

Planning (Regulatory) Committee

Date: **Friday 25 March 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.

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 Eric Vardy (Vice-Chair)

Cllr Stephen Askew

Cllr Rob Colwell

Cllr Chris Dawson

Cllr Barry Duffin

Cllr Paul Neale

Cllr Matt Reilly

Cllr William Richmond

Cllr Steve Riley

Cllr Mike Sands

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 4 February 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/2021/0015: Aldeby Landfill Site, Common Road, Aldeby
Report by the Executive Director of Community and Environmental Services | Page 17 |
| 6. | FUL/2021/0061 Land A47 Bypass Site, C489 Main Road, North Tuddenham, Dereham, Norfolk, NR20 3DE
Report by the Executive Director of Community and Environmental Services | Page 49 |

Tom McCabe
Head of Paid Service
County Hall
Martineau Lane
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Date Agenda Published: 17 March 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 4 February 2022
at 11am in the Council Chamber, County Hall**

Present:

Cllr Eric Vardy (Vice-Chair)

Cllr Rob Colwell
Cllr Chris Dawson
Cllr Barry Duffin
Cllr Paul Neale

Cllr Matt Reilly
Cllr Steve Riley
Cllr Mike Sands
Cllr Martin Storey
Cllr Tony White

Substitute Members Present

Cllr Lesley Bambridge for Cllr Stephen Askew
Cllr James Bensley for Cllr Will Richmond

Also Present

Hollie Adams	Committee Officer
Ralph Cox	Principal Planner
Stephen Daw	Public Speaker
Phil Garnham	Public Speaker
Rachel Garwood	Lawyer - Planning
John Hanner	Principal Engineer (Developer Services)
Michael Hudspith	Public Speaker
Nick Johnson	Head of Planning
Cllr Mark Kiddle-Morris	Local Member
Cllr Kay Mason-Billig	Local Member
Neil McLeod	Public Speaker
Cllr Jim Moriarty	Local Member
Chris O'Donohue	Public Speaker
Andrew Sierakowski	Consultant Planner

1 Apologies and Substitutions

- 1.1 Apologies were received from Cllr Stephen Askew (Cllr Lesley Bambridge substituting), Cllr Brian Long, and Cllr Will Richmond (Cllr James Bensley substituting).
- 1.2 Vice-Chairman Cllr Eric Vardy took the Chair. Cllr Vardy wished Cllr Long a speedy recovery.
- 1.3 Cllr Duffin was duly elected to take the position of Vice-Chair for the meeting.

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.

3 Declarations of Interest

- 3.1 Cllr Barry Duffin declared an interest as a South Norfolk District Council member in relation to FUL/2019/0031 Lagoons at Upgate Road, Seething, Norfolk, NR15 1EL.

4 Urgent Business

- 4.1 There was no urgent business discussed.

Applications referred to the Committee for determination.

5. Point of Order

- 5.1 The Committee agreed to consider item 7, "FUL/2019/0031 Lagoons at Upgate Road, Seething, Norfolk, NR15 1EL" first, and then return to the running order of the agenda.

6. FUL/2019/0031 Lagoons at Upgate Road, Seething, Norfolk, NR15 1EL

- 6.1.1 The Committee received the report setting out a retrospective application for a change of use, to use the existing lagoons at Upgate Road, Seething, for the storage of organic liquid waste from the food and drinks industry. The lagoons have a storage capacity of 27,000m³ and the application states that the maximum annual throughput of the site would be 141,258 tonnes of waste.
- 6.1.2 The Case Officer drew the Committee's attention to the update report, circulated to Committee Members before the meeting. This included additional information related to traffic movements at the site. The Case Officer gave a presentation to the Committee:
- This was a retrospective application submitted in August 2019.
 - The fourth lagoon on the site did not form part of the application.
 - The lagoons were developed at least 20 years ago without planning permission being secured and used for manufacture of fertilisers. The existing lawful use consisted of planning permission granted by Norfolk County Council in 2007 for bringing in and processing agricultural waste and vegetable oils.
 - Issues related to construction of the lagoons were not in the remit of the council.
 - Issues raised by objectors related to odour from the site; discussion was

ongoing between the applicant and the Environment Agency about ways to manage this. Regulation of such matters was controlled by the Environment Agency through the environmental permit. The Council should not duplicate controls in place through the permit.

- Issues raised by local residents were set out in paragraph 3.38 of the report
- No information was included in the application on traffic movements taking material in and out of the site. This meant there was inadequate information to identify the impact on highway, noise, disturbance and highway safety.

6.1.3 Members asked questions about the presentation:

- A committee member queried the volume of material that trucks going in and out of the site held. The Case Officer confirmed that the total tonnage over a year transported to the site was stated at 140,000 tonnes. Most HGVs could carry 28 tonnes, equating to 5000 HGV loads per year. The application did not include highways or traffic information related to material taken out of the lagoons before being spread on land.
- The Case Officer confirmed that the reason the application was recommended for refusal was related to lack of information allowing planning officers to assess the impact on highways.
- Government guidance stated that the Environment Agency were required to deal with issues related to odour through the environmental permit. The Environment Agency had received complaints related to odour at the site in 2019, 2020 and 2021. Norfolk County Council met with the Environment Agency who had provided a response to the consultation on the application; they advised that some of the complaints received were substantiated while others were not. They had discussed ways to mitigate the odours from the site with the applicant and operator and required them to take additional measures to do so. The use of clay balls over the surface of the lagoons had been trialled and had been reported to have a beneficial impact.
- The Case Officer confirmed that material brought to the site was from food and drink production and that the operator preferred to take the material directly from the source and spread it straight on land however there were times of the year when this was not possible so it would be stored in the lagoons. It was not clear how much material was brought to the site and how long it was stored in the lagoons as vehicle movements provided for 2020 did not give consistent data; the applicant had confirmed the use of lagoons was uncertain.
- A Committee Member asked when the County Council and District Council knew the unconsented use was taking place. The Case Officer confirmed that the Council did not know about the unlawful use on the site until the application was submitted. It was unclear what the established use on the site was, however, if it was an industrial process, it would be a matter for the District Council to investigate, and if it was an established waste use it would be a matter for the County Council.

6.2 Committee Members heard from registered speakers.

6.2.1 Phil Garnham spoke in objection to the application:

- Mr Garnham stated that local villagers' quality of life had been impacted by

smell, flood lights and volume of traffic from the site. The local community were not consulted before operations began and there had been no communication from South Norfolk District Council or Cllr John Fuller, the owner of the site. Residents had also not received a reply from the local MP about their concerns

- The material at the site was stated to be a mix of waste from poultry farms, blood and caustic cleaners, and Mr Garnham asked the Committee how the business was able to disrupt the lives of local people for so long.
- The site was 200-300metres from homes, a glamping site and a flying club which Mr Garnham felt was inappropriate. He felt that all the products in the lagoons could go through the water treatment plant and therefore there was no reason for the site to exist.
- In lockdown, local residents couldn't isolate in their gardens or have windows open because of the smell and flies besieged their homes; complaints were made to the Environment Agency.
- There were concerns from residents about traffic; Harvey Lane was too narrow for HGVs with not enough room for two cars and few passing places.
- When injecting material was permitted, a team ran slurry lorries, with 12-15 trips an hour running along local roads from early in the morning until 11pm. These fast-moving HGVs were dangerous for pedestrians. Making complaints to the company was difficult as it was managed in Lincolnshire.
- Mr Garnham stated the site was a dumping ground for waste from local counties and Norfolk and felt the application would have ramifications for future generations of local residents if granted.

6.2.2 Michael Hudspith of Seething Parish Council spoke to the Committee on behalf of Seething and Mundham Parish Councils:

- Mr Hudspith stated that Seething and Mundham Parish Councils both objected to the application in "the strongest terms". The grounds for their objection were that approval would have a detrimental impact on the local population, environment, ecology and cause unacceptable levels of HGV and agricultural traffic movements.
- Odour: effluent in the lagoon caused volatile odours with waste from meat, fish and animal origin including products from abattoir waste. The odour could be smelled from Seething Village and local homes and made outdoor activity unpleasant. The windbreak and clay balls had not been seen to protect against these odours.
- Traffic: existing planning permission on site was for small scale recycling of waste and cooking oil with 800 traffic movements per year; this did not result in HGV traffic through Seething and Mundham. The proposal was for around 5000 movements per year which was a 10-fold increase over existing regulation. Traffic movements were prevalent when waste was offloaded with significant noise for those living nearby.
- Environment: the use of clay balls was to mitigate against release of volatile compounds, indicating that these were being released from the lagoons, and raising issues for the health of local residents.

6.2.3 Chris O'Donohue spoke to the Committee on behalf of the applicant:

- Whites Recycling Ltd was a liquid waste recycling management business; Norfolk was its largest area by volume site and had been in use for 3 years
- The site was operated to the highest industry standards and improvements had been made to the site and would continue to be made if the application was granted.
- The company had worked with the Environment Agency on management of the site and management of odour in particular.
- The lagoons had been in place since the 1970's and since the 1980's had been used for processing fertiliser, up until 3 years ago.
- Use continued for production of agricultural fertiliser, with all material coming from food and drink factories; this material was not hazardous and human waste was not used.
- 20,000 tonnes of material were delivered to the site in 2021, with 750 vehicle movements in and 750 out of the site. Over the last 3 years, practice showed that use of the lagoons at 140,000 tonnes was unrealistic and twice what was put in last year, 2021, was more realistic.
- In the past 2 years, total vehicle movements were just over 4000, so current use was below that of the previous occupier. Of the 4000 movements over 2000 were HGV movements; the use of Harvey Lane for HGV movements in and out of the site was long established.
- The traffic management plan had been submitted and Mr O'Donohue was happy to work with the highways team and planners to refine it. Current use was consistent with previous usage of the site and there was a section 106 agreement binding the land with a covenant detailing the route in and out of the site.
- Mr O'Donohue suggested that routing of vehicles and vehicle movements could be dealt with by conditions.

6.2.4 Cllr Kay Mason-Billig spoke to the Committee as Local Member for Loddon:

- Cllr Mason-Billig recognised that recycling should be encouraged however felt it should be carried out in the right location.
- South Norfolk District Council had concerns about odour and noise and suggested the lagoons should be covered, as testing with clay balls had not been sufficient to date.
- Cllr Mason-Billig felt that the report wasn't detailed enough and may give rise to an appeal and was therefore pleased that more information had come forward.
- Cllr Mason-Billig had received many complaints related to odour noting that residents had been unable to enjoy the outdoors because of it.
- HGV movements were by agricultural vehicles carrying heavy loads and Cllr Mason-Billig noted that once HGVs had left the site the tenant had no control over where they went, stating that HGVs had travelled through Seething, which had no pavements, causing a risk to pedestrians. Many movements had occurred late at night and early in the morning, disturbing residents.
- Cllr Mason-Billig queried whether other options were available for storage such as tanks instead of lagoons.

- 6.2.5 Committee Members moved on to debate of the application:
- A Committee Member pointed out the recommendations put forward by South Norfolk District Council such as including a time limit to reduce the noise impact on residents; she felt this time limit was too wide to benefit residents and noted it did not place a limit on days.
 - A Committee Member queried liaison with the head of planning at South Norfolk District Council regarding changes at the site; the Case Officer confirmed that South Norfolk District Council had been consulted since the time the application was put forward. If the Committee refused the application, the activity being undertaken would be looked at to identify whether any investigations regarding breach of enforcement were necessary including whether breaches were a matter for the District or County Council.
 - Members noted the lack of sufficient information about vehicle movements to support the application.
 - A Committee Member discussed the idea of deferring the application. The Head of Planning noted that the application had been with the County Council for a long time and residents were keen for it to be resolved.
 - Cllr Tony White, seconded by Cllr Mike Sands **PROPOSED** to defer the application and request further information on truck movements and information from the Environment Agency on control of odours.
 - The Head of Planning clarified that it was not illegal to operate a development without planning permission, therefore refusing the application would not make operations illegal. In this case, the matter would be looked at to see if operations being carried out required enforcement action to be taken. If the application was refused, a new application could be submitted with the additional information required.
- 6.3.1 Committee Members voted on the proposal to defer the application and request further information on truck movements and information from the Environment Agency on control of odours. With 2 votes for, 7 against and 3 abstentions, the proposal was **lost**.
- 6.3.2 With 9 votes for and 3 abstentions, the Committee **RESOLVED** That the Executive Director of Community and Environmental Services be authorized to:
1. **Refuse** planning permission for the reasons set out in section 11 of the report.
- 6.4 Cllr Martin Storey left the meeting.
7. **FUL/2021/0051: Bittering Quarry (Plant Site), Reed Lane, Bittering; FUL/2021/0052: Land Adjoining Longham Heath and Spreadoak Plantation**
- 7.1.1 The Committee received the report setting out an application for use of land for the storage of inert processed secondary aggregate produced at new Spreadoak recycling facility until 31 December 2031 without compliance with conditions 1 (restoration date) and 2 (approved documents) and 3 (source of recycled aggregate) of permission reference FUL/2021/0004 (McLeod Aggregates Ltd) Relocation of inert recycling facility from existing position within the Longham

extraction area onto land designed to serve the Spreadoak extraction area (Raymond McLeod (Farms) Ltd).

