

Planning (Regulatory) Committee

Date: **Friday 20 May 2022**

Time: **11am**

Venue: **Council Chamber, County Hall, Martineau Lane,
Norwich. NR1 2UA**

Advice for members of the public:

This meeting will be held in public and in person.

It will be live streamed on YouTube and, in view of Covid-19 guidelines, we would encourage members of the public to watch remotely by clicking on the following link:

https://www.youtube.com/channel/UCdyUrFjYNPq5psa-LFIJA/videos?view=2&live_view=502

However, if you wish to attend in person it would be most helpful if, on this occasion, you could indicate in advance that it is your intention to do so. This can be done by emailing committees@norfolk.gov.uk where we will ask you to provide your name, address and details of how we can contact you (in the event of a Covid-19 outbreak). Please note that public seating will be limited.

As you will be aware, the Government is moving away from COVID-19 restrictions and towards living with COVID-19, just as we live with other respiratory infections. To ensure that the meeting is safe we are asking everyone attending to practise good public health and safety behaviours (practising good hand and respiratory hygiene, including wearing face coverings in busy areas at times of high prevalence) and to stay at home when they need to (if they have tested positive for COVID 19; if they have symptoms of a respiratory infection; if they are a close contact of a positive COVID 19 case). This will help make the event safe for all those attending and limit the transmission of respiratory infections including COVID-19.

Members of the public wishing to speak about an application on the agenda, must register to do so at least 48 hours in advance of the meeting. Further information about how to do this is given [below](#). Anyone who has registered to speak on an application will be required to attend the meeting in person and will be allocated a seat for this purpose.

Persons attending the meeting are requested to turn off mobile phones

Membership

Cllr Brian Long (Chair)

Cllr Graham Carpenter (Vice-Chair)

Cllr Stephen Askew

Cllr Matt Reilly

Cllr Rob Colwell

Cllr William Richmond

Cllr Chris Dawson

Cllr Steve Riley

Cllr Barry Duffin

Cllr Mike Sands

Cllr Paul Neale

Cllr Martin Storey

Cllr Tony White

Registering to speak:

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 [Appendix 26 of the Constitution](#).

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

Hollie Adams on 01603 223029 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 request a copy from committees@norfolk.gov.uk

A g e n d a

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

2. **Minutes**

To confirm the minutes from the Planning (Regulatory) Committee meetings held on 25 March 2022

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3. **Declarations of Interest**

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

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

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

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

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

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

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

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

5. **FUL/2021/0010: Welcome Pit, Butt Lane, Burgh Castle, Great Yarmouth & FUL/2019/0040: Northern Extension to Welcome Pit, Butt Lane, Burgh Castle, Great Yarmouth** **Page 12**
Report by the Executive Director of Community and Environmental Services
6. **FUL/2021/0021 Marsh Road, Walpole St Andrew, PE14 7JN** **Page 49**
Report by the Executive Director of Community and Environmental Services

Tom McCabe
Head of Paid Service
County Hall
Martineau Lane
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NR1 2DH

Date Agenda Published: 12 May 2022



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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 25 March 2022
at 11am in the Council Chamber, County Hall**

Present:

Cllr Brian Long (Chair)
Cllr Eric Vardy (Vice-Chair)

Cllr Rob Colwell	Cllr Matt Reilly
Cllr Chris Dawson	Cllr William Richmond
Cllr Barry Duffin	Cllr Mike Sands
Cllr Paul Neale	

Substitute Members Present

Cllr Lesley Bambridge for Cllr Tony White
Cllr David Bills for Cllr Martin Storey

Also Present

Hollie Adams	Committee Officer
Ralph Cox	Principal Planner
Jodie Cunningham-Brock	Solicitor
John Hanner	Principal Engineer (Developer Services)
Rachel Jacobson	Public Speaker
Nick Johnson	Head of Planning
Liz Russell	Public Speaker
Cllr Timothy Wright	Public Speaker

1 Apologies and Substitutions

- 1.1 Apologies were received from Cllr Martin Storey (Cllr David Bills substituting) and Cllr Tony White (Cllr Lesley Bambridge substituting). Cllr Stephen Askew was also absent.

2 Minutes

- 2.1 The minutes from the Planning (Regulatory) Committee meeting held on 5 November 2021 were agreed as an accurate record and signed by the Chair with the addition of the following amendment:
- Cllr Paul Neale asked for his comment to be added, where he stated that the the owner of the land of Seething Lagoons, the Leader of South Norfolk District Council, was not included in the application. The Committee agreed

that this could be included in the minutes of the meeting.

3 Declarations of Interest

- 3.1 No interests were declared.

4 Urgent Business

- 4.1 Application “FUL/2021/0061 Land A47 Bypass Site, C489 Main Road, North Tuddenham, Dereham, Norfolk, NR20 3DE” had been withdrawn by the applicant and would therefore not be considered at the meeting.

Applications referred to the Committee for determination.

6. FUL/2021/0015: Aldeby Landfill Site, Common Road, Aldeby

- 6.1.1 The Committee received the application for a for a PV (Photo Voltaic) array on part of the closed landfill site at Aldeby. It would provide an annual energy production of approximately 4900 MWhrs over its 35-year life span after which it would be decommissioned.

6.1.2

The Principal Planner gave a presentation to the Committee:

- Overall, the application was considered to accord with the development plan
- The 8000 panels would be enclosed by a wood post and galvanised wire fence and there would be no permanent lighting beyond the construction phase.
- Soft landscaping would be used to mitigate the visual impact of the scheme.
- The proposal had been scaled back by 25% from the original one submitted due to objections received from the Broads Authority.
- The operator of the landfill site, FCC, had not fully fulfilled their landscaping and planting obligations on the land. They had been asked to fulfil the planting requirements by the end of the current planting season, March 2022.
- The scheme had been amended to keep in place as much of the planting and screening required to be delivered by FCC as part of the landfill restoration, as possible.
- Existing access to the site would be used.
- Longer distance views of the array would affect the setting of the Broads.
- Members would need to decide whether they gave greater weight to the provision of renewable energy over the impact on the broads.

- 6.1.3 Committee Members asked questions about the presentation:

- A Committee member asked if the planting obligations of FCC could be met by the end of March; the Principal Planner replied that if these planning obligations were not met that appropriate enforcement action would be taken.

- The Principal Planner confirmed that the workings shown on the site related to extraction of the wider site which had taken place since the 1950s over a series of planning applications.
- The Principal Planner confirmed that the proposed landscaping scheme asked for mature species to be planted before the PV panels were put in place to help reduce with the impact of glare.

6.2 The Committee heard from Registered Speakers

6.2.1 Cllr Timothy Wright, Chairman of Aldeby Parish Council spoke to the Committee:

- Aldeby parish council objected to the plans because of the traffic management scheme which they felt was ill thought out. Landowners had not been approached but were amenable to be to help mitigate the risks to road users.
- There were also concerns about the fact that the site had not been restored, and the siting of the panels near to farmhouses on East End Road who would be affected from their location.
- The Parish Council believed that the Boons Heath area would be a more appropriate area for the PVs. This was an area which had been restored for many years.
- Local residents were concerned about the noise at night from cooling equipment as surplus power would be stored in batteries. This was a very quiet area and sound travelled far here.
- If the Haul Road was be used this could save a traffic light system and save any problem to vehicles from businesses in Common Road. There were no footpaths on the Haul Road, meaning that people from a business in the area looking after people with disabilities had to push wheelchairs along the road and this could be a risk.
- The parish council opposed the application due to the height of the panels, and the use of Common Road with traffic lights; the parish council were not averse to the suggestion of the PVs however not in the application as set out.

6.2.2 Rachel Jacobson from Infinis spoke on behalf of the applicant:

- Infinis were the leading generator of energy from captured methane; this application was part of their strategy to provide co-located solar energy.
- It was intended make best use of land with limited alternative uses due to gas infrastructure and below ground waste
- Use of the landfill would ensure there was no loss of green fill and would not interfere with gas or waste beneath the cap
- The restoration soft landscaping would still be delivered in full so the site could provide multifunctional benefits for clean energy and biodiversity
- The applicant had undertaken detailed surveys and preapplication engagement and had worked with the council and consultees to address issues to ensure the development could be implemented sensitively
- Local concerns about construction impacts and preference for the haul road although had been noted; it was pointed out that Highways supported the proposed route

- If it was not possible to use the Haul Road, Infinis would implement measures to reduce impacts such as restricting traffic during peak times and during school bus drop off times
- This application would provide enough power to meet the needs of 1300 local homes. The scheme was supported by the energy policy as part of the transition to energy independence for supply security and affordability
- Infinis would continue to engage with the community in preparation for the pre-commencement submission.

6.2.3 Liz Russell, the principal planning consultant for Arcus, spoke on behalf of the applicant:

- Considerable care had been taken in the design to avoid unacceptable environmental and amenity effects
- The location of the application did not fall in the broads however the applicant was aware that there would be views of it from some locations within the Broads. The application had been redesigned to minimise the visual impact as far as possible based on comments, resulting in a more compact development, removal of panels from the west and north, and reduction in the height of panels
- Changes to the application had allowed the landscaping set out in the approved restoration plan to be accommodated and further trees were proposed on the southern side of the site
- The scale of ancillary equipment had been reduced and the DNO switch room had been relocated to reduce their impacts.
- Developing on a former landfill site would ensure no loss of agricultural land. All environmental considerations had been assessed in the environmental impact assessments and all technical reports provided with the application
- With the current energy crisis and global situation impacting energy security, projects such as this would be important to provide clean green, clean UK energy
- Liz Russell urged Committee Members to consider the balance of the benefits of the development against its impacts

6.2.4 The Chair read out the Local Member, Cllr Barry Stone's, who could not be present due to Covid-19 isolation; see appendix A.

6.2.5 A Committee Member asked the applicant how much energy would go to the local grid. Rachel Jacobson confirmed that the energy generated by the site would go to the local DNO for the district level grid; it would be transferred to the national grid if not used by local users.

6.3 The Committee moved on to debate about the application:

- A Committee Member noted that the reduction in size of the proposal by 25% showed people's concerns had been listened to.
- Ways of improving local traffic concerns were queried; the Principal Planner replied there were two conditions included in the application, if approved, which would put in place a requirement to submit a construction management plan and for development to be carried out in accordance with this plan. A

“wear and tear” joint inspection would be carried out before and after the works to identify any remedial action required by the applicant.

- It was noted that this application would support with the County’s emerging energy needs moving forwards.
- The Chair noted that there was the opportunity for landscaping on the site around the arrays and underneath them.

6.4 The Committee unanimously **AGREED** that the Executive Director of Community and Environmental Services be authorized to:

- I. Grant planning permission subject to the conditions outlined in section 11.
- II. Discharge conditions where those detailed below 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 ended at 11:41

Chair



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Submitted statement from Cllr Barry Stone

FUL/2021/0015: Aldeby Landfill Site, Common Road, Aldeby

My original comments relating to the above Planning Application indicated my general approval of the project given that the need for renewable energy is more applicable than ever in view of the present increasing cost of energy. Generating renewable energy also must be a more environmentally acceptable method than the continued use of fossil fuels.

Given that the site is a disused landfill facility currently generating energy from burning methane it makes even more sense to combine the two functions and use some of the same infrastructure.

I went on to comment that the developers should take into consideration the concerns of residents in mitigating the impact of the solar panel installation. The PV array has consequently been reduced in size by around 25% and the height reduced by 0.5m. Concessions have been made to reduce the impact of the development and I am pleased that the scheme is now more acceptable.

Another major concern was the Traffic Management Plan (CTMP) and Access route and Highways have raised no objections to the proposed submission, subject to conditions.

On the subject of noise the assessment concluded that noise emissions from the proposal would not exceed 5dB(A) above background level and the development would be acceptable.

The majority of the consultee organisations have no objections and although I am aware that some residents, the Parish Council and the Broads Authority still have concerns I have to conclude that the benefits of the project outweigh the short-term inconvenience and longer term visual impact. We have to learn to live with a changing environment and mitigate those changes as best we can if we are to have a sustainable future and this development goes a small way to help this longer term goal.

Given the recommendation at 11.1 and the condition laid out in 12.1 I am happy to concur with the officer recommendations to approve the development.

Planning (Regulatory) Committee

Item No:5

Report Title: FUL/2021/0010: Welcome Pit, Butt Lane, Burgh Castle, Great Yarmouth & FUL/2019/0040: Northern Extension to Welcome Pit, Butt Lane, Burgh Castle, Great Yarmouth

Date of Meeting: 20 May 2022

Responsible Cabinet Member: N/A

Responsible Director: Tom McCabe, Executive Director of Community and Environmental Services

Is this a Key Decision? No

Proposal & Applicant:

Continued use of Operational Area to service the existing and proposed extended Quarry with retrospective erection and use of Two-Storey Portakabin as an Office/Mess. Importation of up to 1500 tonnes of aggregate per year for the purposes of blending with extracted Quarry material (Folkes Plant & Aggregates Ltd)

Northern extension to existing approved pit with extraction of sand and gravel, restoration to a lake with landscaped slopes and reed beds, and retrospective erection of a perimeter bund for security purposes (Mr Kevin Lee – Folkes Plant)

Executive Summary

Permission is sought to enable the extension of Welcome Pit by some four hectares northwards and allow a further 187,500 tonnes of sand and gravel to be extracted from the site before the land is restored by the end of 2036. In addition to this application, reference FUL/2019/0040, a second linked planning application, reference FUL/2021/0010, has been lodged to facilitate the extension by allowing the continued use of the existing operational area to serve the new area of extraction by continuing to provide a facility for the stockpiling, processing and sale of the dug mineral, as well as allowing for the import of 1500 tonnes of aggregate per annum.

The applications are being reported to this committee in accordance with the constitution on the basis of the number of objections received and because they were advertised as a departure from the development plan.

Whilst the proposal is finely balanced given that the site is not an allocated one and that there is no overriding need for the mineral, it is considered that there is not demonstratable harm and the proposal is considered to accord with the development plan and there are not considered to be material considerations to dictate otherwise.

