

**Applications Referred to Committee for Determination:**

**Breckland District: C/3/2015/3016: Besthorpe:**

**Land at Heron Farm, Bunwell Lane, Besthorpe:**

**Retrospective application for the recovery of  
aggregates and soils from imported inert materials  
linked to the adjacent Newall Civil Engineering  
business: Mr Ben Allison**

Report by the Executive Director of Community and Environmental  
Services

**Summary**

Retrospective planning permission is sought to regularize the development of a 1.2 hectare inert waste recycling facility adjacent to an existing civil engineering business at Heron Farm, Besthorpe. The application seeks to recycle / recover up to 60,000 tonnes per annum of aggregates and soils from imported construction, demolition and excavation waste linked to the adjacent Newall civil engineering business.

No objections have been received from statutory or non-statutory consultees subject to conditions, but a number of objections have been received from members of the public.

This is a finely balanced planning application and the proposal represents a departure from the Development Plan due to the location of the site in the open countryside. However, it is felt that there are material considerations that outweigh this departure from policy and justify a recommendation for approval. These include that the applicant has identified a need for the facility at this site, the proposal would promote the movement of waste management up the waste hierarchy, the Environment Agency has issued an Environmental Permit for waste processing at this site, and there are benefits of the co-locating the facility next to the adjacent civil engineering business (which has itself introduced a semi-industrial use at this location) in terms of reducing road miles and providing a source of recycled aggregate for their adjacent business. The proposal is therefore considered to represent a sustainable form of development.

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

- (i) Grant planning permission subject to the conditions outlined in section 12.
- (ii) To 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 Location : Land at Heron Farm, Bunwell Road, Besthorpe
- 1.2 Type of development : Recycling / recovery of imported construction, demolition and excavation: 60,000 tonnes per annum.
- 1.3 Area of site : 1.2 hectares including site access.
- 1.4 Duration : Permanent
- 1.5 Plant :
- Volvo track mounted 360 degree excavator;
  - A front end Loading Shovel;
  - Anaconda mobile crushing plant;
  - Anaconda mobile screening plant;
  - Komatsu PC130 360 degree excavator with washer bucket attachment;
  - A bunded 2000 litre fuel bowser.
- 1.6 Vehicle movements and numbers : An average of 2.5 HGV (18t payload) visits per hour equalling 25 return vehicle movements per 10 hour day (50 movements in total) if all material is imported and exported in separate HGVs.
- 1.7 Hours of operation : 07:00 - 17:00 Monday to Fridays;  
07:00 - 13:00 Saturdays.  
(Crushing and screening restricted to 09.00 – 17.00 Monday to Friday.)
- 1.8 Access : Access to compound would be along existing metalled single width access route linking the civil engineering depot to Bunwell Road.
- 1.9 Landscaping : Four metre high landscaped bund located on the southern and eastern boundaries with additional hedge and tree screening to be planted.

## **2. Constraints**

- 2.1 The following constraints apply to the application site:
- Application site occupies grade 3 agricultural land;
  - Two overhead powerlines cross the site (the southern of the two is a 33,000 Volt line supplying the main station in Attleborough);
  - MOD Airport safeguarding area.

### 3. Planning History

- 3.1 The application site is an 'L' shaped parcel of predominantly agricultural land and has no previous planning history. The site is located to the south and east of, and also shares an access with Newall's civil engineering yard. That site was granted planning permission for the 'Change of use of existing farm buildings into offices, assoc. HGV parking & storage of plant (retrospective)' by the Breckland District Council in May 2007 under reference 3PL/2007/0147/CU. There is no other relevant planning history in respect of the site.

### 4. Planning Policy

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|-----|---|---|------|--|
| 4.1 | Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document (2010-2016) (NMWDF) | : | 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                                |
|     |   |   | CS7  | Recycling, composting, anaerobic digestion and waste transfer stations |
|     |   |   | CS13 | Climate change and renewable energy generation                         |
|     |   |   | CS14 | Environmental Protection   |
|     |   |   | CS15 | Transport  |
|     |   |   | 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  |
|     |   |   | DM16 | Soils  |
| 4.2 | Breckland Local Development Framework, (2009)   | : | CP11 | Protection and Enhancement of the Landscape                            |
|     |   |   | CP14 | Sustainable Rural Communities  |
|     |   |   | DC1  | Protection of amenity  |
|     |   |   | DC12 | Trees and Landscape  |
|     |   |   | DC7  | Employment Outside of Existing Employment Areas                        |
|     |   |   | DC21 | Farm Diversification   |
| 4.3 | The National Planning Policy Framework (2012)   | : | 1    | Building a strong competitive economy                                  |
|     |   |   | 11   | Conserving and enhancing the natural environment                       |

4.4 National Planning Policy for Waste (2014)

4.5 Waste Management Plan for England (2013)

## **5. Consultations**

5.1 Breckland Council : No comments received.

5.2 Besthorpe Parish Council : No strong opinion either way.

5.3 Environmental Health Officer (Breckland) : No objection subject to conditions.

5.4 Defence Infrastructure Organization (MOD) : No comments received.

5.5 UK Power Networks : No objection. The presence of overhead power lines does not necessarily prevent the proposed use of the site, but it should be noted that it will be the responsibility of the owner of the site (and operator if different) to ensure that all activities on the site are carried out in a safe manner.  
[An informative would be provided to this effect.]

