the drainage basins to the north of the site that are presently serving the site. Whilst these are outside the 'red line application site', they are within the blue line land which is also controlled by the applicant. Because no new development is required for the basins themselves, this is an acceptable approach. The run off from the yard would be taken to two new interceptors where it would be treated over two stages before also being discharged into the attenuation basins.
- 7.48 After further consultation, the EA confirmed it is happy with this revised approach to drainage and the two stage treatment of year water before discharge. It also confirmed the previously requested 'prior to commencement condition' for a drainage strategy is no longer required. On this basis, the LLFA also removed its objection to the proposals subject to conditions concerning implementation of the said drainage scheme, and further modelling calculations and a maintenance and management plan for the lifetime of the development. The County Council now shares the Planning Inspector's recent findings (as per the recent PINS decision attached as Appendix 3), that 'the risk of pollution to the River Wensum would be satisfactorily mitigated by the latest drainage proposals....'.
- 7.49 It should also be borne in mind that the existing system is one that has served the site for a number of decades. Should this development not take place, the drainage infrastructure will continue to serve the site in the future discharging any remaining contaminants from previous uses of the site to the existing retention basis via the network already in place, but without the significant upgrades to the system that form part of this planning application. Similarly, under the current B8 planning permission, a range of materials could be stored on site (in or outside of the existing buildings) and which would be reliant on the current infrastructure to drain the site and without any further recourse to the planning regime.
- 7.50 The applicant also commissioned a land contamination report which was submitted as part of the application. Whilst noting the desk study concludes that there is not a high risk of contamination, Broadland District Council's Pollution Control Officer did however consider that there is a need to carry out an assessment of ground conditions to ensure that there is nothing that is likely to have an impact on the wider environment or the development itself from historic contamination (including from unknown tanks that may have been present on site). The Pollution Control Officer agreed that this can be secured by condition in the event planning permission is granted whereby a remediation strategy is submitted to the CPA should unknown contamination

be identified whilst the site is developed. This would only be necessary in the event that ground is required to be broken in development of this site.

- 7.51 On this basis it is not considered the proposal would adversely impact on groundwater or surface water and is therefore compliant with NMWDF DM4 and the Joint Core Strategy Policies 1 and 2.

7.52 Impact on Heritage Assets / Archaeology

NMWDF Policy DM9: *Archaeological Sites* states development will only be permitted where it would not adversely affect the significance of heritage assets (and their settings) of national importance. Where proposals for waste management facilities would affect a Scheduled Ancient Monument (including their settings), there will be a presumption in favour of preservation *in situ*. As stated above, Policy EN2 of the Broadland Development Management DPD states proposals should have regard to the Broadland Landscape Character Assessment SPD and enhance where appropriate inter alia Scheduled Ancient Monuments.

- 7.53 As stated in 3.1, the site is some 35 metres from Tumulus in the Warren scheduled monument, a Bronze Age Barrow, located to the north of the site. Historic England in their consultation referred back to their previous comments submitted under planning application reference C/5/2015/5007 where it commented that because this is designated as a scheduled monument it is considered of national importance. Scheduled monuments are not afforded additional protection by the requirements of the Planning (*Listed Buildings and Conservation Areas*) Act 1990. Scheduled monuments are nonetheless protected by the above development plan policy referred to in 7.20 above, and by section 16 of the NPPF: *Conserving and enhancing the historic environment*.
- 7.54 Accordingly a Heritage Statement undertaken by the Museum of London Archaeology (MOLA) was submitted as part of the application documentation given that paragraph 189 of the NPPF requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Heritage Statement recognized the proposal would not extend beyond the boundaries of the original factory, and that the majority of the works would be in the interior of the building, and it concluded the proposal would not harm or alter the current setting of the heritage asset. Furthermore, the position of the proposals would not contribute to the harm already caused by the initial construction of the site (the Atlas Works), but that HGVs accessing the site could negatively influence the ambience of the asset through their movement and noise. It also stated that once the grounds of the application site have been tidied, the development site would appear sharp and more prominent.
- 7.55 Whilst recognizing that in its heyday the Atlas Works would have been far more prominent, and that this development would generally improve the condition of the application site, the Heritage Statement also concluded that the development would however widen the conceptual gap between the modern environment on the one side of Marriott's Way to the wild and unstructured environment of the heritage asset.
- 7.56 In the light of this, the Heritage Assessment recommended a number of measures to improve the setting of the barrow. With regards to the application site itself, it is recommended that hoarding is not constructed in the northern boundary of the

development site (this is not proposed in the scheme), and that hard wood trees of a similar species be planted along the (northern) site boundary to create a soft barrier over time.

- 7.57 In their consultation response, Historic England referred back to the advice it provided in respect of the previously refused application, reference C/5/2015/5007. Its final response to that application was to raise no objection to the proposal subject to the payment of £2848.84 by the applicant by a Unilateral Undertaking in respect of an Information Board in respect of the Tumulus in the Warren Scheduled Monument. This was offered by the applicant to overcome Historic England's recommendation for refusal due to the harm to the significance of the heritage asset through a development within its setting. Whilst the board itself would not directly mitigate the landscape setting issue raised by Historic England (and therefore not necessary in planning terms), it did result in Historic England removing its recommendation for refusal.
- 7.58 However, in the subsequent Planning Inspectorate appeal decision to the earlier refused application (Appendix 3), the Inspector states in paragraph 33 that: 'whilst desirable, this would only have only a tenuous link to the appeal scheme and would not, in my view serve to lessen the harm to the SAM. I therefore consider it not necessary to tip the balance in favour of the proposals'. On this basis, officers propose that the planning application, and specifically the Unilateral Undertaking proposed, is no longer subject to this requirement for a contribution for the Information Board. Whilst Historic England have been made aware of this change in the recommendation, at the time of publication of this report, no further comments had been received from them.
- 7.59 A condition would be used to ensure no additional fencing or hoarding shall be erected along the northern boundary of the site which would reduce the levels of natural light to the asset and would create a hard barrier as advised in the Heritage Statement. Instead it recommends the planting of hardwood trees that would create a softer boundary over time. In the context of the earlier application, the applicant confirmed it was agreeable to undertaking planting and this would also be secured by condition of any planning consent granted.
- 7.60 In the context of NPPF paragraphs 193-196, although the scheduled monument is considered to be of national importance, the application would not result in its 'substantial harm or loss' where paragraph 195 states applications should be refused. The proposal is not for a new site and it would not encroach onto, or extend the existing site further towards the heritage asset, however the proposal is likely to lead to the loss of significance of the asset by virtue of a change of use of land within its setting. Paragraph 196 states: 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'.
- 7.61 In this instance, it is considered that the loss of significance to the setting of the scheduled monument does not justify a refusal of permission given the public benefits of the proposal, namely, the re-development of the site to a modern facility to sustainably treat waste and move the management of waste up the waste hierarchy, and the employment created in the locality of the area. If not approved under this planning application, the site would either remain in its current state or be likely to come forward as another waste proposal given the allocation of the site

for waste uses.