Recommendations:

That the Executive Director of Community and Environmental Services be authorized to:

- I. Grant planning permission subject to the conditions outlined in section 12 and the signing of a unilateral undertaking for the suspension of the existing skip lorry and plant hire operations.**
- II. Discharge conditions where those detailed below 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.**

Background

- 1.1 The report covers two intrinsically linked planning applications that would together facilitate the northern extension of Burgh Castle Pit. The main application, reference FUL/2019/0040, is for the extraction of mineral (mainly sand) and alongside this, application reference FUL/2021/0010, seeks to facilitate the extension by allowing the continued use of the operational area to provide a facility for the stockpiling, processing and sale of the dug mineral.
- 1.2 Although the main application for extraction was lodged in 2019 along with another application reference FUL/2019/0039, the latter of these applications was caught by the *Finney v Welsh Minsters* [2019] EWCA Civ 1868 caselaw in that the application sought to use section 73 of the Town and Country Planning Act 1990 to amend/contradict the description of an earlier permission which it sought to vary. As a result, this application was withdrawn and a replacement full application was lodged, reference FUL/2021/0010 (which is now the subject of this report) to allow the proposals to legally proceed.
- 1.3 There is an extensive planning history for the site dating back to the 1950s comprising both express grants of planning permissions as well as lawful development certificates which have resulted in some uses within the operational area of the site now being permanent. The most recent permission, reference C/6/2018/6002, authorised the current area of mineral working (to the south of the proposed extension) to operate until 31 December 2025 by which time restoration must also have taken place. The approved scheme is to

restore the current site for nature conservation purposes, requiring open water with reed beds and managed grassland.

Proposal

SITE

- 2.1 The application sites comprise the extension area, the subject of FUL/2019/0040, which is 4.1 hectares of grade 3 agricultural land. Whilst the land is understood to formerly have been farmed, it currently appears to be fallow. The site for the second application, FUL/2021/0010, covers the operational area at the westernmost end of the site adjacent to Butt Lane where mineral is/would be stored and processed once extracted. The new office/mess facility is located here in the western part of the site. It is also 4.1 hectares in size and includes a strip on land at the north of the current quarry which would provide access to the extension area.
- 2.2 Both of the application sites fall wholly within the Burgh Castle parish. The closest residential properties are a row of dwelling houses that lie to the north west of the existing operational area, Cement Cottages and Castle View, a number of which are adjacent to the site itself, and adjacent to the east of the application for the extension area, the Cherry Tree Holiday Park where it is understood some owners also reside. No public rights of way cross either site.
- 2.3 The Burgh Castle Roman fort, vicus, pre-Conquest monastery and Norman motte and bailey castle Scheduled Monument is around 225 metres from the boundary of the application sites. Within the Scheduled Monument is the Grade I listed Burgh Castle Gariannonum Roman Fort which lies some 550 metres to the northwest of the current operational site, the subject of FUL/2021/0010, and 900 metres from the proposed extension area.
- 2.4 Both application sites are around 300 metres from the Broads Authority Executive Area by virtue of their accesses onto Butt Lane however the proposed extension itself is around 600 metres away. The application sites are also within 1 kilometre of Breydon Water Site of Special Scientific Interest (SSSI) which is part of the Breydon Water Special Protection Area (SPA) and Ramsar site, and around 3.5 kilometres from The Broads SAC, Broadland SPA and Ramsar site. Just over 4 kilometres to the east is the Southern North Sea SAC.

PROPOSAL

- 2.6 Permission is sought under, reference FUL/2019/0040, for the proposed extension of the existing quarry at Butt Lane, Burgh Castle by some 4.1 hectares northwards. The extension would be worked over four additional phases in an east west direction, with extraction expected to be completed by the end of 2035. Following this a further 12-month period would be required to restore the land (by the end of 2036) to a nature conservation based afteruse

including extensive reed beds with pools, and open water which would form an extension to the lake to the south. The restoration also proposes to incorporate exposures along the site's northern boundary in the restoration scheme to enhance geodiversity interest in both the short-term and long-term.

- 2.7 Alongside this, the applicant has lodged a second planning application, reference FUL/2021/0010, for the continued use of the existing operational area that would serve and facilitate the proposed extension. In addition to the use of the land and plant etc, it seeks permission for importation of up to 1500 tonnes of aggregate per year for blending with extracted material, and also retrospective permission for the use of a two-storey (olive green) portacabin as an office/mess facility.
- 2.8 The proposal is a slightly scaled back version of what was originally proposed when the application was lodged in 2019. Following a site meeting, and on the advice of the County Planning Authority (CPA), the developer reduced the size of the proposed extraction area by some 25 metres at the eastern most end of the site nearest to the adjacent holiday/caravan park. This was on the basis that there was already an existing bund in situ, and it would not have been prudent nor sustainable to remove it then engineer another one nearer to the park. As a result it increased the stand-off between the proposed extension and the receptor. By virtue of the reduced extraction area, the expected yield from the phase was reduced by 12,500 tonnes to 37,500 and consequently the overall output of the extension to 187,500 tonnes (from 200,000 tonnes).
- 2.9 The mineral would be worked to an average depth of 5.2 metres and a maximum of 8.3 metres which would mainly be above the water table. There would be some wet working of sand up to two metres below the water table however no dewatering of the reserve would take place. Although the current approved working is authorised to operate until the end of 2025, the application advises that existing reserves are becoming depleted, and it is largely only sharp sand that remains which is below the water table and in less demand. Because the quarry has traditionally offered both soft and sharp sand, the extension would open up new reserves of soft sand, hence the timing of the application. In the event permission is granted, the sharp sand would continue to be extracted from the current site before that part of the site is restored by the end of 2025.
- 2.9 The applicant anticipates that output of the site would continue to be 16,000 tonnes per annum as per historic levels, and that the quarry's mineral largely serves a market within 10 miles of Great Yarmouth. The site would see a continuation of existing operating hours with activities carried out only between 07.00-17.00 Mondays to Fridays and 07.00 – 13.00 Saturdays.

Impact of the Proposal

3.1 DEVELOPMENT PLAN POLICIES

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF) and both the Great Yarmouth Local Plan Core Strategy and Local Plan part 2 provide the development plan framework for this planning application. The following policies are of relevance to this application:

Norfolk Minerals and Waste Development Framework Core Strategy (2011)

Policy CS1: Minerals extraction

Policy CS2: General locations for mineral extraction and associated facilities

CS13: Climate change and renewable energy generation

CS14: Environmental protection

CS15: Transport

DM1: Nature Conservation

DM3: Groundwater and surface water

DM4: Flood Risk

DM8: Design, Local landscape and townscape character

DM10: Transport

DM12: Amenity

DM14: Progressive working, restoration and after-use

DM16: Soils

Norfolk Minerals Site Specific Allocations DPD (2013)

SD1: Presumption in favour of sustainable development

Great Yarmouth Local Plan Core Strategy: 2013-2020 (2015)

Policy 1: Focussing on a sustainable future

Policy 6: Supporting the local economy

Policy CS9: Encouraging well-designed, distinctive places

Policy CS10: Safeguarding local heritage assets

Policy CS11: Enhancing the natural environment

Policy CS12: Utilising natural resources

Policy CS15: Providing and protecting community assets and green infrastructure

Policy CS16: Improving accessibility and transport

Great Yarmouth Local Plan Part 2 (2021)

3.2 Policy A1: Amenity

Policy DME4: Trees and Landscape

3.3 Neighbourhood Plan

There is not an adopted or emerging Neighbourhood Plan in force for Burgh Castle.

3.4 **OTHER MATERIAL CONSIDERATIONS**

The Revised National Planning Policy Framework (NPPF) was published in July 2021 and sets out the Government's planning policies for England and how these should be applied. Whilst not part of the development plan, policies within the NPPF are also a further material consideration capable of carrying

significant weight. The NPPF places a presumption in favour of sustainable development. Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following sections are of relevance to this application:

- 2. Achieving sustainable development;
- 6. Building a strong economy
- 9. Promoting sustainable transport
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment
- 17. Facilitating the sustainable use of minerals

- 3.6 Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The policies below are material to the application:

3.7 Norfolk Minerals and Waste Local Plan: Preferred Options (2019)

Policy MW2: Development Management Criteria

Policy MW3: Transport

Policy MW6: Agricultural Soils

Policy MP1: Provisions for minerals extraction

Policy MP2: Spatial Strategy for mineral extraction

Policy MP6: Cumulative impacts and phasing of workings

Policy MP7: Progressive working, restoration and after-use

Policy MP8: Aftercare

- 3.8 Furthermore, whilst not itself a planning policy, Norfolk County Council's Environmental Policy adopted in November 2019 is also material to the application.

3.9 CONSULTATIONS

Great Yarmouth Borough Council:

FUL/2021/0010 (Existing operational area): No response received.

FUL/2019/0040 (Extension site): No response received.

Broads Authority:

FUL/2021/0010: No comments to make.

FUL/2019/0040: No objection.

Borough Council Environmental Health Officer:

FUL/2021/0010: No response received.

FUL/2019/0040: No objection to original application – proposals appear to be acceptable under minerals planning guidance for noise and dust. Acknowledged the proposal seeks to work within 100 metres of Cherry Tree Holiday Park and requested this area is extracted and restored within a period of no residential occupation. Make recommendations about audible reversing alarms and the use of semi-permeable fences or netting to control dust emissions.

Environment Agency:

FUL/2021/0010: Initially queried whether dewatering would take place but following the applicant's clarification that this application doesn't propose to extract mineral and therefore no dewatering would take place, the EA has no concerns with the proposal.

FUL/2019/0040: Satisfied with the proposed development but provide advice about groundwater and environmental permits and ecology. Note that the site is not within a groundwater protection zone.

Natural England:

FUL/2021/0010: Development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

FUL/2019/0040: As above.

Norfolk Geodiversity Partnership

FUL/2021/0010: No objection.

FUL/2019/0040: No objection, the proposed restoration scheme makes adequate provision for access to the range of geological strata.

Highway Authority:

FUL/2021/0010: No objection subject to securing of a unilateral undertaking for the suspension of the existing skip lorry and plant hire operations and conditions relating to upgrade of the vehicular access, provision of visibility splays, submission of, and adherence to an HGV Management Plan, and, off site highway improvements

FUL/2019/0040: As above.

Lead Local Flood Authority (NCC):

FUL/2021/0010: No response received.

FUL/2019/0040: No comments to make.

County Council Ecologist:

FUL/2021/0010: No objection.

FUL/2019/0040: No objection – the updated Ecology report is comprehensive and more than satisfactory to support the application. There would be no long term adverse effects on ecology and the biodiversity value of the extension area would be increased as a result of working the area and restoring it to a mosaic of habitats.

County Principal Green Infrastructure & Landscape Officer

FUL/2021/0010: No objection.

FUL/2019/0040: No objection.

County Council Arboriculturist:

FUL/2021/0010: No objection.

FUL/2019/0040: No objection provided the works are carried out in accordance with the submitted Arboricultural Method Statement and no works commencing until a responsible person has been appointed to oversee the tree protection measures.

County Council Historic Environmental Officer (Archaeology):

FUL/2021/0010: Development will have no impact on the historic environment.

FUL/2019/0040: Little potential for significant buried archaeological remains to be present therefore further mitigation is not required.

Historic England:

FUL/2021/0010: Do not wish to offer any comments.

FUL/2019/0040: As above.

Health and Safety Executive:

FUL/2021/0010: Site does not cross any consultation zones.

FUL/2019/0040: As above.

Burgh Castle Parish Council

FUL/2021/0010: Object to both applications – do not want to see an extension to the area and are very unhappy with more retrospective applications. The extension of time will result in a longer period of noise and dust for nearby residents and soil/sand deposited on the local roads. Great concern with extended time that fully laden HGVs will use narrow roads causing damage and pollution. If permission is granted, would like to see improvements to the access and road within six months of the permission.

FUL/2019/0040: As above

Belton with Browston Parish Council:

FUL/2021/0010: Object to both applications – do not want to see an extension to the area and are very unhappy with more retrospective applications. The extension of time will result in a longer period of noise and dust for nearby residents and soil/sand deposited on the local roads. Great concern with extended time that fully laden HGVs will use narrow roads causing damage and pollution. If permission is granted, would like to see improvements to the access and road within six months of the permission.

FUL/2019/0040: As above.

Bradwell Parish Council:

FUL/2021/0010: Object to both applications – do not want to see an extension to the area and are very unhappy with more retrospective applications. The extension of time will result in a longer period of noise and dust for nearby residents and soil/sand deposited on the local roads. Great concern with extended time that fully laden HGVs will use narrow roads causing damage and pollution. If permission is granted, would like to see improvements to the access and road within six months of the permission.

FUL/2019/0040: As above.

Local Member (Cllr Carl Smith):

FUL/2021/0010: To be reported orally (no comments at time of report).

FUL/2019/0040: To be reported orally (no comments at time of report).

3.10 REPRESENTATIONS

The applications were advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. Two individuals objected to the proposal for the extension, reference FUL/2021/0040, commenting multiple times and reaffirming initial comments or with new issues. The objections/concerns raised were on the following grounds:

- The longevity of the site with continual changing of the restoration date – a further extension until 2035 would be tantamount to a permanent one;
- The large number of HGV movements from the quarry (not only associated with the extraction) and the risk posed to pedestrians;
- The adequacy and accuracy of the HGV figures provided in the application that underplay the actual movements – other hauliers/operators access the site and in larger HGVs than specified;
- The poor condition that both Butt Lane and Stepshort roads are already in;
- Blight caused to cyclists, walkers, horse riders from HGVs

- Company has pushed boundaries of planning permissions and restoration schemes;
- Burgh Castle is advertised as prime holiday location to visit;
- Cherry Tree Park on Eastern boundary of site and has almost 600 holiday homes 11 ½ months of the year;
- Kingfisher Park is opposite and has 400 homes and chalets;
- Restoration goalposts have been changed a number of time and the extension would take life of quarry to 90 years.
- Other alternative sites more suitable for sand and gravel extraction.

Eleven letters were received in support of application reference FUL/2019/0040 nine of which were from the operator or employees of the applicant, sent in by the agent, on the grounds of:

- The employment created by the applicant company;
- That the quarry has been in operation since the 1950s;
- The market the quarry can cater for from its location near to Great Yarmouth;
- The site operates with few complaints;
- The role the applicant plays in the local community supporting organizations and events;
- The adverse impact the refusal of the application would have on other local businesses;
- The quarry has been in operation longer than some of the houses in the locality;
- Sustainability benefits of extending the quarry - materials for new housing could be sourced locally from the site to reduce carbon emission and traffic;
- The applicant has upgraded equipment so that the recycling rates have increased – these would be lost and the money wasted if the quarry is not extended and closes.
- The support for allowing of access to the site for scientific study demonstrating the relationship between glaciations in lowland Britain and the nature of the duration and environment that occurred between these glaciations.