5.6 National Grid : No comments received.

5.7 Environment Agency : No objection.

5.8 Lead Local Flood Authority (NCC) : No objection subject to compliance with paragraph 103 of the NPPF that the proposal would not increase flood risk elsewhere. Also provide standing advice.

5.9 Highway Authority (NCC) : No objection subject to conditions concerning:

- implementation of a scheme for carriageway markings;
- an HGV Management Plan for the routing of vehicles to and from the site;
- a scheme for the implementation of offsite highway works for the provision of 3 no. passing bays on the C139 Bunwell Road.

5.10 Ecologist (NCC) : No objection

5.11 Landscape (NCC) : No objection subject to conditions.

5.12 Economic Development (NCC) : Support the application.

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|------|--|---|
| 5.13 | Public Rights of Way Officer (NCC)       | : No objection.   |
| 5.14 | Historic Environment (Archaeology) (NCC) | : No objection: no implications in respect of the historic environment.   |
| 5.15 | Old Buckenham Airfield                   | : No comments received.   |
| 5.16 | Local residents                          | <p>: Correspondence has been received from eleven local residents/residences. Whilst only three of these explicitly object, the remainder raise strong concerns about the proposal. A summary of their reasons for objection/concerns are as follows:</p> <ul style="list-style-type: none"> <li>• The application is retrospective in its character;</li> <li>• Local road system is unable to cope with the levels of HGV movements generated with vehicles having trouble passing and, damage caused to the highway verge;</li> <li>• HGVs pass regularly close to village school playground;</li> <li>• The road is narrow in places and has badly flooded in recent times – it needs a much higher level of maintenance to keep it sound;</li> <li>• Low loaders with large loads regularly impede traffic movement and damage local roads;</li> <li>• Vehicle restrictions required on local roads;</li> <li>• The number of HGV movements operating from the site and using local roads has increased;</li> <li>• Increase in air pollution from HGV traffic generated from the site;</li> <li>• The entrance to the site is inadequate to serve HGV traffic generated;</li> <li>• A residential property, is located adjacent to the entrance of the site on Bunwell Road;</li> <li>• Noise from the site is audible from nearby residential properties;</li> <li>• Unacceptable levels of noise pollution - loss of peace and tranquillity;</li> <li>• Generation of low frequency noise;</li> <li>• Proposed noise barrier should be extended to western boundary;</li> <li>• The location is now industrial in its character;</li> </ul> |

- The proposal should be located to an industrial estate;
- Airborne dust pollution caused by crushing and stacking of materials;
- Inadequacies of the noise assessment to accurately reflect impacts of noise generated on the amenities of local residents;
- Unsocial hours of operation and disruptive effects of this on local residents;
- Increase in light pollution from the site during working hours;
- Localised flooding issues not adequately addressed;
- No justification of need for this development established;
- Decrease in property values and saleability of properties.

5.17 County Councillor (Alexander Byrne) : No comments received (to be reported orally).

## 6. Assessment

### Proposal

- 6.1 Retrospective planning permission is sought to regularise and retain an existing waste transfer and recovery facility for the recovery of aggregate and soils from excavation, construction and demolition waste imported to the site.
- 6.2 The facility is already operational and is located on grade 3 agricultural land to the south and east of a former farmstead. Construction, demolition and excavation waste, is imported onto the site from the existing civil engineering business. Mobile crushing and screening machinery already in situ is used to recover aggregates and soils for the sale of these recycled materials back into the construction and engineering business locally, and within the wider Norfolk area. No fixed buildings or infrastructure are required on site given that staff facilities and car parking etc are available within the existing adjacent civil engineering yard.
- 6.3 The applicant states the recycling operation has evolved as the civil engineering side of the farm (adjacent to this site) has grown to a point where its off-site engineering works have been generating increasing amounts of materials capable of being recovered from demolition and excavation wastes. Whereas these materials were previously taken elsewhere to licensed facilities, they are now dealt with on land adjacent to their permitted civil engineering business 'the application site'. As a result this reduces the amount of road miles their HGVs have to cover and it also usable materials that can be supplied to customers in place of primary aggregates etc.