7.1.2 The Case Officer gave a presentation to the Committee:

- The two sites in the application shared access onto Reed Lane. The relocated recycling facility would give rise to approximately 40 daily HGV movements (20 in and 20 out).
- The proposal stated no more than 6 HGVs per day could access the site from Reed Lane North
- No trees would be lost in creating the proposed access to the plant site as this was already in use for access to the Spreadoak site.
- Land would be lost from agricultural use for a minimum of 15 years and the application did not accord with the Core Strategy
- The application was recommended for refusal for the reasons set out in the report. Officers felt the proposed site could be relocated within the existing site or Spreadoak site.

7.1.3 The Case Officer confirmed that the applicant's preference for the proposed site was because of the convenience of taking the residual waste from this site to be used in in the Spreadoak quarry to the south.

7.2 The Committee heard from registered speakers

7.2.1 Stephen Daw spoke to the Committee on behalf of the applicant:

- Mr Daw stated that officers' assessment of the application as a departure was a mistake, noting that there had been no objections received to the applications.
- Mr Daw said that policy CS6 stated "waste sites of existing mineral workings and landfill sites would also be acceptable in principle but would be restricted to a temporary permission". The preamble gave further background, stating "waste management provision will be achieved in accordance with the special strategy for strategic and non-strategic sites" and "opportunities for integrated waste management will be encouraged where various waste management options can be co-located to reduce transport requirements". Mr Daw therefore noted that the policy was intended to be applied at strategic level and encourage colocation of mineral, landfilling and recycling activities to be located together as at Bittering but did not intend to say exactly where it would take place
- The applicant had not provided land quality surveys as this was not requested however the application included measures to ensure the land was restored to a standard at least as high as at the present time.
- In July 2021, planning officers recommended approval for an application at Stanngghall for quarrying of 69 hectares of grade 2 and 3 land with the same restoration measures; this site was smaller at 0.9 hectares.
- The application made a need case in the site visit and in written submission.

7.2.2 Neil McLeod spoke to the Committee on behalf of the applicant:

- Mr McLeod owned Longham Hall and McLeod Aggregates and had farmed

there for 54 years. He intended to ensure the land was restored to good agricultural lands, and so far, ponds for wildlife had been created and miscanthus grown on restored land.

- Mr Mcleod felt the officers' recommendation was unbelievable as the site was the best and most efficient way of operating however noted officers' observation that it was against the NCC mineral planning policies, which he pointed out had not been updated to take account of global warming
- The suggested plant site was not possible due to the accumulation of noise from other operations and high risk of contamination of high-quality gravels; lorries needed to clean their wheels of clay before driving to load up with clean aggregates. In addition, to comply with the Environment Agency licence loads should be inspected when tipped. The suggested alternative plant site would mean that on days when recycling was not taking place, someone would have to travel up to the alternatively site to check loads and as the site progressed each distance would become further.
- When the white diesel changeover occurred, Any vehicles left isolated overnight would be susceptible to diesel theft; police advice was to keep large equipment and diesel tanks away from isolated places
- The 0.9hectare site was the second worst piece of land farmed by the company and the application description of the land adjoining Longham Heath was out of date as it had been woodland for nearly 60 years.
- The only way to continue with the current permission would be to reduce operations substantially as the availability of clean soils to restore to good agricultural land was limited. A riddle bucket could be used which would not require planning permission, but this would produce inferior produce and emit more carbon.

7.2.3 Cllr Mark Kiddle-Morris spoke to the Committee as Local Member for Necton and Launditch

- Cllr Kiddle-Morris was in support of the application and believed that the departure from the development plan was justified in this instance.
- The proposed site was on 2.4 acres of land previously part of Longham Heath and difficult to use for agriculture.
- Storage of inert material should take place on mineral workings; the new Spreadoak site was suggested as suitable but would involve a round trip of 1km for storage and processing. The existing plant was fully occupied and would not be suitable for storage and recycling of material.
- Approval of the application would remove the requirement for the 1km round trip and reduce the carbon footprint of the site.
- Cllr Kiddle-Morris noted that the application had received no objections and felt that the solution put forward in the application would reduce the carbon footprint and cost of producing the recycled product, outweighing the loss of 2.4 acres of agricultural land.

7.2.4 Committee Members asked questions to the registered speakers:

- The applicants were asked when the agricultural land on the site was last used for farming; Mr McLeod stated that the land was last farmed in 2020. It was a short piece of land and not very manageable for farm machinery.

- Mr McLeod explained that the recycling area for Longham was over the other side of the road, with extraction taking place 500-600m away depending on the distance along the field. The proposed site would be on route to the extraction area, reducing the distance to be travelled.
- 7.2.5 The Committee moved on to debate of the application:
 - The Case Officer confirmed that a soil survey was not requested during the application process, but soil samples were carried out by Tarmac in 2007 for the Spreadoak quarry application. Seeking additional sampling would be costly and likely come to the same conclusion and the case officer wanted to report that application to Members without delay.
- 7.3.1 Cllr Tony White, seconded by Cllr Mike Sands, **proposed** to approve the application on the grounds that moving waste up the hierarchy outweighed the loss of agricultural land. Conditions would be drafted for approval by the Chair if approved.
- 7.3.2 With 8 votes for and 3 against the Committee **RESOLVED** to **approve** the application on the grounds that moving waste up the hierarchy outweighed the loss of agricultural land.
- 8. **C/2/2018/2016: Grandcourt Quarry, Leizate Works, Station Road, Leziate, King's Lynn, PE32 1EH and C/2/2018/2017: Grandcourt Quarry, Leizate Works, Station Road, Leziate, King's Lynn, PE32 1EH**
 - 8.1.1 The Committee received the report setting out the application for an additional area of extraction at Grandcourt Quarry and in a parallel planning application, to vary four No. conditions of planning permission C/2/2004/2034 in-order-to amend the timing of the working and restoration at the existing Grandcourt Quarry. Application reference C/2/2018/2017 is to be considered concurrently with application reference C/2/2018/2016 as the two are inherently linked.
 - 8.1.2 The Head of Planning in the absence of the Case Officer gave a presentation to the Committee:
 - The applicant had lodged an appeal to the Secretary of State for non-determination of the application. Therefore, the Committee's decision would be to inform the Secretary of State of the County Planning Authority's intention over the application.
 - The proposed extraction area was immediately north of the A47.
 - A public bridleway ran north to south through the site up to Northgate Farm. The proposed restoration included moving the bridleway 100m to the east to form a boundary between the two landowners. A footpath diversion was suggested to go around the extraction site for the duration of the extraction. Upon completion it was proposed to divert the footpath along the hedge parallel to the A47, effectively extinguishing part of the footpath, as there was already a footpath along the A47.
 - Most of the mineral extracted on the site was to be transported by rail rather than road.

- 8.1.3
- All issues apart from those related to the footpath had been resolved.

The Head of Planning confirmed that the temporary diversion of the footpath would be an improvement however on completion of the proposed work, a loss in footpath would be seen. The footpath could not be retained in its current route due to the proposal to return the land to water.

8.2.1

Cllr Jim Moriarty, Local Councillor for Gayton and Nar Valley, spoke to the Committee:

- Cllr Moriarty noted the need to be mindful of the impact of extraction on residents and its disruption on their lives.
- After extraction the land would be different than before; the water would pose a risk of fatalities, and Cllr Moriarty noted that antisocial behaviour was a risk brought from creation of lakes after extraction.
- Cllr Moriarty felt that mining and extraction companies needed to be a good neighbour and fulfil obligations when they leave a site, obeying requirements of policy DM14 for aftercare and restoration.
- Cllr Moriarty believed that Sibelco were trying to “shirk their responsibilities” by going straight to Secretary of State and he supported officers’ recommendations.

8.2.2 Cllr Moriarty was asked for more information on the local area; there was a restaurant, pub and other businesses nearby however Cllr Moriarty was not sure if they were close enough to be affected by noise from the site. The restoration of the right of way was the main concern about this application.

8.2.3 The Committee moved to debate on the application:

- It was noted that this application site was located very close to East Winch residents.
- The Head of Planning confirmed that officers had sought to secure an improvement to the proposed change to the rights of way but had been unable to do so . The proposal would therefore result in a deterioration of access to the countryside and so did not accord with DM14. and was
- It was noted that Norfolk County Council landbank for silica sand was currently below 7 years .

8.3 With 9 votes for and 2 abstentions the Committee **RESOLVED** that the Executive Director of Community and Environmental Services be authorised to:

1. Advise the Secretary of State that the County Planning Authority would have been minded to refuse the Applications for the reason set out in section 11 (Recommendations) of the report.

The meeting ended at 13:16

Chair



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Planning (Regulatory) Committee

Item No: 5

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

Date of Meeting: 25 March 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:

Installation of a solar photovoltaic array/solar park with associated infrastructure (Infinis Solar Developments Ltd)

Executive Summary

Permission is sought for a PV 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.

The application is being reported to this committee in accordance with the constitution on the basis of the number of objections (from fifteen households/individuals), and that it was submitted with an Environmental Statement.

Whilst the application is finely balanced given that the scheme would have an impact on the local landscape and the setting of the Broads, it 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 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.

Background

- 1.1 The application site occupies part of the Aldeby landfill site which has a long history of both mineral extraction and subsequent landfilling to restore the site. The most recent permission for the landfill site required the remaining land to be restored by the end of July 2021, with the landfill capped, and all landscaping carried out. Whilst the filling and capping of the landfill site has ceased, the operator of the landfill site, FCC, has not yet fulfilled its landscaping and planting obligations for the site.
- 1.2 Although the application is for not for waste development but energy generation, given the location of the site on a recently restored landfill site that will require careful management and monitoring for a number of years, the application has been dealt with as a County Matter. The presence of the landfill site and associated CLM (captured landfill methane) electricity substation means a grid connection is already in place to export the energy generated from methane emitted from the decomposing waste, which the developer would be able to utilise.
- 1.3 Following the developer's request for a Screening Opinion in accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment Regulations 2017 (the EIA Regulations) the County Planning adopted the County Planning Authority (CPA) advised that an EIA would need to be undertaken given the likely significant impacts. Therefore, the application has been submitted with an Environmental Statement and all Environmental Information, including additional information requested and submitted under Regulation 25 of the EIA Regulations has been considered in reaching this recommendation.
- 1.4 The entirety of the site falls within Aldeby parish.

Proposal

SITE

- 2.1 The PV array would occupy some 6 hectares of the Aldeby closed landfill site that is now largely restored save for final landscaping. The application site itself is 11.62 hectares which includes the additional infrastructure to support the facility, an access road, and also accounted for a larger PV array that has now been reduced in size by around 25%.

- 2.2 The proposed site is located in the south-eastern part of the landfill and straddles two former planning permissions that have both now lapsed. The majority of the panels would be located on the original landfill permission reference D/7/1987/3193, that was filled and restored in the late 1990's with only the northern part of the proposed array occupying part of the more recent permission C/7/2018/7007 that required the capping and restoration of that part of the landfill by July 2021.
- 2.3 The nearest residential properties to the application site are College Cottages that are located to the south-west of the site on the corner of Common Road and St Mary's Road. The boundary of the closest property is some 70 metres to the application boundary which encompasses the access track to the PV array and approximately 250 metres to the panels themselves. The Angles Way footpath follows the course of the River Waveney to the south and the closest point is some 800 metres away.
- 2.4 To the northwest of the site lies the Grade II listed Oaklands Farmhouse, the nearest heritage asset, some 350 metres away.
- 2.5 The southern boundary and the south-eastern corner of the site are adjacent to the Broads Authority Executive Area. The site is within 800 metres of Barnby Broad and Marshes Site of Special Scientific Interest (SSSI) that form part of the Broadland Special Protection Area (SPA) and the Broads Special Area of Conservation (SAC), both European protected sites. Barnby Broad and Marshes SSSI also forms part of the Broadland Ramsar site which is protected at an international level. In addition the site is within the SSSI Impact Risk zone for solar schemes with a footprint greater than 0.5ha requiring consultation with Natural England. The application site is also adjacent to the Boons Heath County Wildlife Site (CWS) which is to the east of the landfill beyond Boon Road.