A petition was also sent in by the agent in support of this application, which asked for signatures “to enable Welcome Pit to remain in operation and continue to supply aggregate to Burgh Castle and the surrounding area, and safeguard the future of 13 full-time employment positions”. The signatories comprised customers/other businesses/suppliers, employees (who also submitted letters of support) and residents (one of which also submitted a letter of support).

In addition to the letters from the public, MP Brandon Lewis also expressed his support for both planning applications stating that he hoped the planning committee would see fit to grant approval and safeguard 13 full time jobs. Mr Lewis makes reference to the business being a longstanding one and that the

continuation of the quarry remains superior to finding alternative sites further afield. The MP also makes reference to the benefits the applications would bring to the village by reducing the net number of HGVs and that the local community would welcome the proposed safety improvements on Butt Lane.

Three objections were received in response to the second application for the continued use of the operational area, ref. FUL/2021/0010. The grounds of objection also relate the expansion of the quarry and are as follows:

- The operational area already close enough to residences;
- Existing noise from the quarry starting early in the morning;
- Diesel emissions from large plant operating within the quarry in close proximity to dwellings/gardens etc;
- Existing problem of light pollution;
- Wildlife and loss of habitat as a result of the application;
- Burgh Castle is an important historical area to the residents and holiday makers;
- Human and animal welfare must come before profit of industry;
- Health and safety of residents and visitors must be a major consideration;
- Number and size of HGVs accessing the quarry;
- Operation of quarry should end in 2025 – the operation should not carry on forever;
- Village is being decimated under the guise of tourism and the extension of the quarry would be another intrusion into the countryside and Burgh Castle village life.
- The grounds of objection to FUL/2019/0040 (as set out above were also cited).

3.11 APPRAISAL

The key issues for consideration are:

- A. Principle of Development
- B. Landscape & Visual Impact
- C. Amenity
- D. Ecology
- E. Impact of Heritage Assets
- F. Transport
- G. Sustainability
- H. Flood Risk
- I. Groundwater/surface water
- J. Geodiversity
- K. Loss of Agricultural Land
- L. Cumulative Impact
- M. Progressive working, restoration and afteruse

A – Principle of Development

- 3.12 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”.
- 3.13 NMWDF policy CS1: *Minerals Extraction* sets out that the sand and gravel landbank will be maintained at between 7 and 10 years in order in order to plan for a steady and adequate supply of minerals required for infrastructure, buildings, energy and goods. As set out in the NPPF, the landbank should be calculated based on a rolling average of 10 years’ sales data. NMWDF *Minerals Extraction* and CS2: *General Location of Minerals Extraction* sets out the principles for the locations for mineral extraction in the County and places a preference for sites which are “close and/or well related” to the main settlements of the county. “Close” is defined in the Core Strategy as a distance of 10 miles or less.
- 3.14 As at May 2021, Norfolk’s landbank will stand at 13.49 years supply based on the 10-year average sales figures. This proposal seeks to extract 187,500 tonnes of primarily sand until 2035 at a rate of around 16,000 tonnes per annum. As a result, this would add just 1.66 months supply to the landbank and therefore have a negligible impact on this figure. Whilst figure would continue to exceed the 10-year ceiling referred to in Policy CS1, the upper limit was originally envisaged in order to ensure an excessive reserve of sand and gravel was not permitted at any one time in order to provide satisfactory confidence that there would not be delays in the cessation of extraction and restoration at mineral workings. In this instance there have been delays in working and restoring the existing site (as evidenced by the multiple extensions of time applied for), however the NPPF now refers only to maintaining a minimum landbank without an upper limit.
- 3.15 The site is on the periphery of the Great Yarmouth Urban Area and in the context of NMWDF policy CS2, is therefore geographically well related to this main settlement, as referred to in the policy. However, the policy makes reference to the accessibility of the site and whether the site is accessed via inappropriate roads. Whilst the immediate highway, Butt Lane, is considered to be substandard (as set out in section 3.18 below) the policy only refers to the site being close ‘and/or’ being well located via appropriate transport infrastructure.
- 3.16 In tandem with the NPPF policy also CS2 recognizes that minerals can only be worked where they are found. Although it also expresses a preference for extensions to existing sites over new sites, the current NPPF does not support the development plan preference for extensions and states that ‘the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits...’.

- 3.17 In 2017 the County Council commenced a planned review of the Minerals and Waste Local Plan (MWLPR), to extend the Plan Period to the end of 2036. The MWLPR has completed the Initial Consultation (Issues and Options), and the Preferred Options Consultation stages (Regulation 18), and the emerging Plan is due to go out for the Pre-submission publication representations stage (Regulation 19) later this year.
- 3.18 The applicant, Folkes Plant and Aggregates Ltd submitted this site as a potential allocation for future extraction. This area has been given the site reference MIN 203 in the Preferred Options consultation document which has been subject to public consultation. The site was however not allocated on the basis that the highway access is considered unsuitable by the Highway Authority because the local road network is substandard and narrow with little opportunity for suitable highway improvements. It was considered that there are more acceptable alternative sites for sand and gravel extraction that have been proposed.
- 3.19 Therefore not only is the site not allocated for future mineral extraction, the proposed extension would result in only a negligible increase in the County landbank over the fifteen year period. The omission of the site from an adopted development plan document is a material consideration to which it is appropriate to give some weight in the planning balance. Although the current Core Strategy does not explicitly stipulate that an unallocated site is a departure from the development plan the emerging Local Plan does. Policy MP1 of the Preferred Options consultation documents seeks to resist mineral extraction outside of allocated sites unless there is an overriding justification and the proposal is consistent with all other development plan policies.

B - Landscape & Visual Impact

- 3.20 Adopted NMWDF Policy CS14: *Environmental Protection* requires that there are no unacceptable impacts and ideally improvements to the character and quality of the landscape including the Norfolk Broads, and NMWDF Policy DM8: *Design, Local Landscape and Townscape character* requires that developers show how their proposals will address impacts on the local landscape. Great Yarmouth Local Plan Part 2 (GYLPP2) policy DME4: *Trees and Landscape* seeks to both safeguard existing trees and hedgerows and also seeks to protect the landscape or setting of the Broads.
- 3.21 The proposed extension site is not within any statutory designations with regards to landscape nor is it within one of the County's core river valleys which are afforded a higher level of protection within the development plan. However, as set out above it is some 300 metres from the Broads Authority Executive Area located predominantly to the west of the site. Burgh Castle footpaths FP9 and FP1 lie around 300 metres to the south and south west of the site respectively, albeit beyond the Parkdean Resorts and Kingfisher Holiday Parks.
- 3.22 As recognized in the applicant's Landscape and Visual Impact Assessment (LVIA), the site falls within the Landscape Character Area G4: Hobland

Settled Farmland within the Great Yarmouth Landscape Character Assessment 2008 which is characterised by arable farmland set within the Enclosure landscape pattern.

- 3.23 Although the LVIA was based on the premise that extraction would only commence in the extension after reserves in the existing site have been exhausted (for a short period of up to three years both the proposed and existing working would be extracted simultaneously), it concluded that there would be no significant residual effects on site features or landscape character as a result of the development. This was on the basis that the site is located on a low lying coastal plain that has a restricted zone of visual influence and also that the presence of the existing quarry to the south, and caravan sites, paddocks and ribbon development in the wider area reduces the sensitivity of the landscape. It should note however that the existing quarry is a temporary feature of the landscape that is currently undergoing restoration.
- 3.24 The Arboricultural Impact Assessment submitted with the application recognized that two groups of low-quality category C trees would need to be removed. However, their removal was stated to have no discernible impact on wider amenity and the proposed restoration works would provide mitigation for their loss. As stated above, the County Arboriculturist raised no objections to their removal, and the applications generally, providing the works are carried out in accordance with the submitted Arboricultural Method Statement and that a responsible person is appointed to oversee the tree protection measures.
- 3.25 The County Principal Green Infrastructure and Landscape Officer also has no objection to the proposals and it is not considered that the development would adversely impact the setting of the Norfolk Broads. Although the quarry itself will have limited impacts outside the confines of the site, it would lead to the further industrialisation of, and intrusion into, the countryside, for an extensive period for the extraction of very small amount of mineral, and this needs to be weighed in the planning balance.

C – Amenity

- 3.26 Policy DM12: *Amenity* of the adopted NMWDF states that development will only be permitted where it can be demonstrated that the scale, siting and design of a proposal is appropriate and that unacceptable impacts to local amenity would not arise from the construction and/or operation of a facility. This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. GYLPP2 Policy A1: *Amenity* seeks to promote a high standard of amenity to ensure a suitable living environment in the locality and that permission will only be granted where development would not lead to excessive or unacceptable impact on the amenities of occupiers of existing development.

3.27 As highlighted above, a number of residential properties and sensitive receptors lie in close proximity of both the proposed extension and the current operational area. Adjacent to the east of the extension area the subject of FUL/2019/0040 is the Cherry Tree Holiday Park where it is understood some owners also reside. The park is around 25 metres from the nearest point of extraction. At the other end of the site and adjacent to the western boundary of the current operational area, the subject of FUL/2021/0010, are Cement Cottages, a number of which directly abut the boundary of the application site. Directly to the south of these dwelling houses are three more properties at Castle View that sit between Butt Lane and the application site. The occupiers of 2, Castle View, are amongst the objectors to the application.

3.28 Noise

The submitted Noise Assessment with the application considered that impacts of both the winning and working of the mineral in addition to the additional noise road created by HGVs transporting the excavated material from the site. In terms of the quarry itself, the noise sources would comprise that emitted from the excavator, the dump truck used to transport it to the processing area, mobile screen plant that would be operated from the base of the quarry (when required) to screen the saleable material, and the loading shovel to load the dump truck with screened material.

3.29 As set out above, the original application and the accompanying noise assessment, was based on the premise that 'there would be a restriction zone' the most easterly phase of the extension adjacent to the Cherry Tree Holiday Park that would only be operated between 15th to the 31st January when the Park is meant to be closed. The Assessment also referred to a 'buffer strip' that did not appear to be part of the other application plans.

3.30 The Assessment concluded that noise from the use of quarry plant associated with the extension area would not exceed the existing noise limits for routine operations and would not exceed 10dB(A) above the background level as recommended in the Government's PPG. For the temporary operations such as soil stripping and bund formation etc levels would not exceed the short-term levels of 70 dB for 8 weeks per year, as also set out in the PPG.

3.31 On this basis the EHO raised no objection to the scheme subject to conditions but cited that the extraction and the temporary operations in the restriction zone must take place in Holiday Park closure period. Although the applicant had proposed this, a condition to secure it would not meet the Government's six tests as it would not be reasonable to stymie a developer to only operate two weeks of the year, and another operator may not find it acceptable and could ultimately successfully appeal the condition. It is considered that the condition would therefore be ultra vires, and furthermore, it would also not ensure the progressive working and restoration of the site if a whole phase could only be worked and restored in a two week period each year.

- 3.32 Following a further site meeting the applicant formally amended the application to move the eastern boundary approximately 25 metres away from the holiday park. This meant an existing bund currently in situ would not need to be relocated and ensured the application was consistent with the Noise Assessment. The applicant committed in this amendment to work the 'Restriction Zone' in the first period the Holiday Park is closed, in January 2023, subject to permission being granted. They also committed to restore the same area of land by the end of 2023.
- 3.33 Although the EHO was re-consulted on this information and advised that a condition requiring the working of a particular phase was not appropriate, no further comments were received. Obviously the applicant's commitment to work during this period is material to the decision but Members should be aware that it cannot legally be secured or enforced by a condition.
- 3.34 Dust
- The applicant also submitted an Air Quality Assessment to measure the impact of dust on nearby receptors during the working of the extension area. The Air Quality Assessment concluded that the proposed development would have a negligible impact on the surrounding area with reference to both the disamenity effects and also the PM₁₀ levels and that the impact on the surrounding area would not be significant.
- 3.35 The Dust Assessment also included a Dust Management Plan and these measures were considered to be appropriate and reasonable to mitigate any impacts. These measures include minimising drop heights of minerals, the use of bowzers and water sprays, limiting vehicle speeds on site and monitoring on site winds and weather conditions before carrying out activities. In the event permission is granted, this management plan would be a condition of the planning permission.
- 3.36 It is not considered the proposal would have an unacceptable impact on amenity with regards to noise or dust in the context of NMWDF Policy DM12: Amenity or GYLP Plan Policy A1: Amenity subject to the operator carrying out their proposed management plans.

D – Ecology

- 3.37 NMWDF Core Strategy policies CS14 and DM1 both seek to ensure there are no adverse impacts on biodiversity including nationally and internationally designated sites and species. The site is not the subject of any statutory ecological designations.
- 3.38 The impacts of the proposal on ecology on and off the site were addressed in an Ecological Assessment which was subsequently updated once the accompanying application was resubmitted in 2021 (due to the Finney caselaw issue). This Assessment found that the majority of habitats that

would be impacted would be of low value with the exception being a small section of elm hedgerow, which would require removal, and which is of local value. The extension site was also found to support bats (common pipistrelle) within an existing building proposed to be removed. A confidential badger survey was also submitted which found no evidence of activity but recommended a survey be carried out each March.

- 3.39 Although the working would have a limited impact on species recorded, the report recommended a number of enhancements and mitigation which would be conditioned should Members grant permission. This included obtaining a bat derogation licence and provision of bat boxes, timing of habitat removal to avoid the bird nesting season, and provision of an extended area of invertebrate habitat along the northern boundary of the extension.
- 3.40 In raising no objection to the proposals, the County Ecologist advised that there would be no long-term adverse effects on ecology and the biodiversity value of the extension area would be increased as a result of working the area and restoring it to a mosaic of habitats. Natural England in their consultation response to both planning applications advised that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Subject to the proposed mitigation (including the annual badger survey) the proposal is compliant with development plan policy.