- 6.4 Whilst the application originally applied for a throughput of 75,000 tonnes per annum, on the advice of the Planning Authority this has now been reduced to 60,000 tonnes. Although permission is sought to operate the site between 07.00-17.00 Monday to Friday and 07.00 – 13.00 Saturdays, the application states that crushing and screen of waste would only take place between 09.00 – 17.00 Monday to Friday with no processing on Saturdays. The application also states that the applicant company employs 9 people that are directly involved in the recycling operation.
- 6.5 The recycling would take place in the southern section of the site where material would also be stocked (awaiting processing) up to three metres in height. The northern section of the site (to the east of the civil engineering yard would solely be used for storage of processed stock and stored up to four metres in height. A four metre landscaped bund would enclose the site to the south and east of the processing area (these have already largely been engineered)
- 6.6 Site  
The application site is an 'L' shaped parcel of predominantly (grade 3) agricultural land and some 1.2 hectares in size. The site is located to the south and east of Newall's civil engineering yard (planning permission was granted in 2007) which the applicant advises employs some 150 people. The site includes an existing access road that links the site to the C139 Bunwell Road and is also used by the civil engineering business.
- 6.7 Besthorpe village is 2 kilometres west of the site and Attleborough is a further kilometre west. The A11 Trunk Road is some 2.3 kilometres to the north. The nearest residential properties to the site are Heron Farm and Herron Cottage the boundaries of which that are some 90 metres and 185 metres respectively from the operational area of the site (the civil engineering yard sits between both properties and the application site). A further cluster of residential properties lie both 0.5 kilometres north east of the site and 0.5 kilometres north west of the site.
- 6.8 To the south, east and west lie agricultural land: much of the land to the south was formerly the Old Buckenham airbase (some runway infrastructure still remains). The landscape character of the area is open countryside characterised as Plateau Farmland.
- 6.9 Environmental Impact Assessment  
The application has been screened in respect of any requirement for an Environmental Impact Assessment (EIA) in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ('the EIA Regs'). 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 in excess of 0.5ha in area), the scheme is not considered to be EIA development as it is not in or near a sensitive area and would not be likely not have a significant impact on the environment in the context of the EIA Regs.
- 6.10 Having assessed the application and taken into account the consultation responses received, the proposal has been re-screened for EIA and the Planning

Authority remain of the view that the development is not EIA development.

**Principle of development**

- 6.11 The underlying principle in respect of 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”.*

- 6.12 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”) and the Breckland Core Strategy (2009). Whilst not part of the development plan, policies within the National Planning Policy Framework (2012), and the Government’s National Planning Policy for Waste (2014) and their Waste Management Plan for England (2013) are also a further material considerations of significant weight.
- 6.13 In the context of Policy CS5: *General location of waste management facilities* of the NMWDF, the site is regarded as a ‘non-strategic’ waste facility and is well related to the market Town of Attleborough (only 3 kilometres away), as required by the policy. NMWDF policy CS7: *Recycling, composting anaerobic digestion and waste transfer stations* states the development of new recycling facilities will be considered favourably as long as they would not cause unacceptable environmental, amenity or highway impacts. These impacts have been assessed in the respective sections below.
- 6.14 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.
- 6.15 Though adjoining a permitted and substantial civil engineering business, the major part of the site, located to the east and the south of this compound, occupies land in the open countryside (as confirmed in policy terms in the Breckland Core Strategy Proposals Maps). The site is not allocated in the adopted Waste Site Specific Allocations Plan and is therefore not recognised as an allocated waste management site to be provided for the plan period until 2026. The development therefore represents a departure from the development plan and was advertised as such, in both the statutory press and site notices posted.



- 6.16 Therefore, in accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, it needs to be determined whether there are sufficient material considerations that would justify a grant of permission and outweigh this land use policy conflict. Also, because the site is not in conformity with the development plan, in accordance with the National Planning Policy for Waste (2014), there is also a requirement for the applicant to have demonstrated a need for the proposed facility.
- 6.17 With regards to this issue and specifically NMWDF policies CS3: *Waste management capacity to be provided* and CS4: *New waste management capacity to be provided*, the application explains why there is a need for this facility at this site explaining why the alternative allocated sites identified in the Council's adopted Waste Site Specific Allocations DPD 2013 in the area are considered unsuitable for the proposed use, and also cites the loss of a previous inert waste recycling facility at Shropham Quarry (some 8-10 kilometres away) as further justifying the need for this site. The reasons provided by the applicant and justification for the need is considered reasonable.
- 6.18 Furthermore, the fact that the site has functioned for the last 12 months or so and according to the applicant recycled some 55,000 tonnes of construction and demolition waste, albeit without planning permission, would indicate there is a need for such a facility at this location that this business is fulfilling. The applicant therefore maintains that the proposal therefore demonstrates an acceptable departure from policy in terms of need and has also highlighted the benefits and linkages of proposed location adjacent to the civil engineering business which generates the waste treated: co-locating the facility reduces road miles and has also now provided a source of recycled material that can be supplied to customers in place of primary aggregates.
- 6.19 With regards to policies in the Breckland Core Strategy, policy CP14: *Sustainable Rural Communities* has a caveat for new enterprises in the countryside where they are operationally justified provided there are no significant detrimental environmental, landscape or conservation impacts. As stated above, the NMWDF directs this type of development to industrial/employment land. The Breckland Core Strategy Policy DC7: *Employment Development Outside of General Employment Areas* does allow this where there are particular reasons for the development not being located on an established site, for example the expansion of an existing business, as is being proposed here.
- 6.20 Although policy DC21: *Farm Diversification* only seeks to support different economic activities being carried out on a farm where the nature of the development is complementary in kind and scale with the continuing farm enterprise, the precedent for this nature of diversification (commercial/industrial) at this farm was set when Breckland District Council first granted permission for the civil engineering yard in 2007.
- 6.21 In this instance, as outlined above, there are a number of material considerations that could justify a departure from the development plan subject to compliance with other development plan policies as set out below. In addition, the proposal