PROPOSAL

- 2.6 Permission is sought for the development of a photovoltaic (PV) array and associated infrastructure. Approximately 8000 PV panels would be installed, and retained on site for a period of 35 years. Following this, the panels and associated infrastructure would be decommissioned and removed, and the remaining part of the landfill site restored/planted. The PV array would have a generating capacity of 4.5 Megawatts (MW) with an annual energy production of approximately 4900 MWhrs.
- 2.7 The application is a scaled back version of the one originally submitted which proposed 12,000 PV panel with a 7MW capacity. The proposal was amended following the initial consultation period which resulted an objection from the Broads Authority on the basis of the scheme's landscape impact.

- 2.8 Rows of solar panels, known as strings, would be mounted on a rack comprising metal poles anchored into the ground via concrete footings of shallow piles. Each string would be mounted 2-6 metres apart to avoid inter panel shading and panels would be tilted between 10° and 25° to face south towards the sun. Panels would be mounted at 0.8 metres above ground level at the lowest point rising up to 2 metres at their northern edge.
- 2.9 In addition to the panels themselves, the development would comprise of a steel DNO (Distribution Network Operator) switching station that would be positioned within the existing landfill gas compound to the west of the site (which already generates energy from methane emissions), measuring 2.5m x 3.1 metres and 2 metres in height and painted green. Four other steel containers would be located at the western edge of the solar array to provide housing for battery energy storage, client side switching stations (x2) and general storage. These would also be green and no bigger than 3 metres in height and 12 metres in length.
- 2.9 The array would be enclosed by a 2-metre-high wood post and galvanised wire fence and closed circuit television cameras installed on 3-metre-high poles around the perimeter of the site. A 3.5 metre wide access track would be constructed linking the solar array to Common Road to the west and would be surfaced with a 0.3m road base. Soft landscaping including hedge planting would be used to help mitigate the visual impact of the development.
- 2.10 Whilst the applicant stated that the proposal was to also formally apply to amend the approved restoration scheme for the landfill site, as set out above, not only does the proposed array straddle two permissions, both have now lapsed hence it would not be possible to amend them under section 73 of the Town and Country Planning Act 1990 in any case.

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 Joint Core Strategy for Broadland, Norwich and South Norfolk (adopted 2014) (JCS) and South Norfolk Local Plan (adopted 2015) (SNLP) provide the development plan framework for this planning application. The following policies are of relevance to this application:

Norfolk Minerals and Waste Development Framework

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
DM16: Soils

3.1 Joint Core Strategy for Broadland Norwich & South Norfolk

Policy 1: Addressing climate change and protecting environmental issues

Policy 2: Promoting Good Design

Policy 3: Energy

3.2 South Norfolk Local Plan

Policy DM 1.4 Environmental Quality and local distinctiveness

Policy DM 3.8: Design Principles applying to all development

Policy DM 3.11: Road Safety and the free flow of traffic

Policy DM 3.13: Amenity, noise and quality of life

Policy DM 3.14: Pollution, health and safety

Policy DM 4.2: Sustainable drainage and water management

Policy DM 4.1 Renewable Energy

Policy DM 4.5 Landscape Character and River Valleys

3.3 Neighbourhood Plan

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

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;

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

3.5 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.

- 3.6 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 MP8: Aftercare
- 3.7 Greater Norwich Local Plan (Regulation 19 Publication – currently undergoing examination)
Policy 2: Sustainable Communities
Policy 3: Environmental Protections and Enhancement
- 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

South Norfolk District Council: No response received.

Broads Authority: Object to the application. The conclusions of the Landscape & Visual Impact Assessment (LVIA) are considered to undervalue the adverse impacts on the landscape character and setting of the Broads. Although some mitigation is proposed, it is not considered likely to fully mitigate the adverse effects.

District Council Environmental Health Officer: Initially requested a detailed noise assessment (with reference made to the inverters) to quantify the impacts of operations against nearby receptors. Is otherwise largely happy with the application and recommends conditions to deal with construction management and unexpected contamination should this be found during development of the site.

Was re-consulted on the noise assessment after it was requested and received from the applicant but no further comments have been submitted.

Environment Agency: No objection, acknowledge that the applicant has recognized the need to protect the landfill cap.

Historic England: No objection. The proposed development would not have any significant impact on any grade I and grade II* listed buildings or scheduled monuments in the wider landscape surrounding the application site

Natural England: No objection, consider that the proposal would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Highway Authority: No objection subject to conditions requiring submission and implementation of a Construction Traffic Management Plan (CTMP) and Access route.

It is noted that in highway terms the main issues relate to the 4 month construction phase. It is the Highway Authority's preference that the existing haul road from the C388 be used which was previously used to serve the landfill site. Whilst the proposed route to/from the site would use narrow roads, which travel through residential areas, there are informal & formal passing places in place in parts the short-term use (as proposed), it would not however lead to a recommendation of refusal from the Highway Authority subject to the submission of a CTMP and a wear and tear agreement to manage this process.

Lead Local Flood Authority (NCC):

No comments to make.

Highlight that an inverter or a DNO Switching station has been placed in an area mapped as being at high risk of surface water flooding. Environment Agency Surface Water flood risk mapping illustrates that this area of the site is at risk of flooding from 3.33% annual probability flood (AEP) rainfall events and higher.

County Council Ecologist: No objection following amendments to application which overcome concerns relating to the delay in the landfill's restoration scheme. Mitigation measures proposed in the Environmental Statement should be secured by a Construction & Environmental Management Plan (CEMP). Also request that an Ecological Design Strategy (EDS) is also secured by condition.

County Council Arboriculturist: No objection provided the development is carried out in accordance with the Tree Protection Plan.

County Council Historic Environmental Officer (Archaeology): The proposed development will not have any significant impact on the historic environment and we do not wish to make any recommendations for archaeological work

Anglian Water: No comments, there is no connection to the Anglian Water sewers.

Health and Safety Executive: HSE Planning Advice does not have an interest in the development.

Norfolk Fire & Rescue Service: Does not raise an objection providing the proposal meets the necessary requirements for Building Regulations, 2010 – Approved Document B (volume 1 -2019 edition) as administered by the Building Control Authority.

Aldeby Parish Council

Object to the application on the following grounds:

- The proposed traffic management plan is flawed and does not take into account residences, businesses, the Day Care centre and children's play areas along the route;
- The proposal would further delay restoration (which is already 5-10 years overdue by a further 35 years);
- In appropriate siting of the PV panels that would have a major visual impact for at least 20 miles and from the Angles Way. The photographic evidence within the application is not reflective of the actual likely impact;
- Concerns regarding noise particularly at night – there is no mention of sound insulation/mitigation;
- Request that Committee members carry out a site visit to consider short and long term impacts.

Wheatacre Burgh St. Peter Parish Council

- Has no objection to the solar park and consider it a sensible use of the former landfill site – the panels are located in a very sparsely populated area and would have minimal impact on local residents.
- Concerned whether there is sufficient existing infrastructure to deliver energy to the grid
- Strongly opposed to the traffic management proposals – consider it over complicated and unnecessary as traffic could be directed along the existing haul road. The developer needs to negotiate an agreement with the landowners to use the existing haul road.
- Councillors are disappointed local villagers will not benefit from the installation.

Local Member (Cllr Barry Stone)

It has proved controversial for some local residents and the Parish Council so it may need to go to committee. Is in favour of the project as it falls within his remit of environmental issues but it needs to be handled sympathetically regarding the concerns and fears of local residents.

3.10 REPRESENTATIONS

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

individuals or households raised concerns about the proposal with nine explicitly objecting. A number of correspondents commented multiple times reaffirming initial comments or with new issues. The objections/concerns raised were on the following grounds:

- Unacceptable visual impact and harm that would be caused to the landscape;
- Any landscaping to help mitigate will take time to mature and be effective;
- Unacceptable impact on heritage assets;
- Unacceptable impact on the Broads National Park including the future amenity and environmental biodiversity value;
- Village has already endured negative effects of landfill and associated impacts for 30 years (and the preceding operation of the quarry), and restoration would be lost if scheme is approved;
- Site is already long overdue to be reinstated to natural habitat;
- Proposal would provide no benefits to villagers or village life including from employment of other intrinsic benefits;
- Unacceptable impact on highway network which is shared for recreation by pedestrians, cyclists, horse riders etc;
- Unacceptable proposal for traffic management during construction;
- During this period there would be an impact on emergency services or utility repairers;
- Access via this route would contravene historic planning permissions;
- Low carbon energy needs to be generated at more suitable/appropriate site;
- Misleading photos/photomontages provided by developer;
- No artists impressions of what PV array would actually look like;
- Impact of glare from PV panels which will be seen from Waveney Valley;
- Adverse impact on tourism and the role it plays in local economy;
- Impact on biodiversity on and off site including that which would not be realised if site is not restored in accordance with the approved scheme;
- If the scheme goes ahead the panels should be sited at the north of the landfill site (rather than the south);
- Development should not be approved so close to residential area;
- Potential noise levels from the transformers, inverters and containers containing electrical equipment;
- Light pollution including from containers housing electrical equipment;
- Landfill is meant to settle so how can panels be fixed on moving ground?
- Risk posed of mixing electricity and methane;
- Evidence is required to demonstrate the installation would comply with The Environmental Standards Association Code of Practice to identify sources of Explosive Gas Atmospheres;
- The site is already identified as a dangerous site due to existing signage and therefore it is not one that is suitable for a PV array;
- Reduction in house prices in the vicinity of the development;

- Concerns that the developer would later apply to extend the array to cover the entire landfill.
- Disruption would occur at the decommissioning stage at the end of the 35 year period if alternative access arrangements were not put in place.

In addition, one letter was received in support of the proposal on the grounds that:

- The proposal would make good use of the site and be helpful to the environment;
- The short term pain of more traffic on Rectory Road would be offset by long term gain in a positive use of the land.

3.11 APPRAISAL

The key issues for consideration are:

- A. Principle of Development
- B. Landscape & Visual Impact / Design
- C. Amenity
- D. Ecology
- E. Impact of Heritage Assets
- F. Transport
- G. Sustainability
- H. Flood Risk
- I. Groundwater/surface water
- J. Loss of Agricultural Land
- K. Cumulative Impact

3.12 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”.

- 3.13 Whilst the proposed development is located on part of a landfill site which has only recently been restored, the principle of development is not for waste development per se but for renewable energy generation that would not be generated through the landfill gas emitted from the landfill. Conventionally PV arrays would not be a County Matter and dealt with by the district council. South Norfolk District Council do not allocate sites for PV arrays as part of the Local Plan process and therefore the suitability of a potential site is assessed against development management policies.

- 3.14 Whilst NMWDF Policy CS13: *Climate change and renewable energy generation* seeks to promote the generation of on-site renewable energy, including through solar panels, this relates to new waste sites. In this

instance, although the land will require continued management and monitoring through the life of the environmental permit as the waste decomposes and the landfill settles, the land itself no longer meets the definition of being previously developed and has returned to countryside status.

- 3.15 Therefore, in addition to giving weight to policies within the adopted NMWDF Core Strategy to assess the impact of the proposal on the approved restoration and integrity of the landfill cap etc, as well as all other potential environmental impacts, weight needs to be given to policies in the both the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) and the South Norfolk Local Plan (SNLP) in order to assess the principle of energy development in the open countryside and the impact of the PV panels and associated ancillary infrastructure.
- 3.16 Objective 1 of the (JCS) is to Minimise the contributors to climate change and address its impact. Specifically Policy 3: *Energy and water* seeks to minimise reliance on non-renewable high-carbon energy sources and maximise the use of decentralised and renewable or low-carbon energy sources. SNLP Policy DM 4.1 *Renewable Energy* states renewable energy generation will be supported and considered in the context of sustainable development and climate change but that the effect of the proposal will be considered on the effect on the character and appearance of the landscape, heritage assets and amenities of nearby residents. The policy states that permission will be granted where there are no significant adverse effects or where any adverse effects are outweighed by the benefits.
- 3.17 Paragraph 158 of the NPPF states that when planning authorities should not require applicants to demonstrate an overall need for renewable energy and should approve an application if its impacts are (or can be made) acceptable. Therefore, the principle of energy generation at this location is supported subject to there not being any adverse environmental impacts, as examined below.
- 3.18 B - Landscape & Visual Impact
- Adopted NMWDF Policy CS14: *Environmental Protection* require 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. South Norfolk Local Plan policy DM 4.5 *Landscape Character and River Valleys* states that all development should respect, conserve and where possible enhance the landscape character of the immediate and wider environment and that proposals that would cause significant adverse impact on the distinctive landscape characteristics will be refused.
- 3.19 The 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 adjacent to the Broads Authority Executive Area located predominantly to the south of the site. Also to the south of the application site is the Angles Way footpath the closest point of which is some 800 metres away. As recognized in the applicant's Landscape and Visual Impact Assessment (LVIA) which forms part their Environmental Statement, the site falls within South Norfolk's Landscape Character Area C2: Thurlton Tributary Farmland and Parkland. The Landscape Character Assessment recognizes open views across the marshes of The Broads and vulnerability to any change within views and the effect on the setting of The Broads.