- 7.62 The proposal is also not considered to undermine NMWDF Policy DM9 given that the site can be developed with the scheduled monument remaining in situ, and without adversely affecting it subject to the on-site measures outlined in the Heritage Statement being adhered to (the planting of hardwood trees and not installing hoarding along the northern boundary of the site), which would be secured through planning conditions.

7.63 **Flood risk**

NMWDF policy DM4: *Flood risk* only seeks to permit waste management sites that do not increase the risk of flooding. Furthermore, policy DM2: *Core River Valleys* states development will only be permitted in Core River Valleys (which the site is within) if it does not impede floodplain functionality.

- 7.64 Although the entirety of the application site falls in flood zone 1, a Flood Risk Assessment (FRA) was submitted as part of the application in accordance with chapter 14: *Meeting the challenge of climate change, flooding and coastal change* of the NPPF where paragraph 163 requires an FRA for proposals of 1 hectare or greater in flood zone 1 (the site area for the application is some 2.1 hectares).

- 7.65 The FRA concluded that the site is at low risk of flooding from all sources and due to the flat topography of the site there is low risk for surface water flooding. Furthermore providing the recommendations of the FRA assessment are adhered to, the proposed commercial property would be appropriate for the flood risk, not impede the path of flood water, and it would remain safe for its lifetime while not increasing flood risk elsewhere. Neither the EA nor the Lead Local Authority (LLFA) has an outstanding objection to the proposal and whilst the LLFA had previously objected to the scheme, this was on the basis there was not an adequate surface water drainage scheme approved by the Environment Agency (the EA had instead been requesting it be dealt and approved by planning condition). This objection has now been withdrawn and the proposal accords with policies DM2: *Core River Valleys* and DM4: *Flood Risk* of the NMWDF and chapter 14 of the NPPF.

7.66 **Public Rights of Way / Trails**

Although there are not any Public Rights of Way running through the application site, as stated above the site is adjacent to the Marriott's Way footpath, bridleway and cycle route which lies directly adjacent to the north of the site. Broadland Development Management DPD Policy EN3: *Green Infrastructure* requires Development to make adequate arrangements for the management of green infrastructure.

- 7.67 The previous planning application, reference C/5/2015/5007, that was refused by this committee was subject to a unilateral undertaking where the applicant had committed to make a £7500 contribution towards the upkeep of the trail. This was on the basis the County Trails Officer has requested a financial contribution to the maintenance of the trail due to the heavier usage of it as a result of the proposal (the site would include a northern access point near to Marriott's Way for pedestrians/cyclists). This was requested in accordance with the County Council's Planning Obligations Standards (April 2016) which states 'where a proposed development is likely to have an impact on PROW, the County Council will seek to

negotiate a contribution...'. Whilst not a development plan policy document, the Planning Obligations Standards is nonetheless a material consideration in the determination of the planning application.

- 7.68 The applicant has agreed to this undertaking once again and should permission be granted, the contribution would be paid in full before first use of the site for this scheme (for the previous application it had been staged in three instalments of £2,500 when the site opens, when the monthly input reaches 2,000 tonnes per month and when the monthly input reaches 4,000 tonnes per month). This is considered acceptable and should permission be granted by Members, the Undertaking would need to be in place and approved by the County Council prior to the decision notice being issued. In addition, the NCC Trails team has also asked for a condition to secure the recording and retention of remaining archaeology from the former Marriott's Way railway line.

7.69 **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.

- 7.70 An existing metal recycling business (currently operated by EMR) operates some 150 metres to the east of the application site, and reference has been made in representations to the former 'Pimlotts' site understood to be the animal rendering plant previously operated in Great Witchingham. With regards to the metal recycling business, in recent years the site has operated largely without complaint. A small number of minor complaints have been received from local residents which have been successfully resolved with co-operation of the site operator. With regards to the Great Witchingham site, this is 2.5 kilometres north east of the site and understood to be operated until around 2005 when the site was sold to Banham Composting Ltd who sought permission to build a new rendering plant. The site subsequently changed hands and has not operated since then.

- 7.71 Also in the Weston Longville parish but some 3 kilometres south west is the existing composting facility operated by TMA Bark Supplies. This is located on the B1535, the designated HGV route connecting the A47 to the A1067.

- 7.72 It considered that the proposed application operated in conjunction with the two operational sites discussed above would not have an unacceptable impact given the modest nature and limited impacts of both existing facilities. Furthermore, in allocating the site for waste management development, it was obviously envisaged at the outset that a facility or facilities with a throughput of up to 150,000 tonnes of waste per annum could be accommodated at this site taking into account existing land uses and their associated impacts (i.e. on the highway, amenity etc). Were the current proposal not to operate from this site, it would be likely that other facilities amounting to 150,000 tonnes would operate from the site.

7.73 **Environmental Impact Assessment**

The application has been formally screened in respect of any requirement for an Environmental Impact Assessment (EIA) in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations') with a negative screening opinion adopted on 19 October 2017

under reference C/5/2017/5006. Though the proposal has been identified as meeting the threshold of Schedule 2 (11b in respect of being an installation for the disposal of waste in excess of 0.5ha in area), the scheme is not considered to be EIA development as the site is not in a sensitive area and would not be likely to have a significant impact on the environment in the context of the EIA Regulations.

7.74 Having assessed the application and taken into account the consultation responses received throughout determination of the planning application, the proposal has been re-screened for EIA and the Planning Authority remain of the view that the development is not EIA development. This decision has been taken with particular regards to the response from Natural England that advised both at the Screening and the full application stage, that the proposed development would not result in an adverse impact upon the integrity of the River Wensum SAC the nearest sensitive area in the context of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

7.75 Adopting this position is also consistent with that of the Planning Inspectorate, which in allowing permission for the earlier application that this committee refused, did not request an Environmental Statement to accompany the appeal.

7.76 **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.

7.77 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 including the River Wensum SAC, 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, and why an Environmental Impact Assessment wasn't undertaken. The issues of vermin, seagulls, fire risk and litter would all be matters controlled by the Environmental Permit (issued by the EA).

7.78 With regards to the issue of decreased property prices, or adverse impacts on neighbouring businesses or industrial units, this is not a material planning consideration given that the planning system is not in place to protect private interests of one another. The question is whether the proposal would unacceptably impact on their amenities (as set out above) and existing use of land which ought to be protected in the public interest.