would move the management of waste up the waste hierarchy in accordance with the National Planning Policy for Waste (2014) and the Waste Management Plan for England (2013).

**Amenity (noise, dust, light pollution, air quality)**

- 6.22 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. Breckland Core Strategy policy DC1: *Amenity* also seeks to prevent new development causing unacceptable impact on local amenity. NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 109 requires that new and existing development should be prevented ‘from contributing to unacceptable levels of air pollution’.
- 6.23 The nearest residential properties to the site are Heron Farm and Herron Cottage the boundaries of which that are some 90 metres and 185 metres respectively from the operational area of the site. The existing civil engineering yard sits between both properties and the application site. A further cluster of residential properties lie 0.5 kilometres north east of the site and 0.5 kilometres north west of the site.
- 6.24 With regards to the actual regulation of an operation such as this, in accordance with paragraph 122 of the NPPF and the National Planning Policy for Waste, the County Council needs to be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency (EA)). However, it is the role of the Environmental Permit as issued by the Environment Agency to actually control issues emissions such as noise and dust through conditions.
- 6.25 The EA in their consultation response commented that they had no objection to the proposal and that the applicant already holds one of their Standard Rules Environmental Permits for the treatment of waste to produce soil, soil substitutes and aggregate at this site, and that the permit conditions ‘include emissions to water, air and land, fugitive emissions, impact of odour, noise and pests, and monitoring’; this was issued in December 2014. An Environmental Permit can now be issued before planning permission is granted, and the applicant has stated they understood this to be the only consent they required to operate the site (hence the retrospective nature of the application).
- 6.26 As part of the application, a noise assessment was undertaken to identify the key noise and vibration sources associated with the development. The assessment concluded that provided a suitable three metre noise barrier is installed, the proposed development is acceptable and that the proposed impact will enable a good standard of amenity to be maintained.

- 6.27 The District Council's Environmental Health Officer (EHO) commented that noise could be an issue on occasion particularly from material handling and loading into storage piles and/or the loading of large sized material into the hoppers for the crusher and screening units. Since becoming aware of this site, the County Planning Authority (CPA) has received complaints about its operation both prior to, and during determination of the application. No formal enforcement action has been taken by the County Planning Authority until the outcome of the planning application is known.
- 6.28 With regards to the EHO's comments, the practice of loading the hopper from an elevated position i.e. on top of stockpile heaps not only poses a risk of noise emissions to local properties, but would also have an unacceptable impact on the surrounding flat landscape (i.e. plant of an industrial nature protruding above the height of bunds). Therefore, in order to address this, in the event planning permission is granted, it is proposed that all plant be operated on the floor of the site (including the loading of hoppers) to prevent an unacceptable impact on amenity with regards to noise and landscape impacts: this would be required by a planning condition and the applicant has indicated this approach is acceptable (without this condition the proposal would not be acceptable). As proposed in the application, the EHO has recommended a condition be applied to any permission which may be granted restricting crushing and screening of waste to only take place between 09.00 – 17.00 Mondays to Fridays (with no processing taking place on Saturdays).
- 6.29 The EHO also recommended conditions concerning noise levels (that levels at surrounding noise-sensitive properties do not exceed the background noise level by more than 10dB(A)), and a dust management scheme. However, as stated in 6.24, the control of noise and dust itself is a matter for the EA's Environmental Permit. This has been pointed out to the EHO who has maintained no objection to the application providing these matters are controlled by the Environmental Permit (the EA has confirmed this).
- 6.30 With regards to dust and air quality, the conclusion of the submitted Dust Impact Report was that the sensitivity of surrounding receptors to potential dust soiling from the development is low and that the significance of the potential dust soiling before mitigation is predicted to be 'minor' to 'negligible' at all receptors. It is therefore not expected this would cause an unacceptable impact on amenity or air quality subject to appropriate working practices taking place on site such as damping stock piles etc in dry weather etc.
- 6.31 No lighting has been proposed at this site and if permission is granted a condition would be applied preventing lighting that would cause glare beyond the site boundary.
- 6.32 Subject to conditions including those discussed above, there are no outstanding objections from the EHO or the Environment Agency with regards to matters relating to amenity. Accordingly it is not considered that there would be an unacceptable impact to local amenity, and the application complies with both NMWDF Policies CS14 and DM12, Breckland Core Strategy Policy DC1, and

Section 11 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.