3.41 Appropriate Assessment

The application sites are both within 1 kilometre of Breydon Water Site of Special Scientific Interest (SSSI) which is part of the Breydon Water Special Protection Area (SPA) and Ramsar site and around 3.5 kilometres from The Broads SAC, Broadland SPA and Ramsar site. Just over 4 kilometres to the east is the Southern North Sea SAC. The application has been assessed in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017. Based on the information submitted to the County Planning Authority (CPA), and the advice of Natural England, as set out above, it is considered that, due to both the nature of the development and the distance from the European Site, the proposal would not have a significant impact on this or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required.

3.42 Nutrient Neutrality

On 16 March 2022 Natural England wrote to a cohort of 42 councils including the County Council reviewing its position on nutrient neutrality. In this instance the proposed sites are not within or near to Natural England's identified nutrient neutrality Site of Special Scientific Interest (SSSI) catchment and the proposed new quarry extension would not result in new overnight accommodation (to which NE's letter primarily relates) or additional discharges of wastewater. Furthermore, there would be no WC facilities

within the new office and welfare facilities that would create a discharge. Therefore additional mitigation measures are not required in this instance.

E – Impact on Heritage Assets

- 3.43 NMWDF Policy DM8: *Design, local landscape and townscape character* states development will only be permitted where it could affect the setting of, inter alia, Listed Buildings where the applicant can demonstrate the development would not adversely impact on the historic form, character and or setting of these locations. GLLP Policy CS10: *Safeguarding local heritage assets* also seeks to conserve and enhance the borough's heritage assets. In addition to the above development plan policy, Listed Buildings are afforded additional protection by both the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, and by section 16 of the NPPF: *Conserving and enhancing the historic environment*.

3.44 Listed Buildings

As set out above, the Grade I listed Burgh Castle Gariannonum Roman Fort lies some 550 metres to the northwest of the current operational area, the subject of FUL/2021/0010, and 900 metres from the proposed extension area. Also to the northwest, around 900 metres away, are both the Grade II* listed Church of St Peter and St Paul and the Grade II Listed Old Rectory. However, given the distance to the heritage assets, and both the low-lying nature of the landuse proposed which would not further encroach on them, and the topography of the intervening land which includes Breydon Water Holiday Park to the west, it is considered that neither application would harm the setting of the Listed Buildings.

- 3.45 Some 850 metres east of the extension site lies the Grade II Listed Old Hall Farm House. Again given the distance to the assets and the land uses in between including the Cherry Tree Holiday Park to the east, the applications would not harm its setting.

3.46 Scheduled Monument

The site is also within just 225 metres of the Burgh Castle Roman fort, vicus, pre-Conquest monastery and Norman motte and bailey castle Scheduled Monument (within which the listed building is located). However again, given the intervening land uses and that there would be no encroachment on the asset, it is considered that the setting of the Scheduled Monument would not be harmed either.

- 3.47 Whilst Historic England were consulted, it advised that they did not wish to offer any comments on either application.

3.48 Archaeology

NMWDF Policy DM9: *Archaeological Sites* also states applicants whose proposals could potentially affect heritage assets, or which are in areas with

high potential for archaeological interest, will be required to prepare and submit an appropriate desk based assessment.

- 3.49 The County archaeologist advised that there is little potential for significant buried archaeological remains to be present within the proposed extension and therefore further mitigation is not required.

F – Transport

- 3.50 NMWDF Policies CS15: *Transport* and DM10: *Transport* states that new minerals development must not result in unacceptable risks to road users and pedestrians or unacceptable impacts on the capacity or efficiency of the highway network. GYLP policy CS16: *Improving accessibility and transport* states that development should not have an adverse impact on the safety and efficiency for the local road network for all users.
- 3.51 The Transport Statement submitted with the application for the extension outlined that, based on the quarry continuing to produce mineral at historic rates, which on average is 16,000 tonnes per annum, there would continue to be 24 movements (in and out) associated with the sale of mineral extracted. This would comprise 4 HGVs arriving at and leaving the site with a 10-tonne payload, and 8 LGV with a 2.25 tonne payload.
- 3.52 In addition, application ref. FUL/2021/0010 also seeks permission for the (continued) importation of 1500 tonnes of aggregate per year to be blended with mineral extracted from the site. The applicant advises that this importation has taken place for a number of years, as authorised by a Lawful Use Certificate, and the aggregate typically arrives in one or two 20 tonne loads a week on Folkes' vehicles that have already made a delivery of sand. The importation is part of the application as blending the material with mineral dug from the extension area would not be covered by the existing Certificate. As a result of the two planning applications there would be no increase in HGV movements compared to historic levels, only that these would continue for a further ten year period beyond 2025 when they would otherwise cease.
- 3.53 As stated above in paragraph 3.18, the proposed extension to the quarry is not proposed to be allocated for future mineral in the Council's Preferred Options documents. This is on the basis that the highway access is considered unsuitable because the local road network is substandard and narrow with little opportunity for suitable highway improvements, and that there are more acceptable alternative sites for sand and gravel extraction that have been proposed.
- 3.55 In the light of this, the application proposes that the applicant would temporarily (for the duration of mineral extraction) halt their skip, lorry and plant hire operations that is another activity currently authorised to be carried out on the existing site by virtue of another Lawful Development Certificate, issued in November 2007. The suspension would result in a reduction of at

least 10 HGV movements a day (i.e. 10 in and 10 out) and would be secured by the applicant signing a Unilateral Undertaking.

- 3.56 The Highway Authority in their consultation responses commented that their preference is that the current quarry ceases at the end of its current permission due to concerns relating to the suitability of the highway network due to its width, footway provision and residential nature. However, it also acknowledged the extensive pre-application discussions with the developer and resultant proposals to cease the existing skip hire business, the proposed minor highway improvements to the site access onto Butt Lane as well as speed reduction measures, and the submitted HGV management plan to manage HGV routeing. On the basis the proposals would ultimately reduce movements to and from the site the Highway Authority raises no objection to the applications subject to conditions to secure the aforementioned works, and also the signing of the Unilateral Undertaking.

G – Sustainability

- 3.57 NMWDF policy CS13: *Climate change and renewable energy* encourages developers to generate renewable energy on site and policy DM11: *sustainable construction and operations* require sustainable development to be promoted in mineral extraction. As underlined in paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, i.e. economic objective, social objective and environmental objective.
- 3.58 Environmental
Although the applicant explored a number of means of creating renewable energy on site including wind power, solar power, and biomass generation, ultimately they have not been able to commit to deliver any of these technologies in due to them being unviable. The applicant is understood to be exploring options for the use of electric vehicles to deliver the aggregate dug from the site. The proposal would however allow the applicant to continue provide a quarry in close proximity to the market area of Great Yarmouth and therefore minimizing the emissions associated with the transport of sand for future housing and infrastructure needs.
- 3.59 Whilst not part of the development plan or even a planning policy per se, County Council's Environmental Policy is a material consideration in determination of this application. The County Council has made a commitment to use the policy to guide all the Council's future decision-making and therefore it has some, albeit very limited, weight in considering this proposal.

- 3.60 The Policy refers to both conserving and enhancing natural beauty with specific reference made to the Broads as well as mitigating and adapting to climate change.
- 3.61 Socio-economic
The applicant has also stressed in their application that permitting the two applications would safeguard the future of 13 full time positions at the quarry.
- 3.62 H – Flood Risk
NMWDF policies CS13: *Environmental Protection* and DM4: *Flood Risk* requires developers to demonstrate mineral sites can be worked without unacceptable flood risk to both the site itself and also that flood risk is not increased as a result of development. Whilst the extension site is not in flood zone 2 or 3, on the basis it is over a hectare in size a Flood Risk Assessment (FRA) was submitted in accordance with the NPPF to cover risk from all potential sources.
- 3.63 The FRA concluded that the site has low flood risk constraints and is appropriate to take forward for development. The FRA states that the capacity supplied by the extended lake confirms that flooding from pluvial sources would not adversely impact the site itself or its surroundings, as the site naturally drains towards the lake. Because there would be no displacement of water, there is minimal risk of surface water flooding to downstream catchments.
- 3.64 The proposal is compliant with the flood risk related development plan policy set out above and the section 14 of the NPPF.

I – Groundwater/surface water

- 3.65 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. This policy underlines NMWDF policy CS13: *Environmental Protection* which to ensure there are no unacceptable impacts on natural resources, including water.
- 3.66 As stated above, although there would be some wet working of the extension site and sand would be won up to two metres below the water table equivalent to 1 metre below ordnance datum (BOD), there are no proposals for dewatering. This was confirmed by the applicant after the Environment Agency (EA) had originally queried this issue.
- 3.67 The EA confirmed in its consultation response that the site is not within a groundwater protection zone and given that there are no proposals to import waste for restoration purposes there is little scope for adverse impacts on groundwater

- 3.68 The proposals would not pose a risk to surface or ground water resources and the proposal accords with NMWDF policy DM3

J – Geodiversity

- 3.69 NMWDF Core Strategy policies CS14 and DM1 both seek to ensure there are no adverse impacts on geodiversity. The geology of the proposed site which provide the mineral resource proposed to be worked by the applicant comprises Lowestoft formation till overlaying the Happisburgh Formation sands and gravel till.
- 3.70 A Geodiversity Assessment was submitted with the extension application which recognized the geology of the area makes a substantial contribution to climate change, glaciation and changes in sea level between the period of c. 700,000 and c. 400,000 years ago. On this basis it recommended that the working should make provision for access and monitoring of the geological exposures and also that the owner provides notification of new developments within the excavations. The application includes a ramp within the restoration scheme along the site's northern boundary in order to provide access to the geological exposure. The Norfolk Geodiversity Partnership were also consulted on the proposals and advised that the proposed restoration scheme makes adequate provision for access to the range of geological strata. The extension application is compliant with these policies.

K – Loss of Agricultural Land

- 3.71 NMWDF policy DM16: *Soils* seeks to direct mineral development and associated activities away from Best and Most Versatile land (BMV) i.e. grades 1, 2 and 3a and onto 3b 4 and 5. A soil survey was submitted with the application which identified the 4.1 hectare extension to comprise a mixture of both grades 3a and 3b of the Agricultural Land Classification system. This was consistent with Natural England's mapping which identified it as Grade 3 land.
- 3.72 The restoration proposed for the extension is for nature conservation, a non-agricultural after use, and therefore all of the land would be lost from potentially being used as agricultural land in the future. Although Natural England was consulted, no bespoke advice was provided relating to the land classification or the merits of the agricultural land being worked for mineral. The proposal is considered to be broadly in accordance with policy DM16: *Soils*.

L - Cumulative Impact

- 3.73 There are not any other mineral extraction sites operating or permitted in the immediate area or local area. Despite the objections received, the existing

operation does not have a recent history of complaints lodged to the County Planning Authority. It is therefore concluded that the proposal would not give rise to unacceptable cumulative impacts and is acceptable in that respect.

- 3.74 Although adopted policy DM15: *Cumulative impacts* refers only to the impacts of multiple sites in a locality, emerging Local Plan which can be given weight in the planning balance, refers to the impacts a single site can have over a long period of time and that the CPA would normally require the existing site to be completed before the new extension is worked. Clearly extraction has taken place here for a number of decades already and the applicant proposes to commence the new working prior to restoration of the existing site (in order to be able to access the softer sand reserves).

M – Progressive working, restoration and afteruse

- 3.75 As required by NMWDF policy DM14: *Progressive working, restoration and afteruse*, the application has been accompanied by a detailed scheme that sets out the phasing and restoration of the site. Whilst the nature conservation based restoration will bring biodiversity benefits as acknowledged by the County Ecologist, it will take a significant, if not excessive, amount of time to come to fruition as has been the case with the current working.

3.76 **RESPONSES TO REPRESENTATIONS RECEIVED**

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

- 3.72 The issues raised have been addressed in the report above.

Conclusion, Reasons for Decision and Planning Balance

- 4.1 Permission is sought for two applications that would facilitate the extension of the existing quarry at Burgh Castle northwards.
- 4.2 Whilst the proposed extension was promoted by the developer, it is not proposed to be allocated in the Minerals Site Specific Policies. The site would be worked over further 13 years until the end of 2035 and would provide a negligible amount of sand during this period (187,500 tonnes), adding under two months to the Council's landbank which currently stands at around 13.5 years' supply. Therefore, in the context of the adopted Core Strategy there is no demonstratable need for the mineral.
- 4.3 If permitted the extension would intrude into, and continue the long-term industrialization of, the countryside, for a further period. As cited in the objections to the application, quarrying which is meant to be an ephemeral use of land, has taken place since the 1950s and a further grant of permission would result in activities taking place for up to 85 years. The proposal would be

a departure from the emerging Local Plan if the application had been lodged after the new Local Plan had been adopted, particularly given the extension is not proposed to be allocated, but also given the cumulative impacts of the current operations.

- 4.4 This is a very finely balanced application and some weight is given in the planning balance both to the location of the proposed extension to supply the market area of Great Yarmouth, and the economic benefits the site brings to the locality including the safeguarding of thirteen full time jobs in one of the more deprived areas of the County. Some weight is also given to the restoration scheme which, once delivered, would provide both biodiversity benefits and a geological exposure.
- 4.5 Although the applications were both advertised as a departure from the development plan, having been assessed against current adopted policy, on balance the proposal is considered to accord with the development plan particularly given that the proposal would result in a reduction in highway movements. There are not sufficient material considerations or harm caused that warrant determining the application otherwise than in accordance with the development plan and therefore the application is recommended for approval subject to conditions set out in section 12 below.

Alternative Options

- 5.1 Members of the Planning (Regulatory) Committee can only resolve to make a decision on the planning application before them whether this is to approve, refuse planning permission, or defer the decision.

Financial Implications

- 6.1 The development has no financial implications from the Planning Regulatory perspective.

Resource Implications

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

Other Implications

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

8.2 Human Rights Implications:

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.

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.

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.

8.3 Equality Impact Assessment (EqIA) (this must be included):

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.

8.4 Data Protection Impact Assessments (DPIA): There are no data protection implications.

8.5 Health and Safety implications (where appropriate):

There are no health and safety implications from a planning perspective.

8.6 Sustainability implications (where appropriate):

This has been addressed in the sustainability section of the report above.

8.7 Any Other Implications:

Risk Implications / Assessment

9.1 There are no risk issues from a planning perspective.

Select Committee Comments

10.1 Not applicable.

Recommendations

11.1 That the Executive Director of Community and Environmental Services be authorised to grant permission for the two applications on the following grounds:

- I. **Grant planning permission subject to the conditions outlined in section 12 and the signing of a unilateral undertaking for the suspension of the existing skip lorry and plant hire operations.**
- 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.**

12.1 Conditions for FUL/2019/0040: Extension application

1. The development hereby permitted shall commence not later than three years from the date of this permission. Within seven days of the commencement of operations, the operator shall notify the County Planning Authority in writing of the exact starting date.