7.79 **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.

7.80 **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.

- 7.81 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 The planning application seeks to use a site that is both industrial land and moreover one that is allocated for waste development within the adopted Waste Site Specific Allocations Development Plan Document (site WAS78). Therefore, in land use terms the proposal accords with the development plan.
- 12.2 Whilst 71 representations have been received raising concern about the proposal (49 explicitly oppose or object to the development), it is considered that subject to conditions, the scheme can be operated without unacceptable impacts on amenity and health (including both local residents/businesses and users of the Marriott's Way), the landscape, the highway network, ecology, groundwater and surface water (including the River Wensum SAC), and flood risk.
- 12.3 Significant weight is given to the Planning Inspectorate's recent decision to overturn the County Council's earlier decision to refuse the applicant's first initial planning application in March 2017. The Inspector concluded the appeal should be allowed on the basis that the risk of pollution to the River Wensum SAC would be satisfactorily mitigated by the latest drainage proposals, and that the less than substantial harm to the SAM would be outweighed by the benefits of providing a sustainable waste management facility on an allocated site. For both this current application, and the appeal, a Habitats Regulations Assessment has been undertaken which determined the proposal would not have an adverse effect on the integrity of the River Wensum SAC, a Natura 2000 site.
- 12.4 Some weight is given to the applicant's commitment to contribute £7500 to the maintenance of the Marriott's Way, adjacent to the site, in order to mitigate against its heavier usage should planning permission be granted. Furthermore, the proposal 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 Waste Management Plan for England (2013).
- 12.5 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 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 Except where overridden by this schedule of conditions, the development must be carried out in strict accordance with the application form and plans and documents (including their recommendations) accompanying the application.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 13.3 No more than 150,000 tonnes of waste shall be imported to the site per annum and no more than 75,000 tonnes of waste shall be stored on site at any one time. Records shall be kept of waste imported to and exported from the site and shall be made available to the County Planning Authority upon request. All records shall be kept for a minimum of 24 months.
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 No more than 5,000 tonnes of hazardous waste (which shall be strictly limited to Waste Electrical and Electronic Equipment ('WEEE')) shall be brought onto the site per annum.
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.
- 13.5 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 Notwithstanding the submitted plans, within 3 months of the date of this permission a detailed specification for the proposed photo-voltaic panels to be installed shall be submitted to and approved in writing by the County Planning Authority. The photo-voltaic panels shall thereafter be installed in accordance with the approved details 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 and Policy 3 of the Joint Core Strategy for Broadland, Norwich and South Norfolk.
- 13.7 No deliveries or collections of waste/processed waste shall take place except between the hours of 07.00 and 18.00 Monday to Saturday.

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.

- 13.8 No operation of the shredder shall take place except between the hours of 07.00 and 19.00.

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.

- 13.9 No vehicle shall be operated on site unless it is fitted with working broad band noise reversing sounders.

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.

- 13.10 There shall be no burning of waste on site.

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

- 13.11 No 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.

- 13.12 Any damaged cladding or other building material that is replaced shall be done so with materials to match the existing colour and finish of the existing building.

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

- 13.13 No development shall take place except in strict accordance with the Odour Strategy, reference K197.1~03~010 dated May 2018.

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 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the local planning authority 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 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.

- 13.15 No waste material (both incoming and processed stock) stored on site shall exceed 4 metres above original ground level.

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.

- 13.16 Prior to the first use of the development hereby permitted, the vehicular access (shown as main entrance / new entrance) shall be provided and thereafter retained at the position shown on the approved plan (**drawing number 03/001 Rev H** and **drawing number 13896/103 Rev E**) in accordance with a detailed scheme to be agreed in writing with the County Planning Authority, in consultation with the Highway Authority. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.17 Prior to the first use of the development hereby permitted the central access (shown as 'access to be stopped up' on **drawing 03/001 Rev H**) shall be permanently closed, and the highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the County Planning Authority in consultation with the Highway Authority,

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

- 13.18 Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the County Planning Authority.

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

- 13.19 The gradient of the vehicular access (shown new site entrance on **drawing 03/001 Rev H**) shall not exceed 1:12 for the first 10 metres into the site as measured from the near channel edge of the adjacent carriageway.

Reason: In the interests of the safety of persons using the access and users of the

highway, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.20 Prior to the commencement of the use hereby permitted, a visibility splay measuring 4.5 metres x 215 metres shall be provided to each side of the access shown as '*main access*' where it meets the highway in full accordance with the details indicated on the approved plan **drawing 03/001 Rev H**. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.

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

- 13.21 Prior to the commencement of the use hereby permitted, a visibility splay measuring 4.5 x 160 metres shall be provided to west of the south-eastern access point (shown as existing access on **drawing 03/001 Rev H**) where it meets the highway. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.

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

- 13.22 Prior to the commencement of the use hereby permitted, the proposed access / access road/ pedestrian routes / on-site car parking / servicing / loading, unloading / turning / waiting area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.23 Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for the off-site highway improvement works (including a Ghost Island Right Turn Lane and associated works) as indicated on drawings number **03/001 Rev C** have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority.

Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.24 Prior to the first occupation of the development hereby permitted (or prior to the commencement of the use hereby permitted) the off-site highway improvement works referred to in condition 23 shall be completed to the written satisfaction of

the County Planning Authority in consultation with the Highway Authority.

Reason: To ensure that the highway network is adequate to cater for the development proposed, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.25 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 next planting season following the commencement of development. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance. It shall make provision for:
- (a) the screening of the operations by trees, hedges (including the provision of hardwood trees along the northern boundary of the site);
 - (b) A plan identifying planting to take place in the highway verge detailed on drawing reference 1239_LSP_Rev_A dated April 2018;
 - (c) the protection and maintenance of existing trees and hedges which are to be retained on the site;
 - (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 protect the amenities of the surrounding area, and to preserving the setting of the scheduled monument Bronze Age Burial Site in accordance with Policies DM9 and DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.26 The development shall be carried out in strict accordance with the recommendations and measures in the BSi 5837 Tree Survey for Development, Ref. 1239/CJO/1210 dated 12 October 2017 and received by email on the 9 July 2018, and the Addendum to arboricultural report and soft landscape scheme, Ref. 1239/CJO/1210-Addendum (Revision A) dated 2 July 2018.

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

- 13.27 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking, re-enacting or modifying that Order), no fencing (and associated gates), hoarding or other means of enclosure shall be erected along the northern boundary of the application site other than those expressly authorised by this permission.

Reason: In the interests of preserving the setting of the scheduled monument Bronze Age Burial Site in accordance with Policy DM9 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026 and Chapter 16 of the NPPF.