- 3.20 Although the LVIA concluded that the proposal would result in some minor adverse effects on landscape character and visual amenity but that this would be acceptable, both the County Green Infrastructure & Landscape Officer and the Broads Authority both initially objected to the planning application.
- 3.21 Following the initial consultation exercise, the applicant was invited to address the objection received from the Broads Authority on landscape grounds on the basis the conclusions of the Landscape & Visual Impact Assessment (LVIA) are considered to undervalue the adverse impacts on the landscape character and setting of the Broads. Officers also requested that the scheme be formally amended to leave intact as much of the trees and other planting that is a requirement of the landfill site's restoration scheme. Whilst much of it is not yet in place now, the CPA has requested that it is implemented by FCC (the landfill operator) before the end of the current planting season i.e. 31 March 2022 on the basis it should already have been planted. This will need to be planted regardless of the outcome of this planning application, and within 3 years, the timeframe that the applicant would have to implement this permission in the event Members grant permission, could be well established. Particular reference was made by officers to safeguarding a potential woodland block to be planted on the north western part of the application site that the PV array, as originally submitted, would interfere with.
- 3.22 The applicant subsequently reduced the extent of the PV array by around 25% from twelve thousand panels to eight thousand panels. The panels were removed from northern and north-western part of the array taking them off the higher points of the landfill and also away from the location of the aforementioned woodland block. In addition, the panel height was reduced from 2.6 metres to 2 metres the intention was that the development would be brought down from the skyline. The applicant also made changes to, and the siting of, the ancillary equipment required for the grid connection etc. The amended scheme proposed additional planting at the southern boundary of the site and largely allowed the array to fit within the approved restoration planting that FCC will deliver (save for a realignment of the western hedgerow) at the north of the site. On decommissioning of the facility it is envisaged that site vegetation would remain in place including hedgerows around the perimeter and woodland block in the northwest.

- 3.23 Notwithstanding these changes the Broads Authority has maintained its objection stating that although some mitigation is proposed, it is not considered likely to fully mitigate the adverse effects on the setting of the Broads. Furthermore, the County Green Infrastructure & Landscape Officer also upheld their objection on the basis of the adverse impacts on the sensitive landscape of The Broads.
- 3.24 Although as stated above the site is not within the Broads, Paragraph 176 of the NPPF states that development within the setting of the Broads should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Despite the amendments made to the array including the reduced footprint of the panels themselves, it is considered that the proposal would nonetheless have an adverse impact on the landscape and the setting of the Broads for the duration of the development (35 years). However this would be less of an impact than originally proposed and it would be a temporary impact albeit a long term one. Because of this impact on the setting of the Broads the development would not be fully compliant with the above landscape policies.
- 3.25 Reference was also made in representations from local people to the landscape impact of the proposal as the landfill settles over time as the waste decomposes. Much of the array is proposed to be located on the southern part of the landfill that has been capped and restored for over 20 years and it is not expected that any significant further settlement on this part of the landfill will take place. In addition, if some settlement takes place on the more recent permission, it is still expected that landform would retain its dome feature but at a lower level, rising in the north-eastern corner of the landfill, as per the agreed restoration plan. Therefore it could be argued that this would in fact lessen the impact on the landscape.
- 3.26 C – Amenity
- 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.
- 3.27 Noise
- As highlighted above, a number of residential properties lie in close proximity to the site to the south-west of the landfill site on the corner of Common Road and The Roadways. The boundary of properties are some 250 metres from the western most point of where the PV panels would be and where the ancillary infrastructure including the battery storage and switching stations etc would be located. They would also be a similar distance to the inverters that would be distributed across the development and which convert the direct

current (DC) electricity produced to alternating current (AC) so it can be used by the National Grid.

- 3.28 South Norfolk District Council's EHO initially highlighted the inverters as being a potential source of noise and requested an assessment to model and quantify the impact of operations against nearby receptors. This noise assessment was requested by the CPA under Regulation 25 of the EIA Regulations.
- 3.29 The submitted Noise Assessment which was undertaken in accordance with the British Standard (BS 4142:2014+A1:2019), identified the inverters, switching stations and battery storage containers as the primary sources of noise with noise from the panels themselves, general storage container and the DNO switching station (that would be within the current landfill gas compound) considered negligible. The Assessment found the level of impact from this infrastructure to be low with predicted Rating Levels significantly below background noise levels at all receptors at daytime and night time levels. The Assessment concluded that noise emissions from the proposal would not exceed 5dB(A) above background level and the development would be acceptable in regards to noise.
- 3.30 Although the EHO was re-consulted on this information for a further period of thirty days, and also chased with a follow up email, no further comments have been received. Given the conclusion of the Noise Assessment, it is not considered the proposal would have an unacceptable impact on amenity with regards to noise in the context of NMWDF Policy DM12: Amenity or significantly detrimental in relation to SNLP Policy DM 3.13: Amenity, noise and quality of life.
- 3.31 Glint & Glare
As part of the original application the applicant also lodged a Glint and Glare study to assess the likely impacts of the proposal from solar reflection. Glint is defined as being a momentary flash received by moving receptors whereas glare is a continuous source of bright light received by static receptors. The Assessment found no significant impacts with regards to road users. With regards to solar reflections at residential dwellings, it was found that this was possible at four of the eight receptors assessed however due to existing vegetation, the properties would be screened from glare from the panels.
- 3.32 In terms of the other two dwellings (to the southwest of the landfill on the corner of Common Road and St Mary's Road), the Assessment states it is expected that an observer would experience solar reflections for less than 60 minutes a day but for more than three months a year. It advises that the residents would not have views of the entire panel area due to the location/orientation of the properties, reducing the duration of the effects. Furthermore, this glare would be likely to occur when the observer is also looking towards the sun which would be a far more intense source of light. This is categorised as a 'moderate' effect and as a result the applicant has

proposed screening in the form of native hedgerows to obstruct views of the reflecting panel area. Subject to this landscaping (with mature planting used if necessary) being secured by condition and planted prior to installation of the PV panels, the proposal is acceptable in this respect.

3.33 D – Ecology

NMWDF Core Strategy policies CS14 and DM1 both seek to protect adverse impacts on biodiversity including nationally and internationally designated sites and species. The site is not the subject of any statutory designations but as set out above it is within 1 kilometre of the Barnby Broad and Marshes Site of Special Scientific Interest (SSSI) that form part of the Broadland Special Protection Area (SPA) and the Broads Special Area of Conservation (SAC), both European protected sites. It is also adjacent to the Boons Heath County Wildlife Site which is to the east of the landfill beyond Boon Road.

3.34 The impacts of the proposal on ecology on and off the site was addressed within the Environmental Statement (ES). The Survey undertaken found that the application site has a limited range of low value habitats which was a result of the recent landfill operations. However, it should be borne in mind that with reference to the northern part of the proposed site in particular, had the approved restoration planting been delivered in accordance with the timetable set out in the planning permission, there may have been more opportunities for habitats to develop due to the increased number of trees and hedgerows that would have been in situ by now. It also stated that the site had limited potential to support protected species, specifically reptiles, great crested newts, badgers and bats. Furthermore, the site may support a limited range of breeding birds including some of conservation concern.

3.35 However the ES states that with the implementation of mitigation no significant adverse ecological impacts or legal offences are predicted during the construction period. The habitat management proposed would compensate for the minor effects of habitat loss/disturbance which would in the long terms provide benefits to the ecological features considered in the assessment, and constitute a net gain in biodiversity.

3.36 Natural England in their consultation response advised that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Although the County Ecologist originally raised a holding objection, on submission of further information including an amended landscaping plan to address concerns relating to the delay in implementation of the landfill site's restoration scheme, they ultimately raised no objection subject to conditions to secure the mitigation measures set out in the ES (including carrying out works at the correct time of year) through a Construction Environmental Management Plan (CEMP) and also an Ecological Design Strategy (EDS). Subject to these works the proposal is compliant with development plan policy.

3.37 Appropriate Assessment

The site is situated within 800 metres of the Barnby Broad and Marshes Site of Special Scientific Interest (SSSI) that form part of the Broadland Special Protection Area (SPA) and the Broads Special Area of Conservation (SAC), a European protected habitat. Barnby Broad and Marshes SSSI also forms part of the Broadland Ramsar site which is protected at international level. 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.

3.38 E – Impact on Heritage Assets

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. 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*.

3.39 Listed Buildings

As set out above, the Grade II listed Oaklands Farmhouse lies some 350 metres to the north of the application site beyond Taylors Road. However, given the distance to the heritage asset and the topography of the intervening land which includes existing trees and vegetation along the northern boundary of the landfill site, it is not considered that the proposal would harm the setting of the Listed Building.

3.40 In commenting on the application, Historic England advised that the proposal would not have any significant impact on any grade I and grade II* listed buildings or scheduled monuments in the wider landscape surrounding the application site. On this basis it raised no objection on Heritage grounds.

3.41 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.

- 3.42 Because the land where the PV panels would be located has already been broken when it was original worked for minerals prior to landfilling, there are no implications from an archaeological perspective and the County Historic Environment Officer did not make any recommendations for archaeological work.
- 3.43 F – Transport
NMWDF Policies CS15: *Transport* and DM10: *Transport* states that new minerals or waste development must not result in unacceptable risks to road users and pedestrians or unacceptable impacts on the capacity or efficiency of the highway network. SNLP policy DM 3.11 states that development will not be permitted that endangers highway safety or the safe functioning of the highway network.
- 3.44 A Transport Statement was submitted as part of the Environmental Statement stating that the existing access onto Common Road would be used to the west of the site for development of the PV array with construction vehicles using Hollow Way Hill, Beccles Road, Rectory Road and Dun Cow Road for connectivity to/from the A143.
- 3.45 The applicant expects the development to be constructed over a four-month period with approximately 7,458 movements/journeys both to or from the site (i.e. 3729 vehicles) arising from deliveries of materials and components or staff working at the site. During the peak period of construction it is anticipated 40 construction personnel would be present on site therefore resulting in 80 vehicle movements per day.
- 3.46 In order to manage the construction traffic, the applicant proposes to implement a temporary one-way system with Common Road used for southbound traffic from Beccles Road junction to Dun Cow Road junction and Dun Cow Road used for northbound traffic only from the Common Road junction to Rectory Road/Beccles Road. Traffic lights would also be temporarily used at the Dun Cow Road/Common Road/Lily Lane junction to further control traffic and drivers of all delivery vehicles would be instructed to only use the approved route. Once operational, the PV array would create very low numbers of vehicle movement so there would be no ongoing need for traffic management. The ES concludes that the residual effects following implementation of these mitigation measures would be minor and not significant in terms of the EIA Regulations.
- 3.47 In raising no objection to the proposal, the Highway Authority did however note a preference for the use of the existing haul road on adjacent land to the west that previously served the landfill site whilst it was still active. The existence of, and use of the route, has also been cited in a number of representations including from Aldeby Parish Council as a means of reducing the impact on the public highway. However as also recognized by the Highway Authority, this was not put forward as part of the application and

therefore the application can only be assessed on what has been proposed. The haul road referred to traverses private land and was not included as part of the application, and therefore notice would not have been served on the landowner(s).