### **Archaeology**

- 6.33 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 and/or regional importance, whether scheduled or not.
- 6.34 The County Archaeologist has commented that based on currently available information, the proposal does not have any implications for the historic environment and we would not make any recommendations for archaeological work. The proposal is in accordance with policy DM9 and chapter 12: *Conserving and enhancing the historic environment* of the NPPF.

### **Landscape**

- 6.35 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. Breckland Core Strategy Policy CP11: *Protection and Enhancement of the Landscape* states that 'the landscape of the district will be protected for its own intrinsic beauty'....and the council expects all development to be of the highest quality in terms of both architecture and landscape. Breckland Core Strategy Policy DC12: *Trees and Landscape* requires appropriate landscaping schemes to mitigate against landscape impact.
- 6.36 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 Conservation Area), AONB) in terms of the NMWDF policies and the NPPF.
- 6.37 The site is located within the 'E3: Old Buckenham Plateau' in the Landscape Classification of Breckland within Breckland District Council's adopted Landscape Character Assessment (2007) Development Plan Document (DPD). The Landscape Strategy for this classification is to 'conserve the rural, tranquil character. Opportunities should be explored to replant field boundary hedgerows....'
- 6.38 As stated above, the proposal is a departure from policy on the basis the proposal seeks to regularise the use of a waste recycling facility in the open countryside: normally the presumption for this nature of development would be to locate it on industrial land or within an existing quarry for the duration of the mineral working. Accordingly, the site is proposed to be surrounded by bunds of 4 metres in height to the south and east of the processing/operational area. Given that bunds can themselves look incongruous in an open flat landscape, this is the maximum height that would be acceptable at this location (the planning statement had indicated bunds of 5-6 metres to screen the site). The screen bunds would also require tree planting in front of them at the toe of the bund to soften their impact. The applicant has indicated a preference for tree planting on the bunds themselves, but given the location of the site within the plateau farmland landscape character which would be sensitive to planting (on the bund

itself), this would be less favourable in landscape terms as it would result in an exaggerated false ridgeline. Furthermore, the presence of 33,000 Volt powerline crossing the southern part of the site would also restrict the ability to plant on the bund itself.

- 6.39 An existing hedgerow would assist in screening the processed stock area where processed material is proposed to be / is stored up to 4 metres in height. However, if permission is granted, it is proposed that stockpiles here be limited by condition to 3 metres in height, and that further native landscaping is planted to gap up the existing hedge line particularly as there is not room within the application site to accommodate a further screen bund here. Elsewhere, stockpiles of waste for processing would also be limited to 3 metres in height: whilst the applicant had originally proposed material be stored up to 4 metres (i.e. the height of the bunds) they have agreed to reduce to 3 metres (below the height of the screen bunds).
- 6.40 The further landscaping detail would be requested by a condition for a comprehensive landscape scheme to be implemented in the next planting season and for it to be maintained for a period of 5 years until it is fully established. As also stated in section 6.25 above, a condition of any permission granted would also be that all plant is operated at ground level and not on top of any stockpile or bund. This will largely prevent plant operated on site protruding above the bunding proposed and therefore the development having an unacceptable impact on the surrounding landscape.
- 6.41 Subject to compliance with these conditions, it is considered that there are no landscaping issues with the proposal would not undermine the development plan policies outlined above, namely, NMWDF policies CS14 and DM8 and Breckland Core Strategy Policies CP11 and DC12.

#### **Biodiversity and geodiversity**

- 6.42 NMWDF policy CS14: *Environmental protection* states developments must ensure there are no unacceptable adverse impacts on biodiversity and geodiversity including nationally and internationally designated sites.
- 6.43 Although an Ecology Report was submitted as part of the application documentation, it could not fully assess the ecology of the site in its original state due to the retrospective nature of the planning application. This recommended that boundary hedgerows are retained where practical to do so and any clearance of hedgerow or scrub should take place outside of the bird nesting season.
- 6.44 The County Ecologist's nonetheless stated the Ecology Report is acceptable and stated that in that in ecological terms there are no grounds for objection to this application with reference made to there being no sites designated for nature conservation within 1km, and no habitats of principal interest on the site that would be disturbed. Furthermore, hedgerows and boundary trees would be retained, with additional hedgerow planting proposed to bolster those features for wildlife and as a screen.

6.45 Habitats Regulation Assessment

The operational area of the site is within 6.8 kilometres of the Norfolk Valley Fens Special Area of Conservation (SAC), however in accordance with an assessment under Article 61 of The Conservation of Habitats and Species Regulations 2010, it is felt that the development would be very unlikely to have any adverse impacts on the ecology of the designated areas hence an Appropriate Assessment is not required.