- 13.28 Prior to first use of the facility, a dust management shall be submitted to the County Planning Authority for its approval in writing. The approved dust management scheme shall thereafter be implemented for the lifetime of the proposal.
- 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.
- 13.29 Prior to first occupation of the development the drainage strategy as stated in 'Drainage Strategy by Wiser Environment, Ref: K197.1~03~009 dated May 2018' with reference to 'Surface Water Drainage Strategy by Plandescil, Ref 13896 dated August 2016' should be implemented in full.
- 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.
- 13.30 Prior to works to implement the drainage strategy outlined in Condition 29 above commencing on site, the following details should be provided to and agreed in writing with the local planning authority. These details should then be incorporated into the drainage scheme outlined in Condition 29.
- i) Detailed designs, modelling calculations and plans of all parts of the drainage conveyance network in the:
- 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site.
 - 1 in 100 year critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development.
- ii) A maintenance and management plan detailing the activities required and details of who will adopt and maintain the all the surface water drainage features for the lifetime of the development.
- 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.
- 13.31 No waste material other than inert waste shall be stored outside the building.
- 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.
- 13.32 No development shall take place until a scheme for the recording and where applicable retention of any early material from the former Marriott's Way railway line has been submitted to the County Planning Authority for its written approval. The scheme shall make provision for the retention and provision in situ (wherever

possible) of material such as concrete and metal fencing elements, signalling equipment, and any other similar remnants. The approved scheme shall be implemented thereafter.

Reason: To ensure adequate time is available to investigate any features of archaeological and heritage interest, in accordance with Policy DM9 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.33 Prior to first occupation, a 'lighting design strategy for biodiversity' for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall

a) identify those areas/features on or adjacent to site to which bats are particularly sensitive and important routes used to reach key areas of their territory, for example, for foraging; and,

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other external lighting be installed on site without prior consent of the County Planning Authority.

Reason: To protect any protected species that may be present on site in accordance with Policy DM1 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.34 No development shall take place until a survey has been undertaken in respect of reptiles along the northern boundary of the site, and the results submitted to the County Planning Authority. The Survey should be undertaken between the months of April to June or September to October. Should reptiles be found to be present on site, a mitigation plan shall be submitted detailing how the developer will manage any potential negative impacts from the development with a strategy for relocation if necessary.

Reason: To protect any protected species that may be present on site in accordance with Policy DM1 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>

Joint Core Strategy for Broadland, Norwich and South Norfolk

<http://www.greaternorwichgrowth.org.uk/planning/joint-core-strategy/>

Broadland District Council Development Management DPD (2015)

https://www.broadland.gov.uk/info/200139/future_building_and_development/247/current_local_plan

The National Planning Policy Framework (NPPF) (2018)

<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>

Waste Management Plan for England (2013)

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

Norfolk County Council Planning Obligations Standards (2016)

<https://www.norfolk.gov.uk/rubbish-recycling-and-planning/planning-applications/planning-obligations>

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:

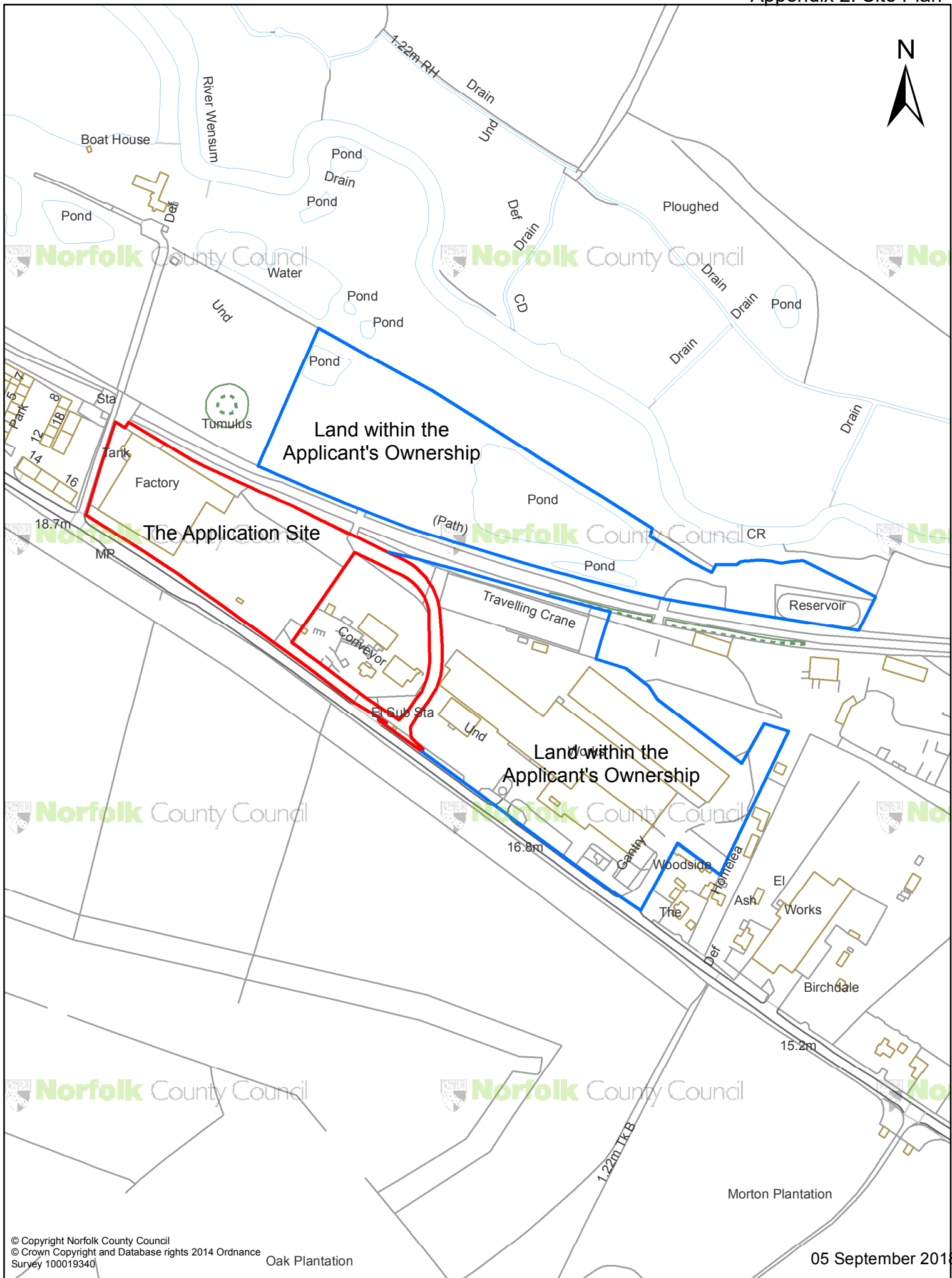
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05 September 2018

C/5/2017/5007
 Weston Longville/Morton on the Hill

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 Metres

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Norfolk County Council

1:4,000

Appeal Decision

Site visit made on 7 August 2018

by Katie Peerless DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2018

Appeal Ref: APP/X2600/W/17/3187973

SPC Atlas Works, Norwich Road, Weston Longville, Norwich, Norfolk NR9 5SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Serruys Property Company Limited against the decision of Norfolk County Council.
- The application Ref C/5/2015/5007, dated 22 March 2016 was refused by notice dated 3 May 2017.
- The development proposed is change of use from B8: Warehousing to a Sui Generis use for waste processing and the production of Refuse Derived Fuel (RDF) with an annual throughput of 150,000 tonnes; installation of office, 2 x weighbridges, fuel store and photovoltaic panels.