- 3.48 Moreover, the haul road was the subject of a recent appeal decision by the Planning Inspectorate (PINS), reference APP/X2600/W/19/3225900. The developer, FCC who also operate the landfills site had sought to retain the haul road in perpetuity through planning application reference C/7/2018/7008. However PINS in their appeal decision require the road to be removed and the land restored to an agricultural condition by the 8 April 2023 in accordance with a scheme and timetable to first be approved by the CPA. Therefore, even if the road had been included in the planning application, it would not have been possible to use it if FCC remove it and restore the land in the timetable set out in the PINS condition.
- 3.49 The Highway Authority noted that the routes proposed to be used include informal and formal passing places although the roads are narrow and travel through residential areas. However, given the short-term use proposed it would not lead to a significant highway safety concern and a recommendation for refusal subject to the submission of a Construction Traffic Management Plan and wear and tear agreement to manage the process. Subject to this condition the proposal accords with the development plan policy set out above and paragraph 111 of the NPPF given that the impact wouldn't be unacceptable.

G – Sustainability

- 3.50 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.
- 3.51 Environmental
As set out in section 3.15 above, policy CS13 of the NMWDF seeks to promote the use of on-site renewable energy at existing waste sites, however climate change and sustainability is actually embedded into the whole Core Strategy which seeks to 'help reduce emissions of greenhouse gases and thus mitigate climate change and ensure that Norfolk is seen as a leader in this area.' Sustainability is also central to both the JCS and SNDM policies which have also been considered in assessment of the application.
- 3.52 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.

- 3.53 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.

3.54 Socio-economic

The socio-economic impact of the proposal would be negligible. Although the application would create a modest number construction period of jobs, these would only be short term during the four-month construction period.

Reference has been made in representations that the PV array would adversely impact tourism within the Broads however it is not considered likely that this development would deter tourists from using the nearest part of the Broads.

3.55 H – Flood Risk

NMWDF policies CS13: *Environmental Protection* and DM4: *Flood Risk* requires developers to demonstrate waste 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.

- 3.56 Whilst the site is not in flood zone 2 or 3, on the basis the site exceeds a hectare in size a Flood Risk Assessment (FRA) was submitted as part of the Environmental Statement in accordance with the NPPF. The FRA recognized that because the site is in flood zone 1 it is categorised as being at the lowest risk of flooding and comprises land as having less than 1:1,000 probability of river or sea flooding in any year.

- 3.57 The FRA concluded that the use of vegetation under the PR array drip line will reduce the potential for surface water run-off rates to increase at the site. It also states that the risk of development flooding from all sources is negligible to low. In advising that it has no comments to make on the application, the Lead Local Flood Authority also highlighted in an Informative that an inverter or DNO Switching Station has been proposed to be placed in an area mapped at a high risk of surface water flooding. It added that Environment Agency Surface Water flood risk mapping illustrated that this area is at risk of flooding from 3.33% annual probability flood.

- 3.58 The proposal is compliant with development plan policy set out above and the NPPF.

3.59 I – Groundwater/surface water

NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. This policy underlines NMWDF policy

CS13: *Environmental Protection* which to ensure there are no unacceptable impacts on natural resources, including water.

- 3.60 As stated above the proposed PV array would be located at the southern part of the landfill site but straddling two now expired planning permissions. Although there are no longer extant planning permissions regulating operations, the site is still subject to an Environmental Permit regulated by the Environment Agency to ensure the landfill is managed in a way that doesn't pose a risk to the environment in terms of management of leachate and methane and other potential pollutants as the waste in the landfill biodegrades. The bulk of the panels would be situated on the part of the landfill that was filled and restored first with only the northern part of the array situated on the more recently filled area.
- 3.61 Unlike the cells in the northern part of the site which were lined, the cells at the southern part of the site were landfilled using a dilute and disperse principle where the landfill site was not lined and emissions were accepted provided sufficient dilution occurred in the underlying strata. On this basis although the site is not located above a ground water protection zone, it is important to ensure that additional pressure on the cap of the landfill site, i.e. from the PV panels, would not result in pollution of groundwater (underlying aquifers) or other receptors such as surface water which is in hydrogeological connection to downstream watercourses or private water supplies in the wider area.
- 3.62 In order to assess this applicant undertook a Groundwater Risk Assessment (GRA) as part of the EIA process. A conceptual site model was used which identified a number of potential sources from both the existing landfill as well as sources from the proposed development construction. A number of mitigation measures are proposed to minimise the risks to identified receptors during this phase, primarily through construction phase good practice measures.
- 3.63 The proposed solar panel foundation design would ensure that the landfill cap membrane and clay cap are not compromised and a minimum clearance of 300 mm between the base of the cap/membrane is maintained. As a result no new potential pollutant pathways would be created as a result of the Development. The conclusion of the GRA was that subject to the proposed mitigation the PV array poses a low risk with regards to contamination of either the site itself or sensitive receptors in the vicinity.
- 3.64 The Environment Agency (which will continue to regulate the site through the Environmental Permit) raised no objection commenting that the applicant has recognized the need to protect the landfill cap. On this basis it is not considered there would be a risk to groundwater or surface water and the proposal accords with development plan policy set out above.

- 3.65 J – Loss of Agricultural Land
NMWDF policy DM16: *Soils* seeks to direct waste 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. Prior to mineral extraction and the subsequent landfilling that took place, the land where the current application was understood to be grade 4. The approved restoration scheme for the northern part of the landfill site where the PV panels would be located states that the land will be restored to a use suitable for pasture grassland. The land where the bulk of the panels would be located, to the south has already been restored to what appears to be a similar state for a number of years. The land was not previously BMV land and given intervening landuse, will not ever be returned to such a condition.
- 3.66 The use of the land for this purpose would not therefore sterilise BMV land even for a temporary period and the proposal therefore accords with the policy.
- 3.67 K - Cumulative Impact
A number of representations cite the extensive operations of both the landfill site and the mineral extraction that preceded it. Reference is made both to vehicle movements and the adverse landscape effects prolonging this impact on the local community. However, although a series of time extensions were authorised for the landfill site and its final planting is overdue by a number of months, neither the short term impact from vehicle movements installing the array nor the PV panels themselves on part of the landfill site would represent an unacceptable cumulative impact and a ground to withhold permission.
- 3.68 L – Progressive working, restoration and afteruse
As set out above, the development is proposed on the Aldeby closed landfill site that has only recently been capped and ceased accepting waste. Much of the PV array would be located on the southern part of the landfill that has been restored for a number of years. However for the central area of the landfill that the array would also overlap, the landfill's restoration scheme has not been fully implemented with a significant amount of planting still to be undertaken.
- 3.69 There is a requirement that this restoration scheme will be fulfilled regardless of the outcome of this application on the basis it relates to a much wider area of the landfill site than the PV array, and that even if permission is granted by Members, the developer may take the full three years to implement the permission, or may not decide to implement it all. Therefore if necessary the CPA will take appropriate enforcement action on the landfill developer (FCC) to ensure this planting is delivered in accordance with NMWDF policy DM14: Progressive, working, restoration and afteruse.

- 3.70 In the event permission is granted, some of the approved planting including a woodland block would fall within the application boundary of the proposed PV array. Therefore an updated Tree Protection Plan would be requested by condition to ensure planting in place at that time (that is not currently in situ) would be safeguarded for the duration of the permission.

3.71 **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 In response the issues raised that have not been addressed in the report above:

- House prices are not a material considered in the planning process;
- It is not expected that a PV array on part of the closed landfill site would have a material impact on tourism or deter people from visiting the Broads;
- With reference to using an alternative part of the landfill site (to the north), only the merits of the current application can be assessed and not alternative/different proposals. Nonetheless the applicant did state the following in response to this point *'it had been considered but deemed not suitable given the much higher density of CLM infrastructure in this part of the landfill. This will have resulted in a much more fragmented layout extending over a larger area and possibly still encroaching on the south facing slopes.'*
- With reference to the hazardous nature of the landfill site and the potential for explosions etc, the Fire Service has been consulted and raised no objection subject to the development being constructed in accordance with building regulations. Furthermore, in terms of the landfill site itself, this will continue to be regulated by an Environmental Permit which includes recourse to fire risk and management.

Conclusion, Reasons for Decision and Planning Balance

- 4.1 Permission is sought for a PV array on part of the closed landfill site at Aldeby. It have an annual energy production of approximately 4900 MWhrs over its 35-year life span after which it would be decommissioned and removed.
- 4.2 The application has been submitted with an Environmental Statement and all Environmental Information, including additional information requested and submitted under Regulation 25 of the EIA Regulations has been examined and considered in assessing the application.
- 4.3 Whilst the site is adjacent to the Broads Authority Executive Area, it is not actually within it, nor is it within one of the County's Core River Valleys that are afforded a higher level of protection in the NMWDF when considering new

development. Given the elevated profile of the closed landfill the PV array would be visible from the Broads and would therefore have an adverse impact however the extent of the array has been reduced to lessen this impact and allow much of the landfill restoration planting to be implemented. Furthermore, although this is a long-term development, ultimately it is a temporary one and any landscape impacts are not permanent and would be reversible.

- 4.4 Although the land has returned to greenfield status, with restoration to a state suitable for pasture grassland, it would provide an opportunity to generate renewable energy on land that can never be returned to Best and Most Versatile (BMV), and therefore without taking it out of productive agricultural use.
- 4.5 This is a very finely balanced application but great weight is given to the renewable energy the PV array would provide in a low-lying area of Norfolk that would be most at risk from global heating and associated rising sea levels. The NMWDF Core Strategy states it seeks to help reduce emissions of greenhouse gases and thus mitigate climate change. Along with this plan, minimizing the contributors to climate change is also embedded in the both the JCS and SNDM Policies that are also both part of the development plan for this application. Although the Planning Practice Guidance (PPG) is clear that the need for renewable energy does not automatically override environmental protections, in this instance it is considered that the harm to the setting of the Broads is outweighed by the benefits of renewable energy generation and therefore the proposal is compliant with SNLP Policy DM 4.1.
- 4.6 On this basis the proposal is considered to accord with the development plan. There are not sufficient material considerations that warrant determining the application otherwise than in accordance with the development plan and therefore the application is recommended for approval subject to conditions. In accordance with Regulation 26 of the EIA Regulations the reasoned conclusion of the CPA is that there would not be significant impacts on the environment subject to the 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 application reference FUL/2021/0015 on the following grounds:

- I. **Grant planning permission subject to the conditions outlined in section 11.**
- 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

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 the Environmental Statement (including its recommendations).

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

3. Prior to commencement of development, and no earlier than 3 months before commencement of development, a tree protection plan shall be submitted to the County Planning Authority for its approval in writing to detail how the trees to be planted as part of the landfill site's restoration scheme (that may not yet be in situ) will be protected during both construction and once the development is operational.

Reason: To protect the amenities of the surrounding area and safeguard planting undertaken as part of the landfill restoration, in accordance with Policies DM12 and DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

4. Prior to commencement of development a scheme of landscaping shall be submitted to and agreed in writing by the County Planning Authority. This shall outline all proposed advanced planting proposed to prevent glare affecting nearby properties. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance. It shall be implemented prior to installation of the PV panels and make provision for:
 - a) the screening of the of the array by trees, hedges (including mature trees where necessary);
 - 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 (including from glare), in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

5. No development shall take place until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the County Planning Authority. The CEMP shall include the following:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'biodiversity protection zones';
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;

- h) Use of protective fences, exclusion barriers and warning signs. If several years have passed since surveys were undertaken, then update surveys may be required at the reserved matters stage and any additional mitigation measures that need incorporating into the site's design agreed with the local planning authority.

The approved CEMP shall be strictly adhered to and implemented through the construction phases of the development. A 'statement of good practice' shall be signed upon completion by the competent ecologist, and be submitted to the LPA, confirming that the specified enhancement measures have been implemented in accordance with good practice upon which the planning consent was granted.

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

- 6. No development shall take place until an ecological design strategy (EDS) addressing enhancements recommended within Section 5 of the environmental statement, and details of proposed planting) has been submitted to and approved in writing by the County Planning Authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works
- b) Review of site potential and constraints
- c) Detailed design(s) and/or working method(s) to achieve stated objectives
- d) Extent and location/area of proposed works on appropriate scale maps and plans
- e) Type and source of materials to be used where appropriate (e.g. native species or local provenance)
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development
- g) Persons responsible for implementing the works
- h) Details of initial aftercare and long-term maintenance
- i) Details of monitoring and remedial measures
- j) Details for disposal of any wastes arising from works
- k) Woodland, tree, hedgerow, shrub, wetland and flower planting and establishment The EDS shall be implemented in accordance with the approved details and all features will be retained in that manner thereafter. A 'statement of good practice' shall be signed upon completion by the competent ecologist, and be submitted to the LPA, confirming that the specified enhancement measures have been implemented in accordance with good practice upon which the planning consent was granted.