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.

2. The development must be carried out in strict accordance with the application form and plans and documents accompanying the application.

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

3. The extraction of sand and gravel to which this permission relates shall cease by 31 December 2035 and all buildings, plant and machinery and stockpiles shall be removed and the site restored in accordance with condition 12 by 31 December 2036.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

4. Within 3 months of the date of this permission the vehicular access indicated for improvement on Drawing No. 03/001 Rev B shall be upgraded in accordance with the Norfolk County Council industrial access construction

specification for the first 10 metres as measured back from the near channel edge of the adjacent carriageway in accordance with details to be agreed in writing by the County Planning 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 construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

5. Within 3 months of the date of this permission visibility splays shall be provided in full accordance with the details indicated on the approved plan (drawing 03/001 Rev B). The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.

Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

6. The submitted HGV Management Plan set out in section 4 of the Transport Statement dated September 2018 for the routeing of HGVs to and from the site shall be strictly implemented as approved for the duration of the development hereby permitted.

Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

7. Notwithstanding the details indicated on the submitted drawings, within 3 months of the date of this permission detailed drawings for the off-site highway improvement works as indicated on Drawing No.(s) 03/001 Rev B shall be submitted to and approved in writing by the County Planning 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.

8. Within 6 months of the date of this permission the off-site highway improvement works referred to in condition 7 shall be completed to the written satisfaction of the County Planning Authority in consultation with the Local 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.

9. The development shall not be carried out except within strict accordance with the mitigation strategy outlined in the Ecological Assessment Final – 2021 Update dated 1 December 2021.

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

10. No development shall take place except in strict accordance with the updated Arboricultural Method Statement shown on drawing number 231121/02, dated 23 November 2021.

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.

11. Within three months of the date of this permission, and prior to any works affecting trees on site, the name of the responsible person to oversee the project and ensure tree protection measures are fully complied with shall be submitted to the County Planning Authority.

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. Within three months of the date of this permission a detailed scheme of restoration in accordance with the principles shown on drawing number M(FA)1(12) Rev O dated April 2021 shall be submitted to the County Planning Authority for its approval in writing and implementation thereafter:
 - (a) dates for the starting and completion of each phase of restoration;
 - (b) a maximum area of disturbed land which at any time is unrestored;
 - (c) contours of the restored land shown by plans and sections;
 - (d) the provision to be made for drainage of the site;
 - (e) areas to be seeded or planted with trees, including provision for re-seeding and re-planting during the following planting season where such action is necessary as a result of any failure which occurs within a period of five years from the date of initial planting;
 - (f) details of tree species to be planted;
 - (g) bank profiles and batters.
 - (h) details of the exact location of the geological exposure(s).

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

13. Within three months of the date of this permission a scheme of landscaping has been submitted to and agreed in writing by 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, and details of the construction and maintenance of the soil bunds. It shall be implemented in the first planting season following approval of the scheme and shall make provision for:
- (a) the screening of the operations by trees, hedges and soil bunds;
 - (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.

14. Soil bunds which are in situ for one or more growing season shall be seeded with grass and maintained in accordance with a scheme to be submitted by the applicants and agreed in writing beforehand with the County Planning Authority.

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.

15. A detailed aftercare scheme specifying such steps as may be necessary to bring the land to the required standard for use for nature conservation shall be submitted for the written approval of the County Planning Authority in writing not later than 12 months from the date of this permission. The aftercare scheme as may be so approved, shall be implemented over a period of five years following the completion of restoration, or in the case of phased restoration, in stages of five years duration dating from each completed restoration phase.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

16. No operations authorised or required under this permission or under Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking, re-enacting or modifying this Order, including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:

07.00 - 17.00 hours Mondays to Fridays
07.00 - 13.00 hours Saturdays.

There shall be no preparatory works (soil stripping, bund formation) on 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.

17. No development shall take place except in accordance with the Dust Management Plan in Appendix D of the Air Quality Assessment dated 2 September 2019.

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.

18. For temporary operations including site preparation, soil and overburden stripping, screening bund formation and removal, and final restoration, the noise level shall not exceed 70 dB LAeq, 15 min, free field at any noise sensitive property adjacent to the site. Temporary operations shall not exceed a total of 8 weeks in any calendar year.

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.

19. Noise emitted from the site shall not exceed 55dB dBLAeq 1hr measured at any noise sensitive property adjacent to the 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.

20. 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.

21. No lighting shall be used on site without prior written approval of the County Planning Authority.

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

22. No dewatering of excavations shall be carried out.

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

23. No waste material shall be imported into the site.

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

24. An annual badger survey shall be undertaken in March each year for the lifetime of the permission and the results along with any mitigation required submitted to the County Planning Authority by the 1 May each year.

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

12.2 Conditions for FUL/2021/0010: Operational Area

1. The development must be carried out in strict accordance with the application form and plans and documents accompanying the application.

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

2. No more than 1500 tonnes of aggregate shall be imported to the site per annum.

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

3. The extraction of sand and gravel to which this permission relates shall cease by 31 December 2035 and all buildings, plant and machinery and stockpiles shall be removed and the site restored in accordance with the plans detailed in condition 1 by 31 December 2036.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

4. Within 3 months of the date of this permission the vehicular access indicated for improvement on Drawing No. 03/001 Rev B shall be upgraded in accordance with the Norfolk County Council industrial access construction specification for the first 10 metres as measured back from the near channel edge of the adjacent carriageway in accordance with details to be agreed in writing by the County Planning 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 construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

5. Within 3 months of the date of this permission visibility splays shall be provided in full accordance with the details indicated on the approved plan (drawing 03/001 Rev B). The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.

Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

6. The submitted HGV Management Plan set out in section 4 of the Transport Statement dated September 2018 for the routeing of HGVs to and from the site shall be strictly implemented as approved for the duration of the development hereby permitted.

Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

7. Notwithstanding the details indicated on the submitted drawings, within 3 months of the date of this permission detailed drawings for the off-site highway improvement works as indicated on Drawing No.(s) 03/001 Rev B shall be submitted to and approved in writing by the County Planning 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.

8. Within 6 months of the date of this permission the off-site highway improvement works referred to in condition 7 shall be completed to the written satisfaction of the County Planning Authority in consultation with the Local 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.

9. Noise emitted from the site shall not exceed 55dB dB LAeq 1hr measured at any noise sensitive property adjacent to the 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.

10. 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.

11. No lighting external shall be used unless it is maintained such that it will not cause glare beyond the site boundaries.

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

12. No operations authorised or required under this permission or under Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking, re-enacting or modifying this Order, including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:

07.00 - 17.00 hours Mondays to Fridays
07.00 - 13.00 hours Saturdays.

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

Background Papers

- 12.1 Planning Application reference: FUL/2021/0010:
<http://eplanning.norfolk.gov.uk/Planning/Display/FUL/2021/0010#>

Planning Application reference: FUL/2019/0040:
<http://eplanning.norfolk.gov.uk/Planning/Display/FUL/2019/0040#>

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>

Norfolk Minerals and Waste Local Plan Review:

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

The Great Yarmouth Local Plan Core Strategy (2015):

https://www.great-yarmouth.gov.uk/media/1884/Adopted-Local-Plan-Core-StrategyDecember2015/pdf/Local_Plan_Core_Strategy_Adopted_2015_NF.pdf?m=637526256978270000

The Great Yarmouth Local Plan Part 2 (2021):

https://www.great-yarmouth.gov.uk/media/6579/Adopted-Local-Plan-Part-2-2021/pdf/Adopted_Local_Plan_Part_2_2021.pdf?m=637746476248570000

The National Planning Policy Framework (NPPF) (2021):

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

National Planning Practice Guidance:

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

National Planning Policy for Waste (2014):

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

Norfolk County Council's Environment Policy (2019):

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/natural-environment-policies/environmental-policy>