Decision

1. The appeal is allowed and planning permission is granted for a change of use to a Sui Generis use for waste processing and the production of Refuse Derived Fuel (RDF) with an annual throughput of 150,000 tonnes; installation of office, 2 x weighbridges, fuel store and photovoltaic panels at SPC Atlas Works, Norwich Road, Weston Longville, Norwich, Norfolk NR9 5SL in accordance with the terms of the application, Ref C/5/2015/5007, dated 22 March 2016, as amended by the Wiser Environment Drainage Strategy dated May 2018 and attachments and subject to the conditions attached as Annex A to this Decision.

Application for costs

2. An application for costs was made by Serruys Property Company Ltd against Norfolk County Council. This application is the subject of a separate Decision.

Main Issues

3. I consider the main issues in this case are the impact of the proposed development on:
 - (i) the ground water and surface water environment, including the river Wensum SAC, and whether any possible adverse impacts can be satisfactorily mitigated through the proposed drainage schemes and
 - (ii) the setting of the Scheduled Ancient Monument of the Tumulus in the Warren.

Site and surroundings

4. The appeal site covers 2.1 hectares and is part of a wider industrial complex of 8.7 hectares, a significant portion of which is also owned by the appellant company. It is presently vacant but contains a number of linked warehouse type buildings, with an area of about 5700 sqm that the Council states has an established B2/B8 use. The majority of the site outside the building is covered with hardstanding and access is taken from the main A1067 Norwich Road to the south.
5. To the north of the complex is Marriot's Way, a public footpath that runs east to west through wooded surroundings that contain a tumulus, which is a Bronze Age barrow and Scheduled Ancient Monument (SAM). The SAM lies on private land outside the ownership of the appellants and has been partitioned off so that there is no public access to it, although it can be seen through the surrounding mesh fence.
6. To the east of the barrow is a linked system of basins and ponds that presently form part of the drainage system serving the appeal site and these, in turn, are hydrologically connected to the river Wensum which lies to the north of the site boundary, some 200m away at its closest point. The river lies within a designated European Special Area of Conservation (SAC) and is part of a Site of Special Scientific Interest (SSSI).

Planning history

7. There has been a subsequent planning application for essentially the same scheme as that previously refused and now considered in this appeal. That application had not, at the time of writing, been determined but was a re-submission of the appeal scheme with additional documentation that has also been included for my consideration in relation to this appeal.
8. Since the appeal was lodged, an independent Habitats Regulation Assessment (HRA), dated July 2018 has been submitted, for the reasons discussed in subsequent paragraphs, and further consultation has also taken place over the proposed drainage measures. These have been updated through the submission of a report included with the HRA, referred to as the Wiser Environment Drainage Strategy dated May 2018 (WEDS).

Procedural matter

9. The County Council, when screening the application, originally determined that no Appropriate Assessment (AA) under the Conservation of Habitats and Species Regulations 2017 needed to be carried out in respect of the site, because any adverse impacts on the SAC could be made acceptable through mitigation measures. However, the judgement of *People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17)* has since ruled that that mitigation measures should be assessed within the framework of an AA and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of a proposed development on a European site at the screening stage.
10. The appellants have responded to this and submitted the HRA referred to above, which considers the impacts of the proposal. This concludes that, in the absence of mitigation, the development has the potential to have a likely significant effect on the River Wensum SAC if polluted water from the site were to reach the catchment of the river.

11. Consequently, an AA needs to be carried out to consider the impacts when mitigation measures are imposed. The HRA report contains the information needed to carry out such an AA and analyses the impacts of the drainage systems that it is proposed to utilise on the site. With the drainage measures in place, the conclusion is drawn that there would be no adverse effect on the integrity of the River Wensum SAC or any other European site, either from the proposed development alone or in combination with any other projects or planned activities. The document has been considered by all the relevant statutory consultees and the Council has subsequently informed the Planning Inspectorate that it is minded to adopt these conclusions. I have taken this AA into account when reaching my conclusions.

Reasons

Drainage system

12. The proposals for the Refuse Derived Fuel (RDF) production facility include the refurbishment of the existing building complex and a modification to the existing site entrance from the A1067. The facility would accept waste, brought onto the site in covered lorries, which would be unloaded inside the building, where it would be sorted and processed, with the doors closed. The RDF would be baled and stored inside and only inert soils and aggregates and metals contained in skips would be stored or treated outside.
13. In normal circumstances, the material imported into the building and the RDF bales would have no contact with external water sources and the only possibility of pollution would come from vehicles using the external yard, through treatment of ice in the winter months, a flood or water used during a fire emergency. In order to mitigate against these pollution sources, the WEDS provides for the installation of 2 sealed systems which would deal separately with water from the roof of the building and the run off from the yard. The roof water would be taken to the existing natural SuDS system provided by the drainage basins to the north that are presently serving the site.
14. Water collected from the run-off from the yard would be taken to 2 new interceptors where it would be treated before also being discharged into the attenuation basins. It has been confirmed in the HRA that the basins have sufficient capacity to contain water from a 1 in 100 year flood event and an additional 40% to allow for climate change.
15. The Environment Agency (EA), in a letter dated 13 July 2018, has confirmed that it is satisfied with the approach detailed in the WEDS and that it no longer sees the need for the details of the drainage scheme to be submitted for approval before the development is commenced, should planning permission be granted. It is also the case that the appellants would have to apply for a permit from the EA to operate the facility and this would provide additional safeguards to the surrounding environment in addition to those provided by the implementation of the drainage proposals.
16. Natural England has confirmed in an email dated 12 March 2018, that it defers to the EA's expertise in respect of this application and the Lead Local Flood Authority (LLFA) of Norfolk County Council has agreed, in a letter dated 18 July 2018, that concerns over flooding from the drainage network in a 3.33% rainfall event and the need to secure a management and maintenance plan covering all aspects of the drainage infrastructure for the lifetime of the development could be addressed by conditions. The LLFA has therefore withdrawn its previous objections to the proposal.