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

- 7. Prior to the commencement of development or any works on site a Construction Traffic Management Plan and Access Route which shall

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

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

8. For the duration of the construction period all traffic associated with (the construction of) the development will comply with the Construction Traffic Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority.

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

9. No development shall take place on site until a Construction Environmental Management Plan has been submitted to and approved in writing by the County Planning Authority in consultation with the District Council. The scheme shall be implemented as approved during the period of construction.

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

10. No lighting shall be used on site outside the construction period 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.

11. At the point the PV array hereby permitted is no longer used for the purposes of electricity generation, or within 35 years of commencement of development, whichever is sooner, the operator shall notify the County Planning Authority in writing and within three months of the operational requirement ceasing, the PV panels and all associated apparatus, structures, fences and hard surfaces etc shall be removed from the land and the site shall be restored in accordance with the scheme to be agreed by condition 12.

Reason for the condition: In the interests of minimising the impact on the visual amenities of the area in accordance with policies ENV8 and IMP2 of the South Norfolk Local Plan and policies DM3.9 and DM4.6 of the emerging Development Management policies document.

12. Within one year of the date of this permission, a scheme shall be submitted for the decommissioning of the array at the end of the use of the PV array. The scheme shall make provision for all infrastructure authorised by this permission, removal and replanting of the access track, and replanting of trees and hedgerows displaced by the PV panels from the original landfill restoration approved under application (C/7/2018/7007). The approved scheme shall be carried out within 6 months of removal of the PV panels.

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

13. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the County Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the County Planning Authority in consultation with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the County Planning Authority in consultation with the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the County Planning Authority.

Reason: To protect and prevent the pollution of groundwater in accordance with Policy DM3 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

Background Papers

- 12.1 Planning Application reference: FUL/2021/0015:

<http://eplanning.norfolk.gov.uk/PlanAppDisp.aspx?AppNo=FUL/2021/0015>

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 Joint Core Strategy for Broadland, Norwich and South Norfolk (2014):

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

South Norfolk Development Management Policies Document (2015):

<https://www.southnorfolkandbroadland.gov.uk/current-local-plan/adopted-south-norfolk-local-plan>

South Norfolk Landscape Character Assessment (2012):

<https://www.southnorfolkandbroadland.gov.uk/downloads/download/308/south-norfolk-landscape-character-assessments>

Great Norwich Local Plan Regulation 19 Publication (2021):

<https://www.gnlp.org.uk/regulation-19-publication>

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 (2018):

<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:

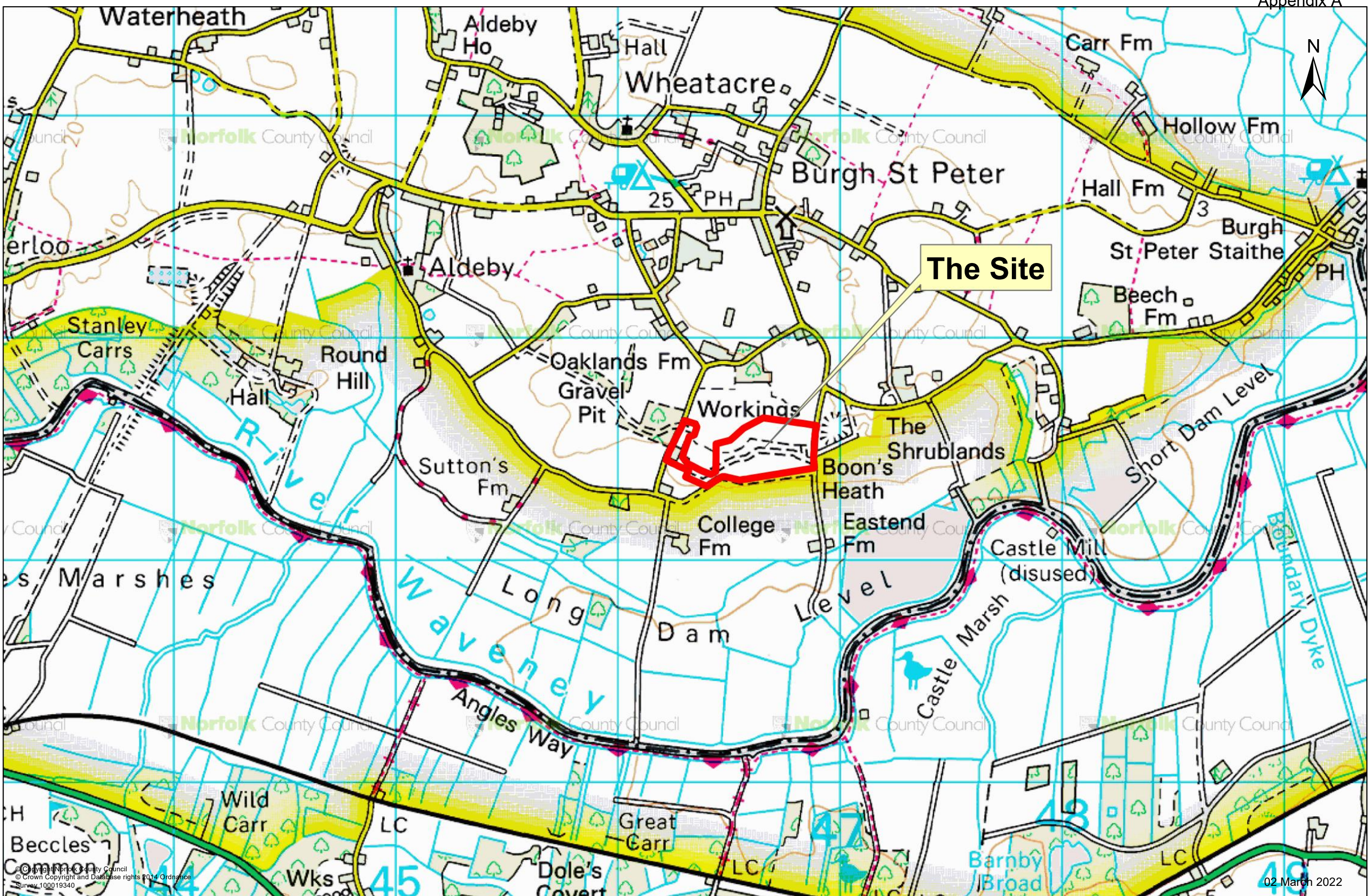
Officer name: Ralph Cox

Telephone no.: 01603 223318

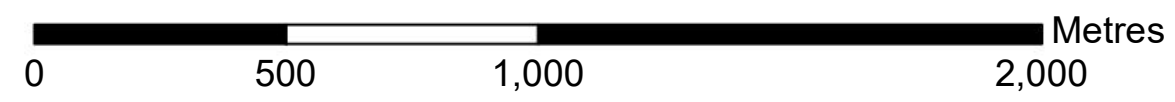
Email: ralph.cox@norfolk.gov.uk

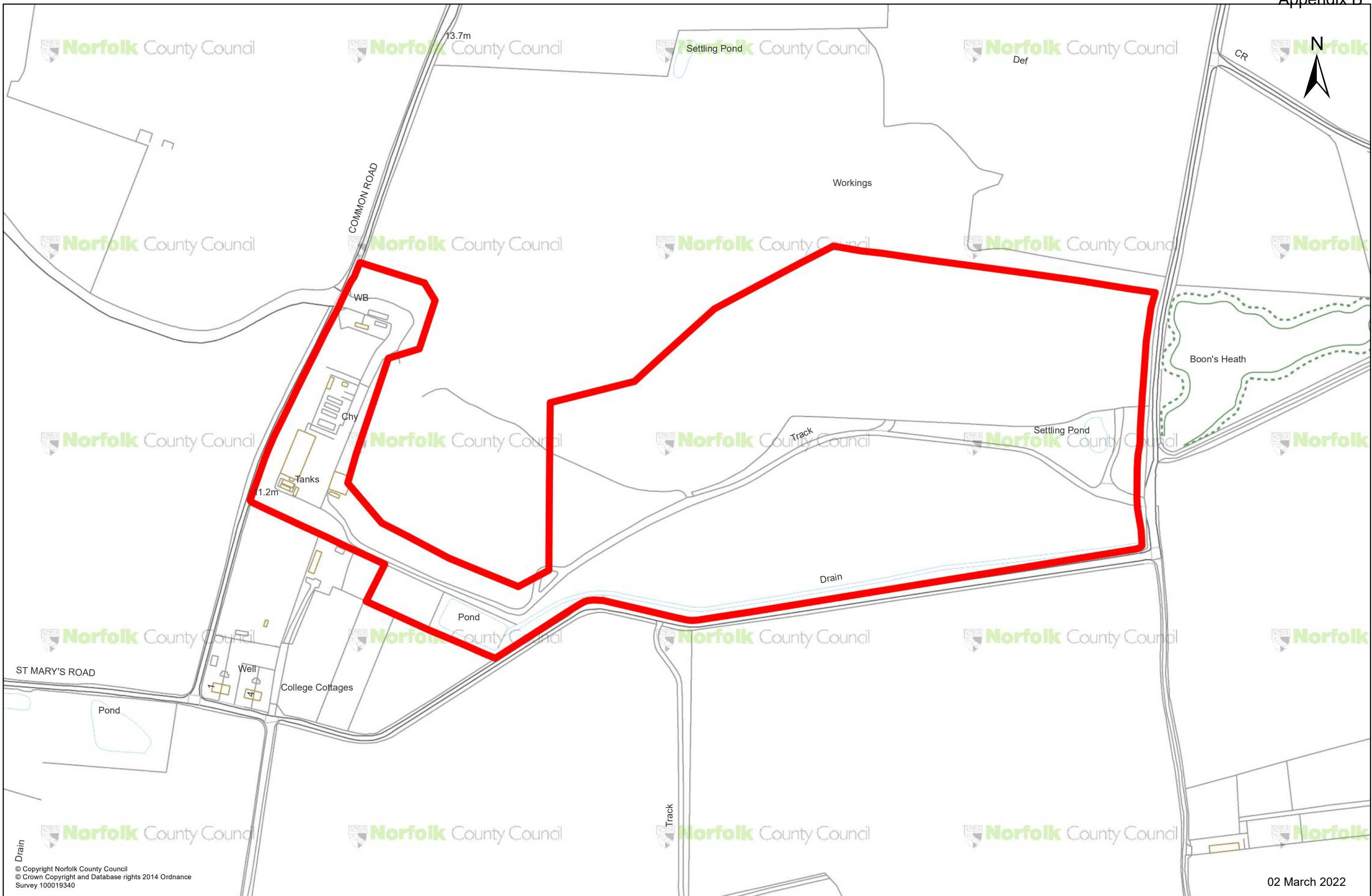


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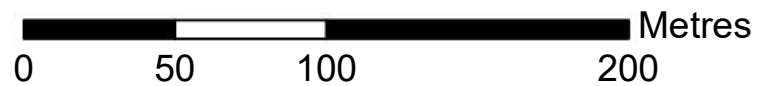
**Aldeby Solar Park
Location Plan**





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Survey 100019340

Aldeby Solar Park Site Plan



Planning (Regulatory) Committee

Item No: 6

Report Title: FUL/2021/0061 Land A47 Bypass Site, C489 Main Road, North Tuddenham, Dereham, Norfolk, NR20 3DE

Date of Meeting: 25 March 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:

Change of use from agricultural land to the open air storage of recycled and virgin aggregates. Part retrospective erection of 4 metre high bund to screen the development. Martyn J Green Ltd.

Executive Summary

The application is part-retrospective in nature with the bunding proposed with the application currently being demarcated by bare mounds of inert material/soil and there being evidence of some storage of material/equipment within the site area.

One third party representation has been received in support of the proposal with no objections from public and statutory consultees. The application has been brought to the Planning (Regulatory) Committee on the basis that is a departure from the Norfolk Minerals & Waste Local Development Framework (2011) in regard to policy CS6 and therefore cannot be dealt with under delegated powers.

The key issues:

- Insufficient information to demonstrate the suitability of the site in the open countryside in regard to consideration of sites that adhere to policy CS6 of the NMWLD (2011).
- The marginal increase proposed to throughput of waste on the site in relation to the extension area size.

It is considered that the proposal would not be in accordance with the policy CS6 of the Norfolk Minerals & Waste Local Development Framework (2011). There are no material considerations to justify a departure from the development plan.