Officer Contact

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

Officer name: Ralph Cox

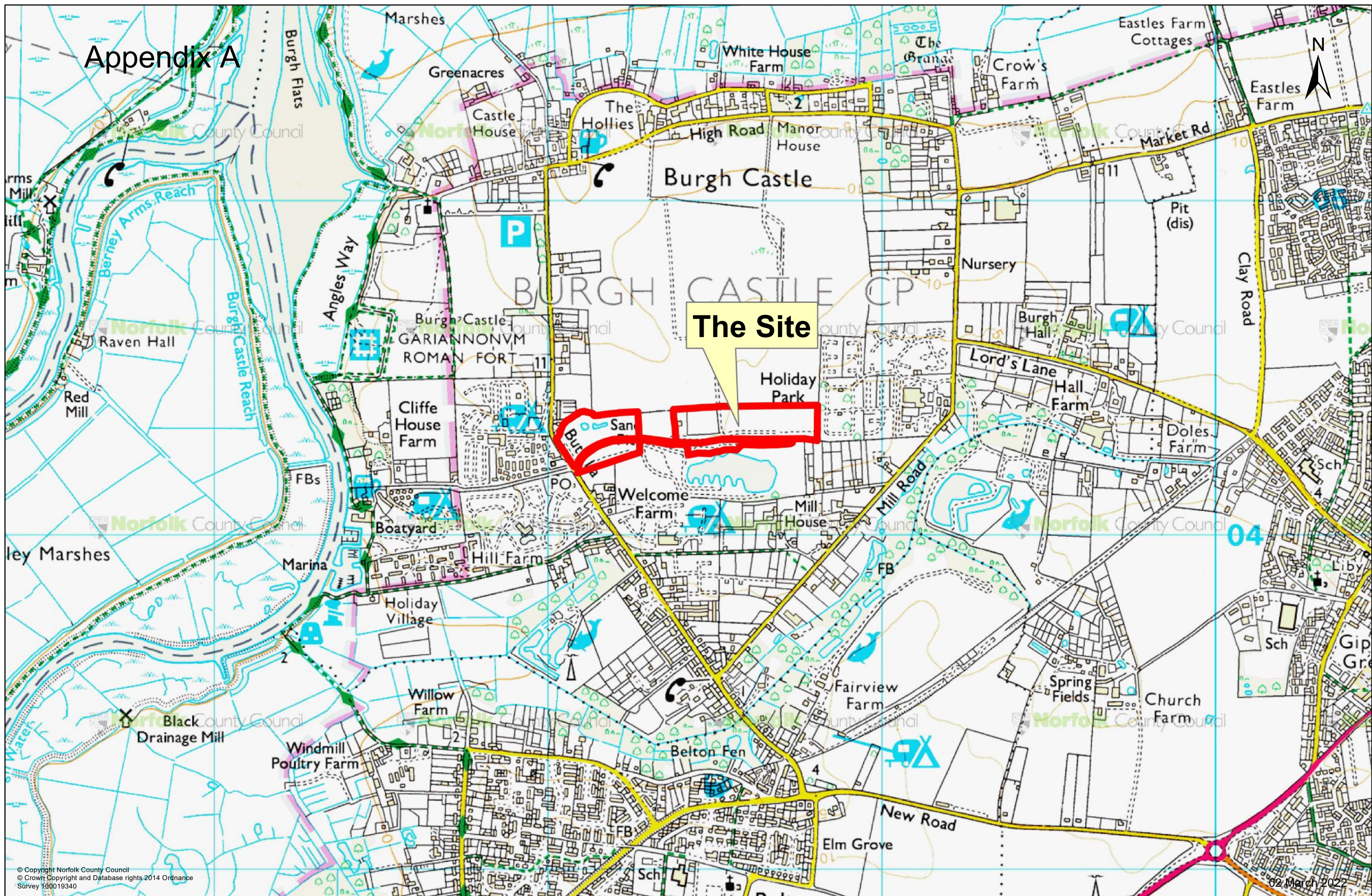
Telephone no.: 01603 223318

Email: ralph.cox@norfolk.gov.uk

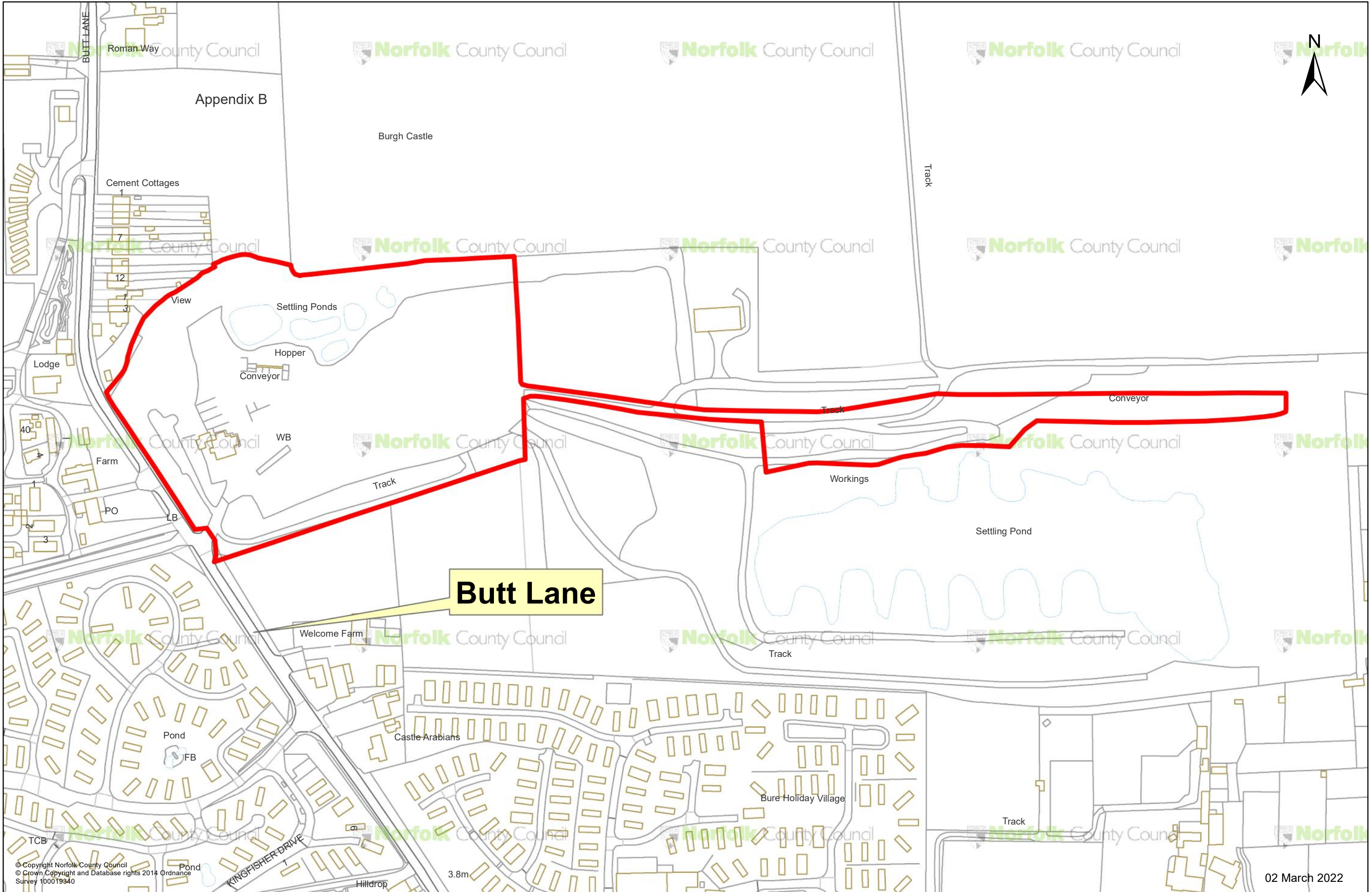


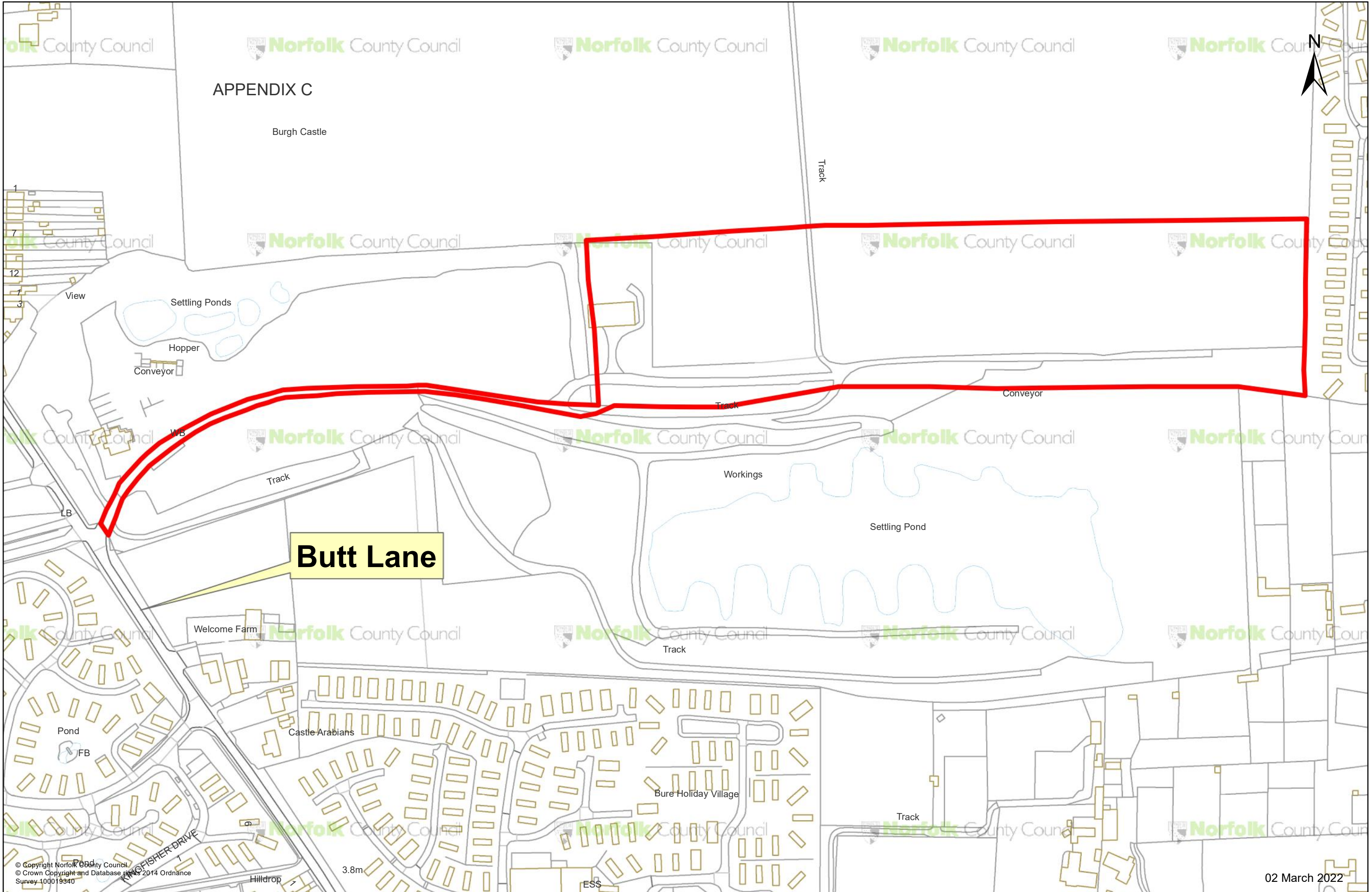
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Appendix A



**Burgh Castle
Location Plan**





Planning (Regulatory) Committee

Item No: 6

Report Title: FUL/2021/0021 Marsh Road, Walpole St Andrew, PE14 7JN

Date of Meeting: 20 May 2022

Responsible Cabinet Member: N/A

Responsible Director: Tom McCabe, Executive Director of Community and Environmental Services

Is this a Key Decision? No

Proposal & Applicant: Planning application for the Extension to open skip storage area with 3.5-metre-high earth bund (retrospective) M & M Services

Executive Summary

The proposal is retrospective in nature and the unauthorised use of the application area the subject of this permission commenced in April 2017.

The key issues relate to:

- Development within the open countryside.
- Development on grade 1 agricultural land that is considered best and most versatile (BMV).
- Insufficient and conflicting information provided in regard to the annual throughput of the site and associated HGV movements.

No objections have been received from third parties or statutory consultees, but this does not take away from the fact that the proposal is a departure from the development plan. On the basis the application conflicts with policy CS6 – General waste management considerations, CS7 - Recycling, composting, anaerobic digestion, and waste transfer stations CS15: Transport, DM10: Transport and DM16 – Soils because the application area lies in the open countryside on Grade 1 Agricultural Land that is considered Best and Most Versatile (BMV).

There are not considered to be any material considerations that would justify approval in this instance.

Recommendations:

That the Executive Director of Community and Environmental Services be authorised to refuse planning permission for FUL/2021/0021 on the following grounds:

1. On the basis that the proposal is a departure from policy CS6: General waste management considerations and CS7: Recycling, composting, anaerobic digestion and waste transfer stations of the Norfolk Minerals and Waste Local Development Framework (2011) as the proposal falls on undeveloped land in the open countryside and is therefore not acceptable in land use terms in relation to the policy which seeks to direct waste development to land already in waste management use, existing industrial/employment land, contaminated or previously developed land only with no unacceptable environmental impacts.
2. On the basis that the proposal is contrary to the National Planning Policy for Waste which requires need to be demonstrated where an application does not accord with the plan. In this instance no demonstrable case for the need for the facility at this location has been made to extend the site by 0.395ha into open countryside solely for storage skips, recyclable topsoil and to regularise operations on the site.
3. On the basis that the proposal is a departure from policy DM16: Soils of the Norfolk Minerals and Waste Local Development Framework (2011) as the proposal is located on Grade 1 Agricultural Land which will only permit development in exceptional circumstances where it is demonstrated that there are no alternative locations for development. Therefore, with no Soil Survey provided suggesting otherwise and no sufficient exceptional circumstances being demonstrated for development on grade 1 Best and Most Versatile (BMV) agricultural land the proposal is not considered acceptable.
4. On the basis that the proposal is a departure from policies CS15: Transport and DM10: Transport of the Norfolk Minerals and Waste Local Development Framework (2011) and the objectives of section 9 of the National Planning Policy Framework (2021). Insufficient and conflicting information has been provided in regard to the annual throughput and associated HGV movements of the site with the extension area that results in an increase from 22,880tpa to 29,640tpa which exceeds the Highway Authority's proposed condition to cap the throughput at 15,000tpa.

1. Background

- 1.1 The application site forms part of an area considered grade 1 agricultural land in the open countryside adjacent to the existing waste transfer site on land that was originally in use as a horticultural nursery with glasshouses. The application area was used for a temporary period by a contractor as a compound for the construction of the Dong Off-Shore Wind Turbine Array from 2014 but was considered open countryside once more by April 2017. However, the removal works of the temporary compound have never been considered complete and the area is in full use as part of the waste transfer station to date. Therefore, the application is considered retrospective.
- 1.2 Waste transfer operations were originally granted a temporary 3-year permission in 1992 for the handling of inert and semi-inert wastes under application reference C/2/1992/2004.
- 1.3 An application for a permanent permission for waste operations on the site was submitted in 1996 but concern was raised regarding the impact of the development in the open and temporary permission was granted for a further 5-years under C/2/1995/2017.
- 1.4 A vehicle maintenance workshop and additional area of skip storage was permitted again on a temporary basis for 5 years in 2000 under application reference C/2/2000/2024.
- 1.5 The first permanent consent on the site was permitted for the waste transfer station and associated operations in 2003 under application reference C/2/2002/2019.
- 1.6 In 2005 permission was granted on a permanent basis for the erection of a vehicle depollution building (dismantling facility under application reference C/2/2004/2027.
- 1.7 A further permission was granted in 2005 for a revised site layout and additional skip storage in relation to the permanent permission on the site under application reference C/2/2005/2006. As well as adding additional land to the waste transfer use/site, it also brought land out of waste management use by virtue of an amended red line.
- 1.8 The most recent permission on the site is from 2016 which permitted the extension of the waste site to the west for the storage of skips and the land that formed part of the transfer station to the south returning to agricultural use as a tractor shed under application C/2/2015/2043. In this instance as land was being returned to agriculture it was not considered that there would be a loss of productive agricultural land.

- 1.9 The application has been submitted following routine monitoring visits carried out by Norfolk County Council where the operator was advised to clear the area the subject of this application and return it to agricultural land.

2. Proposal

2.1 SITE

- 2.2 The application site is situated in King's Lynn and West Norfolk Borough and falls within the parish of Walpole. The site is accessed off Marsh Road to the north of the wider site and is situated on grade 1 agricultural land that is best and most versatile (BMV). The surrounding landscape is made up of mainly agricultural fields and is flat in nature and for this reason the site is visible from long distance views. The centre of Walpole village is located some 1km east of the site.

- 2.3 The site is currently in use as part of the waste transfer station but without planning permission in place. Prior to being in this retrospective use the land was considered open countryside and agricultural in nature. It was temporarily used as a compound by a contractor during the construction of a power line to serve the Dong Off-Shore Wind Turbine Array. The contractors had vacated by April 2017 when the site was once again considered open countryside.

2.4 PROPOSAL

- 2.5 The application seeks retrospective permission to extend the waste transfer station by 0.395ha onto grade 1 best and most versatile (BMV) agricultural land to the north-east of the existing site. The parcel of land has been in operation since April 2017. The land is used for the open-air storage of skips and stockpile of topsoil with perimeter landscaped bunding of 3.5m in height. The proposal will result in a 25% increase in site area
- 2.6 The applicant has suggested that there will be an increase in waste throughput in the Statement of Need submitted with the proposal, which conflicts with those provided on the application form of 15,000tpa. The application has suggested an increase from 22,880tpa to 29,640tpa based on calculations carried out by the County Planning Authority on weekly figures provided and 52 working weeks a year. However, this has been suggested to not result in an increase in HGV movements as larger vehicles are used. The works are suggested to rationalise the operational development on the site that is already taking place and accommodate a more suitable site arrangement.
- 2.7 As well as the extension area there is a retrospective 3.5m high bund provided to the north and the east of the extension area to help screen the extension. It has come to light during determination of the application that the proposed new

area does not actually adjoin the established site access that currently has permission for the existing waste use. To access the land vehicles would go over a small section of land in the ownership of the applicant that the applicant had maintained already had permission, however this is not actually the case.

3. Impact of the Proposal

3.1 DEVELOPMENT PLAN POLICIES

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF), Kings Lynn & West Norfolk Borough Council Local Development Framework Core Strategy (2011) and Kings Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016) provide the development plan framework for this planning application. The following policies are of relevance to this application:

Norfolk Minerals and Waste Development Framework (2011) (NMWLDF)

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
DM8: Design, Local landscape and townscape character
DM10: Transport
DM11: Sustainable construction and operations
DM12: Amenity
DM16: Soils

Kings Lynn & West Norfolk Borough Council Local Development Framework Core Strategy (2011) (KLWNCS)

Policy CS06 – Rural areas
Policy CS08 – Sustainable development
Policy CS10 – The economy
Policy CS11 – Transportation
Policy CS12 – Environmental assets

Kings Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016) (KLWNDMP)

Policy DM1 – Presumption in favour of sustainable development
Policy DM3 – Development in smaller villages and hamlets
Policy DM12 – Strategic road network
Policy DM15 – Environment, design and amenity
Policy DM19 – Green infrastructure/habitats monitoring and mitigation
Policy DM21 – Sites in areas of flood risk

3.2 **OTHER MATERIAL CONSIDERATIONS**

The Revised National Planning Policy Framework (NPPF) was published in July 2021 and sets out the Government's planning policies for England and how these should be applied. Whilst not part of the development plan, policies within the NPPF are also a further material consideration capable of carrying significant weight. The NPPF places a presumption in favour of sustainable development. Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following sections are of relevance to this application:

- 2. Achieving sustainable development;
- 6. Building a strong, competitive economy
- 8. Promoting health and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment

3.3 Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, both the National Waste Management Plan for England (2021) (NWMPE), which is the overarching National Plan for Waste Management, and the Government's Waste Strategy, Our Waste, our resources: a strategy for England (2018), are both further material consideration in planning decisions.