- 6.46 Therefore the proposal complies with NMWDF policy CS14, which seeks the avoidance of unacceptable adverse impacts on biodiversity, including internationally designated sites and chapter 11: *Conserving and enhancing the natural environment* of the NPPF.

**Transport**

- 6.47 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.
- 6.48 The operation shares an access with the existing Newall civil engineering business: the applicant has stated all traffic accesses the site via Spooner Row from the A11. As stated above, the applicant has advised that in the last 12 months the site dealt with some 55,000 tonnes of waste. The application proposes to deal with a maximum of 60,000 tonnes of waste per annum (tpa): they originally applied for 75,000 tpa that their Standard Rules Permit allows however the application has been amended to reduce this to 60,000 tpa on the advice of officers (both in the interests of highway safety and capacity of the site).
- 6.49 Based on a standard HGV (used for this nature of material) with a payload of 18 tonnes, over a 270 working days a year, this averages at around 2.5 HGVs (five movements) per hour coming into / leaving the site over the course of a 10 hour working day if all material was to be imported and exported on different HGVs (25 HGVs / 50 movements over the day). However, it is the applicant's intention to remove processed material from the site in backfilled loads where possible.
- 6.50 The applicant advises there would be peaks and troughs in deliveries and in a worst case scenario there could be eight vehicles an hour delivering waste (i.e. 16 movements). The likely peak over a working day would be five vehicles an hour (10 movements). Obviously that would level out over the course of a year with an average of fewer than 2.5 vehicles per hour at other occasions.
- 6.51 The County Highway Authority has raised no objection to the proposal subject to a number of conditions concerning the implementation of a scheme for carriageway markings, an HGV Management Plan for the routing of vehicles to and from the site, and a scheme for the implementation of offsite highway works for the provision of 3 no. passing bays on the C139 Bunwell Road. The highway works will also be of benefit to the HGVs and other vehicles/plant associated with

the adjacent civil engineering business which has no limit or cap with regards to numbers.

- 6.52 It is therefore 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.

### **Sustainability**

- 6.53 NMWDF policy CS13: *Climate change and renewable energy generation* seeks to ensure seeks to generate a minimum of 10% renewable energy from new development. Although no statement was submitted addressing this issue, in light of the fact that there would not be any buildings or fixed structures on site to harness renewable energy provision, it would make it very difficult to provide this infrastructure on site for the plant that is used, and the proposal is not considered to undermine this policy.

### **Groundwater/surface water**

- 6.54 NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. None of the proposed development site lies above a groundwater protection zone and the Environment Agency has not raised any issues with regards to this. Accordingly the proposal is compliant with NMWDF policy DM3.

### **Flood Risk**

- 6.55 NMWDF policy DM4: *Flood risk* only seeks to permit waste management sites that do not increase the risk of flooding. 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 10: *Meeting the challenge of climate change, flooding and coastal change* of the NPPF which requires an FRA for proposals of 1 hectare or greater in flood zone 1 (the site area is 1.2 hectares).
- 6.56 The FRA concluded that development will not increase any known flood risk to the site nor incur any known residual risks. The FRA however also included an Evacuation Plan to be implemented in event the site was subject to flooding. The EA has raised no comments with regards to this issue and on this basis, the proposal accords with policy DM4: *Flood Risk* of the NMWDF and chapter 11 of the NPPF.

### **Protection of best and most versatile agricultural land**

- 6.57 Some 0.75 hectares of the application site has been retrospectively located on what was previously agricultural land. The remainder of the application site (0.45 hectares) comprises the access to the application site and a storage area for processed stock to the east of the civil engineering site which does not appear to have been in productive agricultural use. Due to the size of the application site, it is not necessary to consult Natural England for comments on this issue as the site is not over 20 hectares in size, nor would it cumulatively lead to a further loss of agricultural land amounting of 20 hectares.

- 6.58 The agricultural land is grade 3 however no evidence has been put forward by the applicant as to whether it is grade 3a or 3b land. The application does however state that the land is 'poor quality agricultural' and was 'therefore used in the main for pig farming and occasional low yield crops'.
- 6.59 The proposal would not result in the irreversible loss of the land given that the application would solely permit the use of the site. In the event the use ceased, the land could be returned to agricultural use (there would be no permanent buildings or structures constructed as part of the proposal), and this would be a condition of the permission. Similarly, if Members were minded to refuse the planning application, appropriate enforcement action would be taken requiring the landowner to reinstate the land to its previous condition (i.e. suitable for agriculture) given its retrospective nature.
- 6.60 Due to these factors, the proposal is not considered to undermine policy NMWDF Policy DM16: *Soils* which seeks to prevent development only on grade 1 agricultural land and paragraph 112 of the NPPF given that this not considered to be the significant development of agricultural land.

#### **Heritage**

- 6.61 There are not any heritage assets in the vicinity of the application site that would be harmed, or have their setting be harmed, as a result of the proposed development.