Recommendations:

That the Executive Director of Community and Environmental Services be authorised to refuse planning permission for FUL/2021/0061 on the following grounds:

1. On the basis that the proposal is a departure from policy CS6: General waste management considerations 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 promote waste development on land already in waste use, existing industrial/employment land, contaminated or previously developed land only.
2. The application is also 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 0.8ha into open countryside solely for storage of processed and virgin material.

1. Background

- 1.1 The application site and the site of the adjacent facility is believed to have formed part of a compound during the construction of the A47 in the early 1990's. However, it was the intention that these were returned to agricultural use following their temporary use as a compound.
- 1.2 The adjacent site currently operates under permission C/3/2016/3027 and 3026 by the same operator that has submitted this application and is regulated by the Environment Agency (EA) through an Environmental Permit. However, since commencement the required landscaping has not been fully implemented on the site.
- 1.3 It is understood the site received 7,629 tonnes of Inert/C&D waste in 2019 and 7,035 tonnes of the same in 2020 which is within their currently permitted throughput of 9,500tpa and demonstrates that the site is operating below its currently permitted levels.

2. Proposal

2.1 SITE

- 2.2 The application site is situated immediately adjacent to the A47 just east of the Mill Road overbridge. It is accessed off the Main Road (C489) from the A47 slip road of the northern carriageway to the direct access off Main Road (C489). The site is currently situated within the open countryside on Grade 3 undeveloped agricultural land.
- 2.3 The site is bounded to the north by Main Road (C489), to the east by an existing waste site (owned by the applicant of this application), to the south by the A47 and to the west by agricultural fields with residential properties beyond along with North Tuddenham Footpath 9 which follows the boundary of the agricultural field.
- 2.4 The site is in an elevated position of the A47 with partially constructed bunding/soil mounds demarcating the site with some existing materials and items stored already within its boundary underlining the part-retrospective nature of the development.
- 2.5 The nearest sensitive residential receptor is located roughly 100m to the west of the site boundary which is located on Low Road in a cluster of several residential properties. Immediately south over the A47 lies Bluebell Barn, Mistlethrush Barn and The Cartshed roughly 110m south of the proposed site. Roughly 110m north-west of the site lies Mill Farm accessed directly off the Main Road (C489).
- 2.6 **PROPOSAL**
- 2.7 The application seeks partially retrospective planning permission for the erection of 4-metre-high bunds to the perimeter of the site along with the allowance to store 9,500 tonnes per annum (tpa) of recycled aggregate that has been processed on the adjacent site along with the importation of 3,000 tpa of virgin aggregates. These are required to ensure the operator has a consistent supply of material required by the market at any given time. No material is to be sold directly from the site and the importation of virgin aggregates will be facilitated by the operator themselves using their own vehicles as outlined below.
- 2.8 The proposed bunding is to be planted and maintained with the same vegetation and hedging mix as authorised on the adjacent site, which already has the benefit of planning permission.
- 2.9 The proposed development will result in the extension area handling up to 12,500tpa. Which would potentially cater for storage of the 9,500tpa of processed Construction Demolition and Excavation (CDE) waste from the adjacent site and 3,000tpa of virgin primary aggregates made up of natural sand, gravel and Type 1 from elsewhere. The stockpiles will not exceed 3m in

height and a dust management plan has been submitted detailing the measures of control.

- 2.10 The operating hours would be consistent with those on the adjacent site of Monday to Friday 0730-1700 but no additional staff will be employed with the proposal.
- 2.11 The intention is that there would be 10 HGV movements per day (5 in and 5 out) which would amount to the total for both the already permitted site and the current application. It has been noted that this is a reduction from the originally permitted amount as material brought in is using 20 tonne loads which has reduced the number of associated HGV movements.

3. Impact of the Proposal

3.1 DEVELOPMENT PLAN POLICIES

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF) and Breckland Local Plan (2019) (BLP) 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
DM12: Amenity
DM15: Cumulative impact

Breckland Local Plan (2019) (BLP)

GEN01: Sustainable Development in Breckland
GEN02: Promoting High Quality Design
TR01: Sustainable Transport Network
TR02: Transport Requirements
ENV05: Protection and Enhancement of the Landscape
ENV09: Flood Risk & Surface Water Drainage
EC01: Economic Development
EC04: Employment Development Outside General Employment Areas
COM01: Design
COM03: Protection of Amenity

Breckland Landscape Character Assessment (2007) (BLCA)

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 healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 15. Conserving and enhancing the natural environment
- 17. Facilitating the sustainable use of minerals

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. In this instance the following policies are material to the application.

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

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

Policy MP8: Aftercare

- 3.6 The 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.

3.7 CONSULTATIONS

Breckland District Council – No objection subject to appropriate bunding, screening and mitigation measures being imposed.

District Council Environmental Health Officer – No objection subject to bund heights and acoustic recommendations in the noise report being conditioned.

Environment Agency – No objection but suggest the CPA consider the application in regard to the impact of the intensification of the site on local amenity and that a dust management plan is updated for the expanded site. May need to apply to the EA for a variation to the existing permit.

National Highways – No objection as proposal is unlikely to have a material impact on the strategic road network.

Natural England – No objection as it will not have a significant adverse impact on statutorily protected nature conservation sites or landscapes.

Highway Authority – Could not substantiate an objection due to the modest increase in throughput and the existing provision of a purpose-built access. However, a condition restricting throughput is suggested given the site's isolated location away from areas producing/requiring the materials.

Lead Local Flood Authority – Falls below threshold for a formal consultation response. CPA should satisfy themselves that the applicant has complied with the relevant policy and legislation.

County Council Ecologist – No concerns on ecological grounds subject to comments from Natural England and informative being attached to any decision relating to protected species and their protection.

County Council Arboriculturist – No objection as there do not seem to be any trees that would be impacted by the development. Details of maintenance discussed in County Council Landscape Officer's response.

County Council Landscape – Holding objection with further information in the form of a Landscape Assessment required to demonstrate the impact of the intensification of the development from North Tuddenham FP9. Also, clarity on the maintenance and management plan for the bunding is required.

North Tuddenham Parish Council – Comment regarding screening of the site, dust, Sunday working and planting in regard to appropriate measures being considered in any decision issued. No formal objection suggested.

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

3.8 REPRESENTATIONS

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. 1 letter of correspondence was received from the public with 0 of these explicitly objecting to the planning application. The grounds of support raised are summarised as follows:

- Noise, dust and other issues have been addressed in the application following parish council consultation and pleased to see native hedge planting.

3.9 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. Loss of Agricultural Land

3.10 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”.

3.11 The land is not allocated in either the BLP (2019) or the NMWLDF (2011) and therefore is considered to be undeveloped agricultural land situated within the open countryside. Therefore, in principle the application is considered contrary to NMWLDF (2011) policy CS6 General Waste Management Considerations.

3.12 Therefore, in this instance the bunds that have already partially been instated are impacting on the open countryside, especially in land use terms as the land is no longer in a state to be used for agriculture. Although, the applicant has stated that the previous owner had attempted to use it for this purpose it would still constitute a loss of open countryside and in particular agricultural land in land use terms.

- 3.13 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 material recovery facility) needs to expand and intensify operation onto adjacent greenfield land, or if an alternative larger site on brownfield land has been looked for.
- 3.14 The fact that the proposal would only result in a modest increase in material throughput of an additional 3,000tpa of virgin aggregates is not considered justified given the proposed 0.8ha expansion of the site which results in a roughly 158% increase of the existing 0.47ha site. This is because the only increase in throughput providing a benefit to the local market is the importation of additional primary aggregates that do not require processing. The increased storage area therefore would act as a holding location for primary material when the adjacent site could have potentially recycled the additional 3,000tpa from processing inert material without the need for importation of virgin material. The Environment Agency's Waste Interrogator data shows that in 2019, 7,629 tonnes of processed Inert/C&D waste went through the adjacent site, and in 2020, 7,035 of Inert/C&D waste was processed, suggesting processing could increase in line with current permission negating the need to import primary material which would help move more waste up the hierarchy in line with the NPPW (2014) and reducing the need for primary material use.
- 3.15 Although, the materials proposed to be stored have been processed to a level that they cease to be waste if they meet the requirements of the Quality Protocol: aggregates from inert waste, it is as a result of the waste recycling that the extension is required, and the proposed site has a direct association to the processing of the initial waste material. A site that deals with the importation of inert waste for aggregate recycling would not be separated into areas that deal with waste and those that do not in regard to Environment Agency Permitting and therefore it is considered the entire site including this extension area should be considered as part of the operator's waste site.
- 3.16 Therefore, the proposal is not considered compliant with policy CS6 of the NMWLDF (2011) or the NPPW (2014).
- 3.17 B - Landscape & Visual Impact
- 3.18 In landscape terms the relevant policy that must be considered related to the NMWLDF (2011) relates to policy DM8 Design, local landscape, and townscape character where the proposal should not harm the conservation of or prevent the enhancement of the landscape. In terms of the BLP (2019) the relevant policy is ENV05 Protection and Enhancement of the Landscape

which seeks proposals to recognise the intrinsic character and beauty of the countryside.

- 3.19 In relation to the part retrospective bunding in relation to the application, its height, planting and maintenance schedule are consistent with those permitted for the adjacent site granted permission under applications C/3/2016/3027 and C/3/2016/3026. However, this is the main feature that is visible in relation to the landscape and from experience with the existing permissions it is evident that these have not been erected, planted and maintained to as high a standard as originally proposed. Both the bunding for the existing permitted site and the proposed new one consists of tipped waste with self-sewn vegetation. The CPA are therefore not convinced that the bunding with the current application will be maintained to a level that would make the proposal acceptable.
- 3.20 The County Landscape Officer considers that the proposal could be acceptable in principle regarding landscape terms but have requested details in the form of a Landscape Assessment of the proposal's landscape impact particularly from North Tuddenham Footpath 9.
- 3.21 The proposal would result in the existing waste site intensifying to the west bringing the development nearer to the closest sensitive residential receptors with a standoff of roughly 100m. This reduces the buffer zone between the developed area of residential properties and the existing waste development. However, without the additional Landscape Assessment it is unclear if the impact of the proposal will have a significant impact on the local landscape.
- 3.22 The development situated in the Landscape Character Area of B6: Wensum and Tudd Settled Tributary Farmland where it states that the dominant land use is arable agriculture although pasture is also evident with fields characteristically medium to large. The information currently provided does not demonstrate that the proposal would not have an impact on the landscape character area and the Landscape Assessment is needed to demonstrate the suitability of the proposal.
- 3.23 The County Landscape Officer suggested the proposal could be acceptable in principle. However, without the Landscape Assessment and subsequent consultation response from the County Landscape Advisor it is not clear whether the impact is acceptable on the local landscape character. This is particularly the case when the landscape is characterised by medium to large agricultural fields and the extension will significantly reduce the size of agricultural field remaining as the buffer between residential, agricultural, and waste land uses.
- 3.24 Therefore, the proposal is not considered to be compliant with policy DM8 of the NMWLDF (2011), policy ENV 05 of the BLP (2019) and the objectives of section 15 of the NPPF (2021) due to insufficient information to demonstrate that the proposal is acceptable.

3.15 C – Amenity

- 3.26 The relevant policy considerations regarding the NMWLDF (2011) are policy DM12 Amenity which seeks to protect people in close proximity of waste development where buffer zones are a key consideration along with planting, screening and mitigation measures. In terms of the BLP (2019) policy COM03 Amenity seeks to protect against unacceptable effects of development for both future and current users.
- 3.27 The District Environmental Health Officer has not objected to the proposal and although the loss of the existing sizeable buffer zone of agricultural land to the west would result in both the proposal's intrusion on agricultural land but also on the privacy of the residential properties off Low Road and North Tuddenham Footpath 9 it is not deemed to be unacceptable having considered the EA consultation response against the EHO comments and the submitted documentation.
- 3.28 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 the 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.
- 3.29 It is considered that the impact of the proximity of the bunding and planting to residential properties would sufficiently mitigate against the impact of the development on these properties. This will result in the waste land use moving closer to residential properties, but it would not have an unacceptable impact on amenity if implemented as proposed.
- 3.30 With the storage of materials in the open in closer proximity to residential properties it is considered that the likelihood of impact regarding dust emissions from the site would increase. However, the Dust Management Plan provided is acceptable and considered fit for purpose as it is generic in nature and not site specific, but the EA have suggested that this is updated for the wider site if permission were granted. It is not considered that there will be an overbearing impact of the proposed extension due to its encroaching nature towards residential properties with the mitigation measures proposed.
- 3.31 The measures in place have satisfied the EHO there will be no amenity concerns. The fact that the extension area of the waste site will potentially require the amendment of the existing waste permit with the development

related to the wider site and being needed to allow the processing of waste to be carried out effectively, it is acceptable in regard to impact on amenity.