3.4 Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

3.5 Norfolk Minerals and Waste Local Plan: Preferred Options (2019) (NMWLPP0)

Policy MW2: Development Management Criteria

Policy MW3: Transport

Policy MW6: Agricultural Soils

Policy WP1: Waste management capacity to be provided

Policy WP2: Spatial strategy for waste management facilities

Policy WP3: Land potentially suitable for waste management facilities

Policy WP4: Recycling or transfer of inert construction, demolition and excavation waste

3.6 King's Lynn & West Norfolk Borough Council Local Plan review (2016-2036)

LP01 – Spatial Strategy

LP03 – Presumption in favour of sustainable development

LP06 – Climate change

LP07 – The economy
LP13 – Transportation
LP19 – Environmental assets – green infrastructure, landscape character, biodiversity and geodiversity
LP21 – Environmental, design and amenity

- 3.7 Chief Planner's Letter of 31 August 2015 is another material consideration in regard to the retrospective nature of development whereby it was clarified that the impact of retrospective development is a material consideration in all planning applications.

3.8 CONSULTATIONS

Kings Lynn & West Norfolk Borough Council – No objection in principle to the proposal.

Borough Council Environmental Health Officer – No objection. Understand the site holds a waste permit and has been a waste transfer site in this location since 1995. No concerns regarding historical land use or contamination.

Environment Agency – No objection. Advice provided in regard to the earth bunding and the potential requirement for a permit if this is classed as waste. Advice provided in regard to the extension area requiring a permit as it currently falls outside of the existing permit boundary in regards to the topsoil storage.

Highway Authority – No objection. A cap (15,000 tpa) should be placed on the throughput for the site to ensure there is no increase in vehicle movements from existing levels. It has been suggested vehicle movements will not change but no details of HGV payload to confirm number of movements has been provided.

Lead Local Flood Authority – Standing advice provided as it falls outside of the threshold for providing a detailed comment.

County Council Arboriculturist – No objection. The Arboricultural Impact Assessment (AIA) states there will be minimal impact to the boundary hedge.

County Council Landscape – No objection. Details of seeding/planting mix of bunding required by condition of upfront. Whilst it is a rural location it would form an extension of the existing land use and bunding with minimal visual impact.

Walpole Parish Council – Support. Application discussed at October meeting. No reasons for support given.

Local Member (County Electoral Division) – No response received.

King's Lynn Drainage Board – Comment stating consent is required under the board's byelaw 3 to discharge surface water to a watercourse and under byelaw 4 if works are proposed to the adjacent riparian watercourse.

3.9 REPRESENTATIONS

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. 0 letters of correspondence were received from the public.

3.10 APPRAISAL

The key issues for consideration are:

- A. Principle of Development (& Need)
- B. Landscape & Visual Impact / Design
- C. Amenity
- D. Ecology
- E. Transport
- F. Sustainability
- G. Flood Risk
- H. Surface water
- I. Loss of Agricultural Land

3.11 A – 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”.

3.12 The principle use of the wider waste transfer site is considered a “strategic” or “major” waste site when considering policy CS5: General locations for waste management facilities of the NMWLDF (2011). This is because the site's currently permitted throughput, at around 15,000 tonnes per annum (tpa), is over the 10,000tpa defined in the policy. As such the site should be situated within 10 miles of less of Kings Lynn which the site is considered to meet.

3.13 However, the principle of the development in this instance is related to the extension of the existing site and is considered contrary to the development plan. In particular policies CS6: General waste management considerations, CS7: Recycling, composting, anaerobic digestion and waste transfer stations and DM16: Soils. This is on the basis the land is not currently authorised to be in waste management use and falls on grade 1 undeveloped BMV agricultural land in the open countryside. Policy CS6 requires waste management development to be carried out on land already in waste management use, existing industrial/employment land, contaminated or previously developed

land only with no unacceptable environmental impacts. It is therefore also the case that the proposal is not in accordance with policy CS06: Development in Rural Areas of the KLVNCS (2011) as development on greenfield sites will be resisted unless for agricultural or forestry use to preserve the countryside's natural resources.

- 3.14 The most recent permission granted for the site in 2016 (C/2/2015/2043) also raised concerns regarding land use and development in the open countryside. In this instance an area of the existing site was being returned to a form of agricultural use (tractor shed) to allow for the extension to take place on previously undeveloped land in the open countryside and the proposal was therefore considered neutral in land use terms.
- 3.15 However, in the instance of the current application the proposal is solely for an increase in area of the existing waste transfer site into open countryside and grade 1 BMV land. With the justification for the previous application (C/2/2015/2043) also being based on regularising the site with no increase in throughput/HGV movements and retrospective in nature it is not considered justified in this instance. It is clear the site is expanding to cater for modern waste transfer operations. However, a more appropriate location should be found to cater for this instead of extending development into the open countryside on the existing site. This is particularly the case when the applicant's justification for development in the open countryside is based on the location of an existing lawful business needing to expand and provide more space for the manoeuvring of vehicles and that the proposal expands the available site area for the storage and management of skips making it the most preferable location.
- 3.16 The justification provided by the applicant for the intensification of development in this location has subsequently been suggested with a weekly increase in throughput of 130 tonnes of waste. However, from the figures provided by the applicant it suggests that the operator is operating above the permitted 15,000tpa throughput with the pre-expansion of the facility figures suggested as 22,880tpa and the current retrospective figure being 29,640tpa based on 52 working weeks a year.
- 3.17 The site has already previously grown from a temporary (1992) to a permanent (2003) waste transfer facility as set out in the background section above with the site footprint expanded on several occasions to what it is today. The extension proposed with this application would result in a roughly 25% increase in the site footprint to that already permitted, which is not considered acceptable when considering the sites location.
- 3.18 The National Planning Policy for Waste (NPPW) states that need is not required to be demonstrated for waste facilities if they are in accordance with the development plan. Therefore, in this instance, given the conflict with policy CS6, need is required to be demonstrated by the applicant, but it is not considered that sufficient justification has been provided to demonstrate that the site (a waste transfer facility) needs to expand and intensify operation onto

adjacent grade 1 agricultural land, or if an alternative larger site on brownfield land has been looked for.

- 3.19 It is considered that there is opportunity for the citing of waste transfer facilities on previously developed/industrial land which has not been considered or demonstrated to be inappropriate for the relocation of the site the subject of this application that would serve a similar catchment which would enable a facility to operate without developing grade 1 agricultural land.
- 3.20 Therefore, the proposal is considered to be contrary to policies CS6, CS7 of the NMWLDF (2011), CS06 of the KLWNCS (2011) and therefore not in accordance with the objectives of section 2 of the NPPF (2021)

3.21 B - Landscape & Visual Impact

- 3.22 The proposed extension area being retrospective has been a feature on the landscape for some time and including the period where it was used as a site compound for contractors working on a power cable route for an off-shore wind farm. However, the landscape in this area is characterised by a flat low-lying landscape of agricultural fields and small hamlets/villages. The bunding has been in place for some time to the north and the east of the application area but is not considered to be maintained to a high standard at present.
- 3.23 The County Landscape Officer was consulted on the proposal and although no objection was raised it was noted that the proposal is situated in a rural area but would have minimal visual impact. Therefore, a condition was requested that would secure details of the seeding, planting and maintenance of the bunding to ensure that it was satisfactory.
- 3.24 In terms of the layout and design of the extension area it is considered that the proposed bunding would screen the storage of skips and the topsoil stockpile from long distance views across the flat landscape. However, the acceptability of this would be determined by forthcoming information on the seeding, planting and maintenance of the bunding if Members were minded to approve the application with the use of a planning condition.
- 3.25 In terms of the existing hedge planting that is seen to the north of the extension area this is intended to be retained and the submitted Arboricultural Impact Assessment (AIA) states that this has not been impacted by the development of the bunding.
- 3.26 Therefore, the proposal is considered compliant with policy DM8 of the NMWLDF (2011), policy DM15 of the KLWNDMP (2016) and the objectives set out in section 12 of the NPPF (2021).

3.27 C – Amenity

- 3.28 The relevant policy considerations in regard to amenity relate to policy DM12: Amenity of the NMWLDF (2011) which seeks to protect those that live in close proximity of waste sites through appropriate buffer zones, screening and dust suppression measures. The other relevant policy consideration is DM15: Environment, Design and Amenity of the KLWNDMP (2016) which states development must protect and enhance the wider environment and proposals will be considered against neighbouring uses.
- 3.29 As the proposal is retrospective in nature and no complaints on the extension area have been received by the County Planning Authority or Borough Authority from local residents, it is unlikely that the development will have an impact on the amenity of local residents with particular reference to Walpole village to the east. There is a considerable buffer between the extension area and the closest property within the village itself with the adjoining agricultural land use.
- 3.30 The Environment Agency were consulted on the proposal and did not raise an objection but stated that the waste permit may need to be updated to include the extension area due to the storage of topsoil.
- 3.31 With regards to the actual regulation of an operation such as this, in accordance with paragraph 188 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 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). 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/pollutants such as noise, odour and dust through conditions, and Planning Authorities should assume this regime will operate effectively.
- 3.32 Therefore, the proposal is considered compliant with policy DM12 of the NMWLDF (2011), DM15 of the KLWNDMP (2016) and the objectives of section 8 and 15 of the NPPF (2021).
- 3.33 D – Ecology
- 3.34 The relevant policy in terms of the impact of the development on ecology is CS14: Environment of the NMWLDF (2011) which seeks to ensure no unacceptable adverse impact occur to natural resources, the character of the landscape and biodiversity. The proposal is retrospective in nature onto open agricultural land and as such there is not considered to be a likely impact on local ecology or biodiversity. The existing hedge planting belt to the north of the site is being retained and the bunding is already in place with the

Arboricultural Impact Assessment (AIA) stating that this will not be impacted by the proposal.

- 3.35 Therefore, the proposal is considered compliant with policy CS14 of the NMWLDF (2011), DM15 of the KLWNDMP (2016), CS12 of the KLWNCS (2011) and objectives of section 14 of the NPPF (2021).

3.36 Appropriate Assessment

The site is situated within 8.9km of The Wash & Norfolk Coast Special Areas of Conservation (SAC), 8.9km of The Wash Special Protection Area (SPA/RAMSAR) and 8.1km of The Wash National Nature Reserve. The application has been assessed in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017, and based on the information submitted to the County Planning Authority (CPA), it is considered that, due to both the nature of the development and the distance from the European Sites, the proposal would not have a significant impact on these or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required.

- 3.37 With regards to Natural England's letter of 16 March 2022 concerning nutrient neutrality, this proposal would not result in a discharge to the catchment of the River Wensum SAC or the Broads SAC/Ramsar.

3.38 F – Transport

- 3.39 The applicant has suggested that there will be no increase in vehicle movements associated with the proposal as the application simply seeks to allow the site to be reorganised to meet the operational needs of the business and will use large vehicles to accommodate the increase in the throughput of waste outlined in section 3.16. It is understood that the number of currently permitted movements is 10 2-way HGV movements per day with an average payload of 7.5 tonnes. These movements are understood to be permitted in either direction along Marsh Road.

- 3.40 The County Highway Authority advised that although the information submitted in highways terms is limited, the applicant has stated that there will be no increase in HGV movements other than those already permitted. Therefore, County Highways are content with the proposal subject to the throughput of the site being conditioned to its currently permitted level (15,000tpa) to ensure this remains the case if Members were minded to approve the application.

- 3.41 The applicant has since submitted further information to justify the extension with figures that are considerably over the permitted 15,000tpa based on calculations made by the county planning authority seen in section 3.16. The

planning authority do not deem a further increase in throughput in this location to be acceptable. This is particularly the case when the applicant has suggested that they are able to deal with the increase in waste throughput suggested by using larger vehicles in a rural location.

- 3.42 The applicant has suggested contradicting figures during the application for HGV/vehicle movements from the entire waste transfer site that have ranged from:
- a. 2 vehicles a week collecting scrap material, an HGV every other day to collect rubbish and staff vehicles arriving on a daily basis (2 max).
 - b. 2 x 8 wheelers 8 times a day
3 x 4 wheelers 8 times a day
Staff vehicles: 3 vehicles arrive once and leave once a day.
- 3.43 It is therefore considered that insufficient and conflicting information has been provided to suggest that there would be no HGV movement increase with the proposal. This is considered grounds to refuse the application on as it is evident that a condition capping throughput of 15,000tpa is not achievable as the figures provided suggest it is already operating above this.
- 3.44 Therefore, insufficient and conflicting information has been provided to demonstrate the proposal is acceptable and the proposal is considered contrary to policies CS15 and DM10 of the NMWLDF (2011), DM12 of the KLWNDMP (2016), CS11 of the KLWNCS (2011) and the objectives of section 9 of the NPPF (2021).
- 3.45 G – Sustainability
- 3.46 The proposal provides limited opportunity to generate 10% of on-site energy from decentralised and renewable sources as required by policy CS13: Climate change and renewable energy of the NMWLDF (2011). However, this is an aspirational policy and as there are no buildings proposed with the development and therefore it is not considered reason to refuse the application in the planning balance.
- 3.47 Therefore, the proposal is considered compliant with policy CS13 and DM11 of the NMWLDF (2011).
- 3.48 H – Flood Risk
- 3.49 The application site is situated in Flood Zone 2 (Medium Risk) of flooding from rivers and the sea as defined by the Environment Agency. A waste development such as this is considered less vulnerable in the flood risk

vulnerability classifications however a sequential test is still required to ensure new development is located in areas at the lowest risk of flooding.

- 3.50 Due to the geographical location of the development site the applicant has suggested it is unlikely that land would be found available for the development in flood zone 1 with the majority of land to the north of Wisbech in Flood Zone 2 or 3. It has been demonstrated that the site benefits from sea defences that protect against a 1 in 200 chance of flooding each year and the actual risk of flooding on site is therefore considered low.
- 3.51 However, it is considered that if land that accorded with policies CS6, CS7 and DM16 of the NMWLDF (2011) were considered; in particular existing brownfield land/industrial business use locations there could be potential sites found in urban areas.
- 3.52 It should be noted that Environment Agency were consulted on the proposal and raised no objection and as the statutory consultee in regard to development in flood zones it is considered that the location in flood risk terms alone is acceptable in regard to the extension of the waste transfer station.
- 3.53 Therefore, the proposal is considered compliant with policies DM4 of the NMWLDF (2011), DM21 of the KLWNDMP (2016) and the objectives of section 14 of the NPPF (2021).
- 3.54 I – Surface water
- 3.55 The proposal is situated in an area at very low risk from surface water flooding as defined on the Environment Agency flood risk map. This means that the site has a chance of flooding of less than 0.1%. A drainage ditch runs immediately east of the proposed extension area with a further drainage channel to the south. It is understood that the applicant intends to discharge surface water to a watercourse in this instance as there are no other means of draining the site available or discussed.
- 3.56 Both the Lead Local Flood Authority (LLFA) and Kings Lynn and West Norfolk Drainage Board (IDB) were consulted on the proposal. The IDB noted that the applicant would need to apply for consent under the boards byelaw 3 and that this should be done at the earliest convenience. However, this is not considered to affect the granting of permission and therefore the proposal is considered acceptable.
- 3.57 Therefore, the proposal is considered compliant with policies DM3, DM4 of the NMWLDF (2011), DM21 of the KLWNDMP (2016) and the objectives of section 14 of the NPPF (2021).