#### **Public Rights of Way**

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

#### **Responses to the representations received**

- 6.63 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 6.64 The issues raised largely relating to impacts on amenity (dust, noise etc) and the public highway have been addressed above. With regards to the issue of decreased property prices, this is not a material planning consideration.

#### **Intentional Unauthorised Development**

- 6.65 Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development is now a material consideration in the determination of all planning applications received after 31 August 2015. This is therefore capable of being a material consideration in the determination of this application.
- 6.66 In this instance the applicant has inferred that naivety was the cause of this unauthorised development having initially considered their Standard Rules Permit and PPC permits as the only necessary consents to operate this site, and the need for planning permission was therefore overlooked. Moreover, in making unauthorised development a material consideration, the Government was particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. In this case, whilst the development has taken place on a greenfield site, it is not actually in the Green Belt.



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

## **7. Resource Implications**

- 7.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.
- 7.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.
- 7.3 **Property:** The development has no property implication from the Planning Regulatory perspective.
- 7.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

## **8. Other Implications**

### **8.1 Human rights**

- 8.2 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.
- 8.3 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.
- 8.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.
- 8.5 **Equality Impact Assessment (EqIA)**
- 8.6 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.
- 8.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

- 8.8 **Communications:** There are no communication issues from a planning perspective.
- 8.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.
- 8.10 **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.

## **9. Section 17 – Crime and Disorder Act**

- 9.1 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.

## **10. Risk Implications/Assessment**

- 10.1 There are no risk issues from a planning perspective.

## **11. Conclusion and Reasons for Grant of Planning Permission**

- 11.1 Retrospective planning permission is sought to regularize the development of a 1.2 hectare site to the south of and adjacent to the existing civil engineering business at Heron Farm, Besthorpe. The application seeks to recycle / recover up to 60,000 tonnes per annum of aggregates and soils from imported construction, demolition and excavation materials linked to the adjacent Newall civil engineering business.
- 11.2 The proposal is a departure from the development plan in terms of NMWDF policies CS6: *General waste management considerations* because of the location of the site on a greenfield site in the open countryside. In accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, the determination of this application must be made in accordance with the development plan unless material considerations indicate otherwise.
- 11.3 The material considerations that can be used to justify a departure from the development plan are that the proposal moves the management of waste up the waste hierarchy and the applicant has also demonstrated a need for the facility at this location in accordance with the National Planning Policy for Waste. The operation is also closely linked with the existing civil engineering business that operates from the adjacent site and generates the waste treated by the facility, and has also established a semi-industrial use at this location. With regards to the landscape impact of the development in the countryside, subject to strict conditions on the height of stockpiles and the operation of plant solely at ground level, and the submission of a detailed landscaping scheme, it is considered the impact can adequately be mitigated.
- 11.4 Whilst significant concern has been raised by local residents with regards to the

impact on amenity from emissions, including noise and dust, the operation requires an Environmental Permit to control such impacts, and neither the EA nor Breckland District Council's EHO has raised an objection. Furthermore, the EA believe the scheme can be permitted and have already issued an Environmental Permit for the site in December 2014). Concern has also been raised regarding the impact on the public highway however the Highway Authority raises no objection subject to conditions concerning highway improvements and vehicle routeing, and the applicant has also agreed to decrease the annual throughput to 60,000 tonnes of waste (from the originally proposed 75,000tpa).

11.5 No objections have been received from any other statutory or non-statutory consultees subject to conditions.

11.6 Whilst this is a finely balanced application, the proposed development is considered acceptable and represents a sustainable form of development, and there are no other material considerations why it should not be permitted. On this basis, the departure is considered justified and accordingly full conditional planning permission is recommended.

## **12. Conditions**

- 12.1 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 accompanying the application:
- i. Planning Application Statement; dated October 2015 (except where amended by drawing number LD44-HF-004b);
  - ii. Drawing number LD44-HF-004b; Site Layout Plan; dated March 2016;
  - iii. Drawing number LF44-HF-005; Landholding Plan; dated November 2015;
  - iv. Volvo Excavator EC150 specification;
  - v. Anaconda J960 'Eco' Jaw Crusher specification;
  - vi. Anaconda DF512 Tracked Screen specification;
  - vii. Volvo Wheel Loader L120E Specification;
  - viii. Flood Risk Assessment; dated 30 November 2015;
  - ix. Arboricultural Implications Assessment and Preliminary Method Statement OAS/15/-188-AR01; dated 30 November 2015;
  - x. Drawing number OAS 15-188 TS01; Tree Protection Plan; dated November 2015;
  - xi. Dust Impact Assessment; dated November 2015;
  - xii. Noise Assessment; October 2015.

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

12.2 No waste other than construction, demolition and excavation waste (as detailed on the site's Environmental Permit) shall be brought onto the application site.

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.

12.3 No more than 60,000 tonnes of waste shall be imported to the site per

annum and no more than 40,000 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.

- 12.4 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.