17. I note that a report, by prepared by GWP Consultants LLP to support third party objections to the scheme, criticises the methodology of the water management proposals and the lack of a hydrological or hydrogeological risk assessment. Policy DM3 of the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Plan Policies Document 2010 - 2026 (NMDWF) requires such a survey '*where applicable*' to demonstrate that there would be no adverse impact '*to the satisfaction of the County Planning Authority as advised by the EA*' and notes that this includes mineral extraction proposals in Groundwater Protection Zones 2 and 3. Waste development, is mentioned only as being not permitted in Groundwater Protection Zone 1, which does not apply here.
18. A hydrogeological risk assessment was not called for by the Council or the EA in respect of either of the applications or this appeal, even after the matter was raised in the GWP Report prior to the Planning Committee taking its decision to refuse the first application in May 2017 and the reasons for refusal including the claim that more information on the drainage scheme details was required. In addition, the GWP Report was submitted prior to the assessment of the latest proposals carried out by the EA, NE and LLFA and I find no reason to disagree with the expert view of these 3 bodies, all of whom have public safety and the protection of the natural environment at the heart of their objectives.
19. This matter is, however, addressed in the Council's Response to Third Party Representations received by the Planning Inspectorate in June 2018. In this document the Council states that it appeared that the EA had taken on board the comments from the GWP Report and that there was no fundamental disagreement over the matters raised by the EA. Nevertheless, it is now the case that the EA has, after previously raising objections to the proposal, revised its opinion to the extent that it does not even require any further information through the submission of a scheme for approval. I therefore have no reason to believe that the EA did not take the points made in the GWP Report into consideration when reaching its conclusion on the suitability of the WEDS strategy.
20. The site has been in a previous industrial use and the proposal would make use of existing buildings with only small additions such as the weighbridges and associated portacabin office. There would be no increase in the impermeable areas on the site and consequently no additional rainwater run-off. These areas would need to be refurbished and upgraded to accommodate the new parking and access arrangements, lessening the possibility of surface water entering the ground without passing through the drainage channels.
21. Any waste material capable of creating harmful pollutants would be contained within the buildings and, although there might be a higher level of traffic movements on the site than generated by the previous use, I find no reason to believe that, with the mitigation measures in the form of the WEDS strategy in place, this would create an unacceptable risk to the SAC or that there would be any harmful change from the previously existing and authorised situation.
22. The site has already been allocated for waste related development in policy WAS 78 of the Norfolk Minerals and Waste Development Framework: Waste Site Specific Allocations DPD, subject to compliance with other relevant policies. However, I consider that, with the approved drainage scheme in place there would be no conflict with policy DM3 of the NMDWF which seeks to protect the quality of ground and surface water or Broadland Development Management Policy EN1 which aims to protect biodiversity and habitats.

Impact on the setting of the SAM

23. The tumulus lies in wooded surroundings where it can be seen through the mesh fence that separates the private land of The Warren in which it is located from the public footpath/cycleway of Marriot's Way. A Heritage Impact Assessment, dated February 2018 and written by Dr Richard Hoggett, considers the significance of the heritage asset and the adequacy of the mitigation measures proposed by the appellants and has been submitted by an interested third party. This report is agreed by Historic England (HE) to provide a good assessment of the significance of the SAM and I too find no reason to disagree with its analysis of the significance of SAM and its setting.
24. However, HE does not comment on whether any harm to the significance of the SAM could be outweighed by public benefits although it does recommend that mitigation measures would be required. These will be discussed in subsequent paragraphs of this Decision.
25. The setting of the SAM is the surroundings in which it is experienced and at present this includes views to and from the existing large warehouse building and other parts of the appeal site. The tranquillity of the area around the barrow is a factor that can affect how the SAM is appreciated and the presence of heavy goods vehicles accessing the adjacent site would obviously have an impact in this regard.
26. However, the site has an established B2/B8 use and although this has been disused for some time and the site is vacant and consequently quiet at present, this situation could change in the future without the need for any further planning consents. I also noted at the site visit that the presence of the building, directly opposite the barrow, has the effect of shielding the immediate surroundings from the considerable noise generated by traffic on the A1067. This would continue whether or not the rest of the site was in active use. The appeal scheme would refurbish this building and give the opportunity to improve its appearance and consequently that of the wider surroundings which form the setting of the SAM.
27. Dr Hoggett's report recognises that the setting of the barrow, in a tranquil and lightly wooded area which allows close up and medium distance views of the asset, contributes to its significance. It notes that the appellant's Heritage Report¹ concludes that the tidying of the site and the removal of the encroaching vegetation would make the refurbished development on it become more prominent and '*widen the conceptual gap*' between the modern environment to the south of Marriot's Way, as it exists at present, and the '*wild and unstructured environment of the heritage asset*' and that this would be harmful to its setting.
28. These points are noted but I consider that it would be unrealistic to assume that this previously developed site would, or should, be allowed to remain underused or revert to a more natural state, even if this might be more sympathetic to the setting of the SAM. As noted previously, the site has been designated for future development and the question to my mind is whether the appeal scheme would prove to be more harmful than the current authorised use.

¹ Prepared by MOLA in 2015 and revised in 2017

29. In considering this question, it is clear that here would be no additional physical impact on the SAM or its immediate surroundings as the majority of the development would be completely contained within the existing industrial site. It is also the case that the designation of the site for waste development accepts that this site will continue to be used for commercial or industrial purposes.
30. It seems to me that the refurbishment and re-use of the existing buildings would be of benefit to the wider surrounding area, in terms of both its appearance and putting a brownfield site to a productive use. Planning conditions, including the requirement for a landscaping and maintenance scheme would ensure that the setting of the SAM could be enhanced through the removal of derelict structures and additional planting.
31. The appellants have submitted a Unilateral Undertaking under s106 of the TCPA (UU) at the request of the Council which would provide funding for an information board about the SAM and contribute a sum of money for the improvement of Marriot's Way. This is required by the Council to set against the harm it considers would be caused to the setting of the SAM. The appellants have, however, suggested that these requirements are unnecessary and not relevant to planning.
32. Whilst I consider that a landscaping scheme could bring some improvements to set against the increased activities on the site, I recognise that there is more scope for the removal of redundant material and additional planting outside the site boundary, beyond the land within the control of the appellants. The UU proposal for Marriot's Way would therefore help to safeguard and improve the setting of the SAM and be another positive benefit to weigh against any harm brought about by the proposals.
33. In respect of the provision of an information board, whilst desirable, this would have only a tenuous link to the appeal scheme and would not, in my view, serve to lessen any harm to the setting of the SAM. I therefore consider that it is not necessary to tip the balance in favour of the proposals.
34. The SAM is of national importance and I have therefore paid special regard to the desirability of preserving its setting and in this regard I have accorded any harm significant weight. Nevertheless, the only harms I have identified are that to the tranquillity of the setting, which I consider would be minor when compared to previous and other nearby uses and that caused by the change to the more natural appearance of the site which has occurred through the current vacant state. This latter situation would, as previously noted, be likely to be temporary even if planning permission is not granted for the proposal.
35. I therefore conclude that the degree of harm to the setting of the SAM due to changes brought about by the appeal scheme would be slight and consequently classified as less than substantial as described in paragraph 196 of the National Planning Policy Framework 2018 (the Framework). In my view, the identified harm would be outweighed by the benefits discussed above.
36. Consequently there would be no conflict with policy CS14 of the NMDWF which seeks to protect the environment, including heritage assets, and Broadland Development Management Policy EN2 which aims to protect and enhance SAMs.