3.58 J – Loss of Agricultural Land

- 3.59 The relevant policy in deciding whether the proposal will impact upon agricultural land provision is policy DM16: Soils of the NMWLDF (2011) which notes that proposals will only be acceptable on grade 1 agricultural land in exceptional circumstances. Policy CS06: Development in Rural Areas of the KLVNCS (2011) also seeks to limit development on greenfield sites unless they are essential for agriculture.
- 3.60 The proposal put forward has recognised that the application site lies on Grade 1 Agricultural Land and that this is considered Best and Most Versatile (BMV) and is afforded a level of protection. However, it is not considered that the application has demonstrated exceptional circumstances for development to be considered acceptable on BMV land and as such is considered to not be in accordance with policy DM16 – Soils of the NMWLDF (2011).
- 3.61 A Soil Survey was requested from the applicant along with a sufficient Site Selection Assessment in order to give the applicant an opportunity to demonstrate the suitability of the site for this type of development. However, the applicant confirmed that they did not wish to provide this and that we would determine the application in its current form based on the information available.
- 3.62 The application site is located on BMV Grade 1 agricultural land as defined by Natural England and the applicant did not lodge a Soil Survey to demonstrate otherwise. The CPA acknowledge that the land did form part of Walpole Nursey and then subsequently acted as a temporary site compound for the works to a power cable route for a wind farm. However, the CPA consider the land not to be previously developed due to the temporary nature of the site compound and the fact this was to be returned to its previous use as agricultural land on completion of the works.
- 3.63 The applicant has not demonstrated exceptional circumstances when the proposal is solely to regularise the operations of the existing site to allow for greater storage of skips and improved manoeuvrability of HGV's with conflicting information on the throughput of the site and HGV movements. The argument that the extension will occupy a strip of agricultural land that is only 40m in width and limits its suitability for large scale agricultural purposes does not detract from the fact that the land could also be used for pastoral purposes if required. This is particularly the case when the previous application (C/2/2015/2043) granted permission for an area of skip storage to the west of the site which still forms part of the permitted waste transfer area and is understood to be used by the operator.

- 3.64 Therefore, the proposal is considered to be contrary to policy DM16 of the NMWLDF (2011) and policy CS06 of the KLWNCS (2011) and the objectives of section 2 of the NPPF (2021).

3.65 ENVIRONMENTAL IMPACT ASSESSMENT

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

3.66 RESPONSES TO REPRESENTATIONS RECEIVED

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper in accordance with statutory requirements. No third-party representations were received in relation to the application.

3.67 INTENTIONAL UNAUTHORISED DEVELOPMENT

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

- 3.68 In this instance the fact that the proposal is retrospective and was requested to be returned to agricultural use by the Monitoring and Control Officer of Norfolk County Council by September 2019 is not considered reason to refuse the application since an application has been submitted for determination. No weight is given to this in the planning balance.

4. Conclusion, Reasons for Decision and Planning Balance

- 4.1 To conclude, it is considered that the proposal when considered in relation to the numerous expansions of the site since its inception in 1992 has outgrown its location in order to deal with the modern operation of a waste transfer location. This has resulted in the application outlined here which seeks to further expand the site into the open countryside and onto grade 1 BMV land. It is not considered that exceptional circumstances have been demonstrated to justify this and the reason given on the site already being positioned in this location is given little weight in the planning balance.
- 4.2 Insufficient information has been provided through a Site Selection Assessment which again relied heavily on considering the existing site and other potential sites on land that would meet policy CS6 and CS7 of the NMWLDF (2011) were not appraised and scoped out to meet the requirements of the National Planning Policy for Waste (2014).

- 4.3 Significant weight is given in the planning balance to the loss of grade 1 BMV agricultural land if the application were granted permission. Whilst a Soil Survey was not provided it is not considered that this would demonstrate to be of a lesser quality and it could also be put into pastoral use if this was the case to provide agricultural benefit. This site has on numerous occasions in history gained permission for extension onto agricultural land but justification of rationalising the site to improve operational efficiencies and HGV turning is not justified in this instance. The applicant stating that the throughput of the site will not change from the permitted levels of 15,000tpa but subsequently stating there would be a increase of 130 tonnes per week are based on figures that are already well above the permitted levels in planning terms and would therefore result in an unacceptable impact on the rural highway network especially when the proposal suggests the use of large vehicles to accommodate this and conflicting information supplied on HGV movements.
- 4.4 The proposal does not contribute to the achievement of sustainable development in accordance with the NPPF on the basis that it is not considered an effective use of land and does not enhance the environment by permitting waste development in the open countryside when other locations could be sought on more appropriate land within the same district if expansion of the business was required.
- 4.5 For the reasons set out in the report the proposal would be contrary to policies CS6: General waste management considerations, CS7: Recycling, composting, anaerobic digestion and waste transfer stations, CS15: Transport, DM10: Transport and DM16: Soils of the Norfolk Minerals and Waste Local Development Framework (2011) would cause intensification of waste development in the open countryside. Insufficient justification has been provided to demonstrate the need for the increase in the site for limited benefit to the local market. There are not sufficient material considerations that warrant determining the application otherwise than in accordance with the development plan or that outweigh the harm that would be caused. Therefore, the application is recommended for refusal.

5. Alternative Options

- 5.1 Members of the Planning (Regulatory) Committee can only resolve to make a decision on the planning application before them whether this is to approve, refuse or defer the decision.

6. Financial Implications

- 6.1 The development has no financial implications from the Planning Regulatory perspective.

7. Resource Implications

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

8. Other Implications

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

8.2 Human Rights Implications:

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.

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.

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.

8.3 Equality Impact Assessment (EqIA) (this must be included):

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.

8.4 Data Protection Impact Assessments (DPIA):

It is not considered that there are any data protection implications in regard to the above report.

8.5 Health and Safety implications (where appropriate):

There are no health and safety implications from a planning perspective.

8.6 Sustainability implications (where appropriate):

This has been addressed in the sustainability section of the report above.

8.7 Any Other Implications:

There is the potential that the applicant could appeal the decision put forward for members to refuse planning permission in line with section 78 of the Town and Country Planning Act 1990.

9. Risk Implications / Assessment

9.1 There are no risk issues from a planning perspective.

10. Select Committee Comments

10.1 Not applicable.

11. Recommendations

11.1 That the Executive Director of Community and Environmental Services be authorised to refuse planning permission for FUL/2021/0021 on the following grounds:

1. On the basis that the proposal is a departure from policy CS6: General waste management considerations and CS7: Recycling, composting, anaerobic digestion and waste transfer stations of the Norfolk Minerals and Waste Local Development Framework (2011) as the proposal falls on undeveloped land in the open countryside and is therefore not acceptable in land use terms in relation to the policy which seeks to direct waste development on land already in waste management use, existing industrial/employment land, contaminated or previously developed land only with no unacceptable environmental impacts.
2. On the basis that the proposal is contrary to the National Planning Policy for Waste which requires need to be demonstrated where an application does not accord with the plan. In this instance no demonstrable case for the need for the facility at this location has been made to extend the site by 0.395ha into open countryside solely for storage skips, recyclable topsoil and to regularise operations on the site.
3. On the basis that the proposal is a departure from policy DM16: Soils of the Norfolk Minerals and Waste Local Development Framework (2011) as the proposal is located on Grade 1 Agricultural Land which will only permit

development in exceptional circumstances where it is demonstrated that there are no alternative locations for development. Therefore, with no Soil Survey provided suggesting otherwise and no sufficient exceptional circumstances being demonstrated for development on grade 1 Best and Most Versatile (BMV) agricultural land the proposal is not considered acceptable.

4. On the basis that the proposal is a departure from policies CS15: Transport and DM10: Transport of the Norfolk Minerals and Waste Local Development Framework (2011) and the objectives of section 9 of the National Planning Policy Framework (2021). Insufficient and conflicting information has been provided in regard to the annual throughput and associated HGV movements of the site with the extension area that results in an increase from 22,880tpa to 29,640tpa which exceeds the Highway Authority's proposed condition to cap the throughput at 15,000tpa.

12. Background Papers

- 12.1 **Planning Application reference: FUL/2021/0021 available here:**

<http://eplanning.norfolk.gov.uk/Planning/Display/FUL/2021/0021>

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>

Norfolk Minerals and Waste Local Plan Review:

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

King's Lynn & West Norfolk Borough Council Local Development Framework Core Strategy (2011)

https://www.west-norfolk.gov.uk/downloads/download/68/core_strategy_document

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

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

King's Lynn & West Norfolk Borough Council Local Plan review (2016-2036)

https://www.west-norfolk.gov.uk/info/20079/planning_policy_and_local_plan/951/local_plan_review_2016-2036_examination

The National Planning Policy Framework (NPPF) (2021):

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

National Planning Policy for Waste (2014):

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

Norfolk County Council's Environment Policy:

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/natural-environment-policies/environmental-policy>

Officer Contact

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

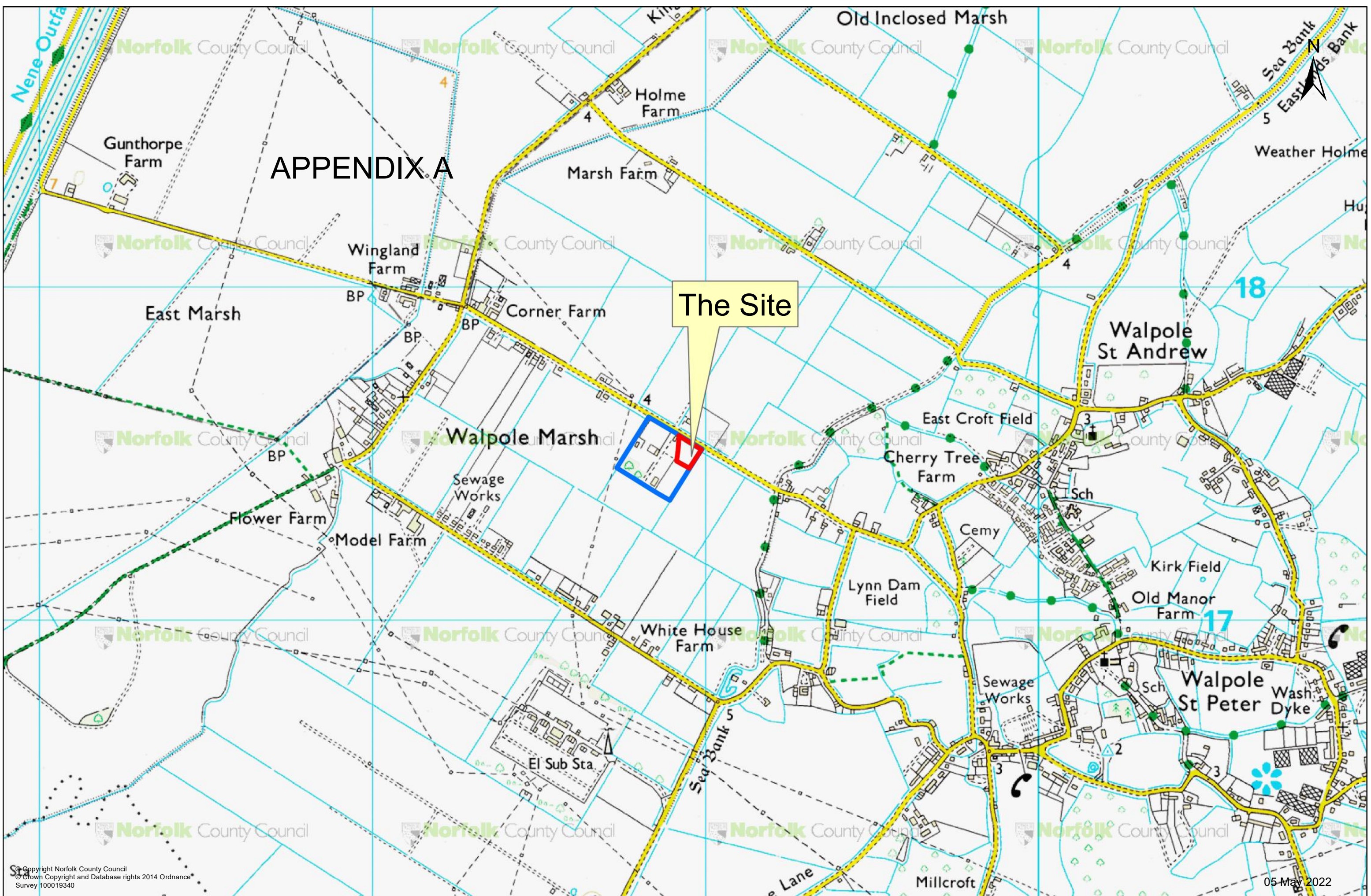
Officer name: Michael Zieja

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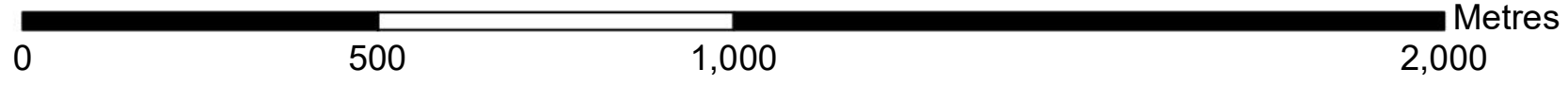
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APPENDIX A

The Site

**Walpole Marsh
Location Plan**





Marsh Road

Extension Area

Existing Waste Facility

WB