- 12.5 No operation of the site shall take place on Sundays or Bank Holidays or other than during the following periods:  
07.00 – 17.00 Monday to Friday  
07.00 – 13.00 Saturdays.

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

- 12.6 No crushing, screening or other waste processing activities shall take place except during the following periods:  
09.00 – 17.00 Monday to Friday.

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.

- 12.7 No plant and machinery shall be operated unless it on the ground level on the floor of the site. No plant or machinery shall be operated at an elevated level on top of a stockpile or bund.

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.

- 12.8 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.

- 12.9 Measures shall be taken to prevent dust nuisance and sand blow caused by the

operations, including spraying of road surfaces, plant area and stockpiles as necessary.

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

- 12.10 Within 1 month of the date of the permission a revised Tree Protection Plan shall be submitted for approval in writing by the County Planning Authority for approval in writing and implementation thereafter. The Plan shall include provision for protection of existing hedgerows to be retained on site.

Reason: To ensure the protection of existing trees on the site to protect the amenity of the area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.11 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.

- 12.12 Within 3 months of the date of the permission, carriageway markings shall be provided at the existing vehicular access to the site in accordance with a detailed scheme to be agreed in writing with the County Planning Authority, in consultation with the Highway Authority.

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

- 12.13 Within 1 month of the date of the permission, the applicant shall submit to the Local Planning Authority, a HGV Management Plan for the routing of HGVs to and from the site. The Plan shall thereafter be implemented as approved before any operations commence on the site. The plan shall make provision for:
- Monitoring of the approved arrangements during the life of the site;
  - Ensuring that all drivers of vehicles under the control of the Applicant are made aware of the approved arrangements;
  - The disciplinary steps that will be exercised in the event of a default;
  - Appropriate signage, details to be approved by the Local Highway Authority and erected advising drivers of the vehicle routes agreed with the Local Highway Authority.

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

- 12.14 Notwithstanding the details indicated on the submitted drawings, within 1 month of the date of the permission a detailed scheme for the off-site highway improvement works of 3 no. passing places on the C139 Bunwell Road (leading

from the site back (eastwards) to the C140 junction) have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

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

- 12.15 Within 3 months of permission the off-site highway improvement works referred to in condition 12.14 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.

- 12.16 Appropriate measures shall be taken to ensure that no mud or other debris is deposited on the public highway.

Reason: To prevent extraneous material being deposited on the highway in accordance with policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.17 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 at least 110% of the total stored capacity.

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

- 12.18 Notwithstanding the detail approved in condition 12.1, within 1 month of the date of the permission a 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 granting of planning permission. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance, and details of the construction and maintenance of the soil bunds. Provision shall also be made for tree planting at the toe (on the outside) of the bunds. It shall be completed within 12 months of the date of this permission (or such other timescale agreed in writing) and make provision for:
- (a) the screening of the operations by trees, hedges and soil bunds (as detailed on Working Plan; LD44-HF-004b) including the gapping up of the existing north-eastern hedge line;
  - (b) the protection and maintenance of existing trees and hedges which are to be retained on the site;
  - (c) re-seeding and re-planting where failures or damage occur within a period of five years from the date of planting; and,
  - (d) the replacement of any damaged or dead trees with trees of similar size and

species at the next appropriate season.

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.

- 12.19 Notwithstanding approved drawing number LD44-HF-004b (Site Layout Plan) dated March 2016, no waste material (both incoming and processed stock) shall exceed 3 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.

- 12.20 Should the permitted use here cease for a period of 12 consecutive months, all plant and bunds shall be removed from the site and the land shall be reinstated to its previous condition.

Reason: To ensure the proper and expeditious restoration of the site if the development is no longer required, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

## Recommendation

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

- (i) Grant planning permission subject to the conditions outlined in section 12 above.
- (ii) To 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.

## Background Papers

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

<http://www.norfolk.gov.uk/view/NCC094912>

Breckland Core Strategy (2009)

[http://www.breckland.gov.uk/sites/default/files/Uploads/planning\\_building\\_control/Core%20Strat%20Final%2020%2003%202012.pdf](http://www.breckland.gov.uk/sites/default/files/Uploads/planning_building_control/Core%20Strat%20Final%2020%2003%202012.pdf)

Breckland District Landscape Character Assessment

[https://www.google.co.uk/?gws\\_rd=ssl#q=breckland+landscape+character+assessment](https://www.google.co.uk/?gws_rd=ssl#q=breckland+landscape+character+assessment)

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The National Planning Policy Framework (NPPF) (2012)

[http://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

Planning Practice Guidance (2014)

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

National Planning Policy for Waste (2014):

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

Waste Management Plan for England (2013)

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

Government's Ministerial Statement on Intentional Unauthorized Development

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457632/Final\\_Chief\\_Planning\\_Officer\\_letter\\_and\\_written\\_statement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457632/Final_Chief_Planning_Officer_letter_and_written_statement.pdf)

## Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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