Conditions

37. In the following paragraphs the numbers refer to the conditions in Annex A. In addition to the standard commencement condition (1) and a condition requiring the development to be carried out in accordance with the submitted plans and details (2), the Council has suggested a number of conditions that it would wish to see imposed should planning permission be granted. The appellant has raised no objections to the majority of these, which I will discuss briefly below before considering those in dispute. In some cases I will vary the wording to comply with the advice in the Government's Planning Practice Guidance.
38. Conditions (3) & (4) will control the amount of material brought onto the site, condition (5) will ensure that the machinery used on the site is provided with proper noise attenuation and condition (6) will ensure the installation of the photo-voltaic panels, in the interests of sustainability. Conditions (7) – (11), (16) and (27) will control how the site is used, the hours of operation, the storage of materials on it and ensure a dust management scheme is approved and implemented. All these conditions are required to protect the amenities of nearby occupants.
39. Condition (12) relating to the recladding of the existing building is necessary to ensure a satisfactory appearance. Conditions (14) & (15) are required to ensure satisfactory pollution control and protection of the hydrological environment. Conditions (17) – (23) relate to works to the access and the provision of on-site parking and are necessary in the interests of highway safety. I consider that that the suggested condition requiring the stopping up of the existing access marked to be retained at the southern corner of the wider site is unnecessary. This was originally recommended by the Highway Authority, but they have since agreed that the other measures to improve the access, and the blocking of the 'central' access as required by condition (18) would now be sufficient to ensure highway safety.
40. Conditions (24) – (26) relate to the requirement to submit a landscaping scheme and tree protection plan and ensure a suitable treatment to the northern boundary of the site. These are necessary to protect the setting of the SAM and the character of the surrounding area.
41. The Council originally called for 2 conditions requiring the submission of a scheme for surface water disposal for approval but, following the agreement of the EA that the WEDS proposals would be acceptable and if they were to be implemented there would be no need for conditions requiring further details, I find there is no need to call for any additional submissions. The appellants suggest that the original scheme that they proposed would be sufficient. However, it was not until the 13 July 2018 that the EA confirmed that the condition they suggested would not be required, following consideration of the WEDS scheme, included with the HRA. I therefore find that it is the detail included in this strategy that has led to this conclusion and has provided the information necessary to enable the EA to withdraw its objections. I will therefore impose condition (13) requiring this scheme to be implemented. I will also include the condition requested by the LLFA in their letter of 18 July 2018, to ensure that all their concerns have been fully addressed.
42. In respect of the UU, as noted above I have concluded that the £7500 offered by the appellants for the improvement of Marriot's Way to mitigate the impact on the SAM is required but that the £2848.84 for the noticeboard is not.

Conclusions

43. I have taken account of all the representation made about the proposals and noted the objections to it. However, I find that there is general support for the development in the adopted Mineral and Waste plan for the county and I accord this considerable weight. The risk of pollution to the River Wensum SAC would be satisfactorily mitigated by the latest drainage proposals and the less than substantial harm to the SAM would be outweighed by the benefits of providing a sustainable waste management facility on the allocated site. Therefore, for the reasons given above I conclude that the appeal should be allowed.

Katie Peerless

Inspector

Annex A

Conditions to be attached to planning permission C/5/2015/5007

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Except where overridden by this schedule of conditions, the development must be carried out in strict accordance with the application form and plans and documents (including their recommendations) accompanying the application.
- 3) No more than 150,000 tonnes of waste shall be imported to the site per annum and no more than 75,000 tonnes of waste shall be stored on site at any one time. Records shall be kept of waste imported to and exported from the site and shall be made available to the County Planning Authority upon request. All records shall be kept for a minimum of 24 months.
- 4) No more than 5,000 tonnes of hazardous waste (which shall be strictly limited to Waste Electrical and Electronic Equipment ('WEEE')) shall be brought onto the site per annum.
- 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.
- 6) Notwithstanding the submitted plans, prior to the commencement of the development hereby permitted a detailed specification for the proposed photo-voltaic panels to be installed shall be submitted to and approved in writing by the County Planning Authority. The photo-voltaic panels shall thereafter be installed in accordance with the approved details prior to first use of the building and retained for the lifetime of the development.
- 7) No deliveries or collections of waste/process waste shall take place except between the hours of 07.00 and 18.00 Monday to Saturday.
- 8) No operation of the shredder shall take place except between the hours of 07.00 and 19.00.
- 9) No vehicle shall be operated on site unless it is fitted with working broad band noise reversing sounders.
- 10) There shall be no burning of waste on site.
- 11) Prior to the commencement of the development hereby permitted a scheme for the external lighting of the site shall be submitted to the County Planning Authority for approval. The approved scheme shall be installed on the site prior to first use of the building and thereafter maintained as approved.
- 12) Any damaged cladding or other building material that is replaced shall be done so with materials to match the existing colour and finish of the existing building.
- 13) Prior to the first use of site hereby permitted, that is before the site starts operating as a waste processing site, the drainage strategy detailed in the Wiser Environmental Drainage Strategy with associated appendices, dated May 2018 and referenced K197.1~03~009 and with

reference to Surface Water Drainage Strategy by Plandescil, Ref 13896 dated August 2016 shall be implemented in full.

- 14) Any drums and small containers used for oil and other chemicals on the site shall be stored in bunded areas which do not drain to any watercourse, surface water sewer or soakaways, and all oil or chemical storage tanks, ancillary handling facilities and equipment, including pumps and valves, shall be contained within an impervious bunded area of a least 110% of the total stored capacity.
- 15) 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 to the local planning authority 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.
- 16) No waste material (both incoming and processed stock) stored on site shall exceed 4 metres above original ground level.
- 17) Prior to the first use of the development hereby permitted, the vehicular access (shown new site entrance) shall be provided and thereafter retained at the position shown on the approved plan (drawing number 13896/103 Rev E) in accordance with a detailed scheme to be agreed in writing with the County Planning Authority, in consultation with the Highway Authority. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 18) Prior to the first use of the development hereby permitted the central access (shown as 'access to be stopped up' on drawing 03/001 Rev E) shall be permanently closed, and the highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the County Planning Authority in consultation with the Highway Authority.
- 19) Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the County Planning Authority.
- 20) Prior to the commencement of the use hereby permitted, a visibility splay (from the access shown as 'main access') shall be provided in full accordance with the details indicated on the approved plan drawing 03/001 Rev C. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway. 11
- 21) Prior to the commencement of the use hereby permitted, the proposed access/access road/pedestrian routes/on-site car parking/servicing/loading, unloading/turning/waiting area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 22) Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a

detailed scheme for the off-site highway improvement works (including a Ghost Island Right Turn Lane and associated works) as indicated on drawing number 03/001 Rev F have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority.

- 23) Prior to the first occupation of the development hereby permitted (or prior to the commencement of the use hereby permitted) the off-site highway improvement works referred to in Part A of this condition shall be completed to the written satisfaction of the County Planning Authority in consultation with the Highway Authority.
- 24) No development shall take place until a scheme of landscaping has been submitted to and agreed in writing by the County Planning Authority. The scheme as may be so agreed shall be implemented within the next planting season or such other period agreed in writing with the County Planning Authority. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance. It shall make provision for:
 - (a) the screening of the operations by trees, hedges (including the provision of hardwood trees along the northern boundary of the site);
 - (b) A plan identifying planting to take place in the highway verge including the required visibility splay;
 - (c) the protection and maintenance of existing trees and hedges which are to be retained on the site;
 - (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.
- 25) Prior to the commencement of development, an arboricultural method statement and tree protection plan for the new highway access to the A1067 (to include details of all trenching required) shall be submitted to the County Planning Authority for approval in writing and implementation thereafter during development of the site.
- 26) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking, re-enacting or modifying that Order), no fencing (and associated gates), hoarding or other means of enclosure shall be erected along the northern boundary of the application site adjacent to Marriot's Way other than those expressly authorised by this permission.
- 27) Prior to first use of the facility, a dust management scheme shall be submitted to the County Planning Authority for its approval in writing. The approved dust management scheme shall thereafter be implemented for the lifetime of the proposal.
- 28) Prior to works to implement the drainage strategy outlined in Condition 13 above commencing on site the following details should be provided to and agreed in writing with the County Planning Authority. These details should then be incorporated into the drainage scheme outlined in Condition 13.
 - i. Detailed designs, modelling calculations and plans of all parts of the drainage conveyance network in the:

- 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site.
 - 1 in 100 year critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development.
- ii. A maintenance and management plan detailing the activities required and details of who will adopt and maintain the all the surface water drainage features for the lifetime of the development.

Costs Decision

Site visit made on 7 August 2018

by Katie Peerless DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2018

Costs application in relation to Appeal Ref: APP/X2600/W/17/3187973 SPC Atlas Works, Norwich Road, Weston Longville, Norwich, Norfolk NR9 5SL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Serruys Property Company Limited for a full award of costs against Norfolk County Council.
- The appeal was against the refusal of planning permission for a change of use from B8 to a use for the production of Refuse Derived Fuel.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellants' application for costs, the Council's response and the appellants' comments on these were all made in writing and I will not, therefore, reproduce them in full here.
4. However, the thrust of the appellants' claim is that Norfolk County Council (NCC) behaved unreasonably by refusing the planning application against the advice of the Council's Planning Services Manager, the Environment Agency (EA), Historic England and the Council's Senior Solicitor. Permission should have been granted in 2017 and the delay has cost the appellants unnecessary expense compounded by having to produce a Habitats Regulations Assessment to address matters arising from a judgement published in 2018.
5. In respect of the reason for refusal relating to the Scheduled Ancient Monument (SAM), the Committee members considered that harm would be caused to its setting, despite Historic England considering that any harm could be mitigated and agreeing that it was a therefore a matter for NCC to determine, and took the decision that the mitigation measures offered by the appellants did not outweigh that harm. The appellants maintain that there is no harm, but NCC has identified some harm, as have I, but NCC concluded that the public benefits of the scheme did not outweigh that harm.

6. Although I have come to a different conclusion, I do not consider that NCC was unreasonable to hold the views that caused it to refuse the application on the grounds of harm to the setting of the SAM and find that it has put forward an arguable case at appeal.
7. Turning to the concerns over site drainage, the application that is the subject of the appeal was first referred to the Planning Committee in October 2016. A decision was deferred until a second meeting in March 2017, and it was subsequently refused in May 2017, despite being recommended for approval by the Planning Services Manager and even though the EA considered the matter could be dealt with through the Environmental Permit (EP) that it would need to issue before the site could operate.
8. Originally, the EA had expressed concerns over the drainage scheme but eventually recommended conditions that should be imposed should planning permission be granted. NCC submits that these, and further concerns expressed by the EA following the second application, justified the members' decision on the first application. It is NCC's contention that that the risks to the hydrological and hydrogeological environment had not been adequately assessed, and it had not been demonstrated that the proposed activities could be undertaken without harming the environment and the River Wensum SAC. In addition, the application did not include detailed proposals of the surface drainage systems that have now been accepted as suitable by the EA. NCC considered the information to be so fundamental that it was not appropriate to rely on conditions to secure this.
9. In the course of the appeal, the appellant has proposed a more detailed drainage strategy which the EA now agrees would be acceptable without the need for further information to be submitted. I have approved the application with a condition requiring this scheme to be implemented.
10. Although the appellants state that it was always the case that conditions could ensure the development would be acceptable, there is a difference between imposing a condition requiring the submission of a scheme for approval showing how the drainage could be satisfactorily dealt with and securing the implementation of a scheme that has already been found suitable, as is the case now. This is a very important issue and I agree that NCC was correct to establish that there was a fully workable scheme identified before granting permission.
11. Therefore, I consider that it was not unreasonable of NCC to take the view that it needed to be satisfied that a scheme for which planning permission was being sought could actually be safely delivered prior to the issue of an EP. Although I have agreed that the scheme has now been shown to be acceptable, this has come about because of information submitted after the date of the appeal and it could not therefore have been taken into account at the time the first application was refused.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Katie Peerless

Inspector