- 3.32 Therefore, the proposal is considered compliant with policy DM12 of the NMWLDF (2011), policy COM03 of the BLP (2019) and the objectives set out in sections 8 of the NPPF (2021).

3.33 D – Ecology

- 3.34 In regard to ecology the relevant policy of the NMWLDF (2011) is DM1: Nature conservation which states that development will only be permitted if it can be demonstrated that sufficient measures can be implemented to mitigate harm. Regarding the BLP (2019) ENV02: Biodiversity Protection and Enhancement which seeks to ensure a step wise approach to protecting biodiversity is taken and proportionate net gains are secured for all developments.

- 3.35 In this case the proposal has allowed for the creation of native hedge planting to the bunding with additional amenity grass seed planting which has limited biodiversity value in regard to the loss of the grade 3 agricultural field.

- 3.36 However, BLP (2019) policy ENV02 requires proposals to consider biodiversity net gain proportionate to the scale of the proposal and any potential impacts. It has been suggested that the proposal due to its previous use for the storage of construction materials prior to its reclamation to its current use of poor grade agricultural land means there is little or no ecological value. The fact that the proposal is an extension to an existing waste site and is part retrospective means that it would not be considered proportionate to require biodiversity net gain to be provided. No objection has been received from the County Ecologist on biodiversity grounds subject to an informative being imposed regarding protected species and habitats. There is no requirement for additional ecological assessments to be carried out to demonstrate otherwise.

- 3.37 Therefore, as there is limited availability to provide biodiversity enhancements other than those seen through the provision of the bunding planting and management strategy the proposal is considered compliant with policies DM1 of the NMWLDF (2011), policy ENV02 of the BLP (2019) and the objectives of section 15 of the NPPF (2021).

3.38 Appropriate Assessment

The site is situated within roughly 7.9km kilometres of Foxley Wood National Nature Reserve, 3.5km of River Wensum SAC, 3.5km of Bradley Moor Norfolk Valley Fens SAC, 6.5km of Potter & Scarning Fens Norfolk Valley Fens SAC and 7.1km of Coston Fen Norfolk Valley Fens SAC. 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.

3.39 E – Transport

3.40 In regard to transport the relevant policies of the NMWLDF (2011) are CS15 Transport and DM10 Transport which seek to ensure safe use of the highway by all road users in relation to a development. Regarding BLP (2019) the relevant policies are TR01: Sustainable Transport Network and TR02: Transport Requirements which seeks to ensure a safe, efficient, and sustainable transport system.

3.41 The proposal has been suggested by the applicant to reduce the vehicle movements associated with the existing site which was based on 14 tonne loads and resulted in 12 HGV Movements per day. However, it has been proposed that 20 tonne HGV's are being used which would mean that even with the additional 3,000tpa of virgin aggregate importation the worst case HGV movement calculation would be 10 HGV movements per day.

3.42 County Highways were consulted on the proposal and from clarification sought from the EA Waste Data Interrogator and the figures by the applicant, highways could not substantiate an objection. However, it was noted that the site is not well located to areas that would be providing construction waste or needing aggregate and that any forthcoming permission should have a condition imposed of 12,500tpa of waste throughput on the two sites combined. This is to control the highways impact due to the site increasing in size by around 158% and thus having available space for a much higher throughput.

3.43 National Highways raised no concern to the proposal regarding the proximity of the A47. Therefore, it is considered to be acceptable in regard to safety of the national highway's infrastructure subject to being carried out in accordance with the submitted documentation.

3.44 Therefore, the proposal is considered compliant with policies CS15 and DM10 of the NMWLDF (2011), policies TR01 and TR02 of the BLP (2019) and the objectives of section 9 of the NPPF (2021).

3.45 F – Sustainability

- 3.46 The proposal does not include for the provisions of energy generation from renewable and low carbon sources in line with the NMWLDF (2011) policy CS13. However, it is regrettable that due to the nature of the development this would not be achievable and as the policy is aspirational it does not mean that it is not in accordance with the development plan as the requirements must be proportionate.
- 3.47 In regard to the BLP (2019) policy EC04 and employment it requires that it is justified as to why there are no suitable sites on general employment land but also notes that reasons for development not to be on established or allocated employment sites would be an expansion of an existing business. However, it is not considered that sufficient information has been provided to justify the expansion of business outside allocated employment sites. The only information provided relates to that of the previous permission for the existing site and this is not justification as to why the extension to the site is required in this location.
- 3.48 Therefore, the proposal is considered compliant with policies CS13 of the NMWLDF (2011), policy GEN01 of the BLP (2019) but does not fully accord with policy EC04 of the BLP (2019) or the objectives of section 2 of the NPPF (2021) regarding economic sustainability.
- 3.49 G – Loss of Agricultural Land
- 3.50 In regard to the loss of agricultural land the relevant policy of the NMWLDF (2011) is DM16 Soils which has a clear preference of locating development on agricultural land grades 3b, 4, and 5 regarding waste development where it cannot be located on brownfield land.
- 3.51 In this instance a Soil Survey was not submitted by the applicant who has advised that the land has not been viable for crop growth since its use as part of a compound for construction of the A47. However, no evidence has similarly been submitted to demonstrate this previous use which the developer advises degraded the land. It is considered that the land could be put into other agricultural use such as for pastoral farming, but the location adjacent to the A47 and strategic road network may not be the best location for this along with the nearby residential properties.
- 3.52 Although it is regrettable that the land cannot be retained for agricultural use, it is not grade 1 land and unlikely to be Best and Most Versatile Agricultural land (grade 1, 2 or 3a) given the previous alleged use.
- 3.53 Therefore, the proposal is considered compliant with policy DM16 of the NMWLDF (2011).

3.54 ENVIRONMENTAL IMPACT ASSESSMENT

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.

3.55 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.

- 3.56 No further comments are made regarding the one letter in support of the application.

3.57 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.

- 3.58 In this instance it is considered that the fact that the erection of part of the bunding is retrospective in nature has impacted on the landscape character of the area in relation to the large to medium agricultural fields and hedgerow margins. Although the applicant has stated that this is soil storage and not the erection of the bunding, it is situated in the same position as the proposed bunding and therefore the development has taken place without planning permission.

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

4. Conclusion, Reasons for Decision and Planning Balance

- 4.1 In conclusion it is considered that the intensification of waste development in the countryside is unacceptable in this instance since insufficient justification has been provided as to why the enlarged operation cannot be relocated to brownfield land to accord with policy CS6 of the NMWLDF (2011) when the only evidence provided is that of previous applications.

- 4.2 Significant weight is given in the planning balance to the fact that the existing site is not operating at the currently permitted capacity under earlier approved applications reference C/3/2016/3027 and 3026. Therefore, there is no justification for the importation to expand the current site by 0.8ha (158%) for the importation of 3,000tpa of virgin aggregates when the existing permitted site

can increase its throughput and processing by around 2,000tpa when considering the EA's Waste Interrogator Data for the site.

- 4.3 Although, some weight can be given to the site's location adjacent to the A47 in regard to its impact on the open countryside the District Council's Landscape Character Assessment (2008) clearly states that the area is defined by medium to large agricultural fields and by increasing the size of the current site the proposal will impinge on this quality in the landscape with the adjacent field reducing in size.
- 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 of the NMWLDF (2011) and 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 Health and Safety implications (where appropriate):

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

8.5 Sustainability implications (where appropriate):

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

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/2021/0061 on the following grounds:

1. The proposal is a departure from policy CS6: General waste management considerations of the Norfolk Minerals and Waste Local Development Framework (2011) on the basis the proposed extension 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 only allow waste development on land already in waste use, existing industrial/employment land, contaminated or previously developed land only.
2. The application is also contrary to the National Planning Policy for Waste (2014) 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 0.8ha into open countryside solely for storage of processed and virgin material.

12. Background Papers

12.1 Planning Application reference: FUL/2021/0061 available here:
<http://eplanning.norfolk.gov.uk/PlanAppDisp.aspx?AppNo=FUL/2021/0061>

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>

Breckland Local Plan (2019): <https://www.breckland.gov.uk/adoption>

Breckland Landscape Character Assessment (2007):

[https://www.breckland.gov.uk/media/2069/Landscape-Character-Assessment/pdf/Landscape Character Assessment - May 2007 Final2.pdf](https://www.breckland.gov.uk/media/2069/Landscape-Character-Assessment/pdf/Landscape%20Character%20Assessment%20-%20May%202007%20Final2.pdf)

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:

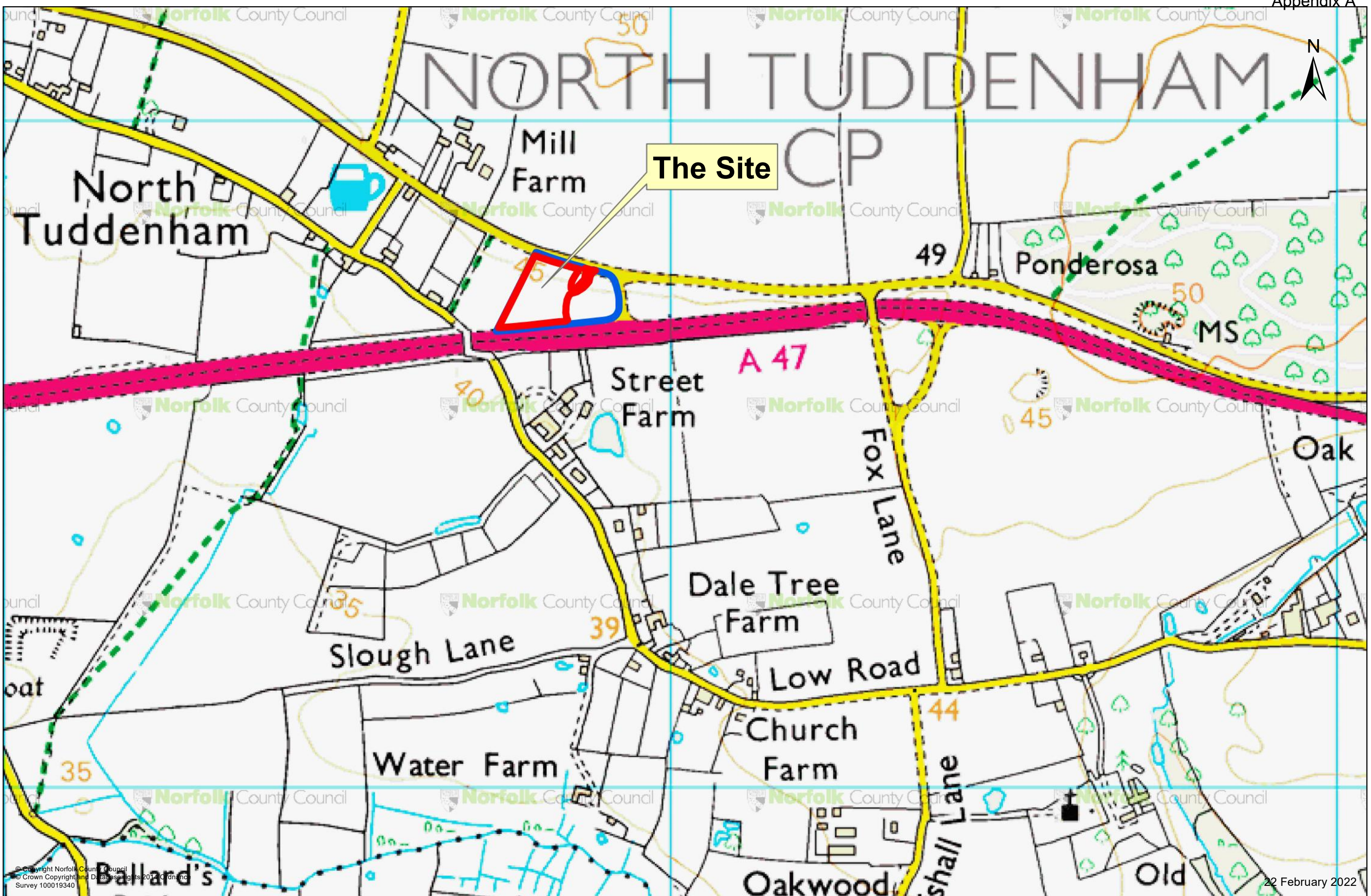
Officer name: Michael Zieja

Telephone no.: 01603 222757

Email: michael.zieja@norfolk.gov.uk



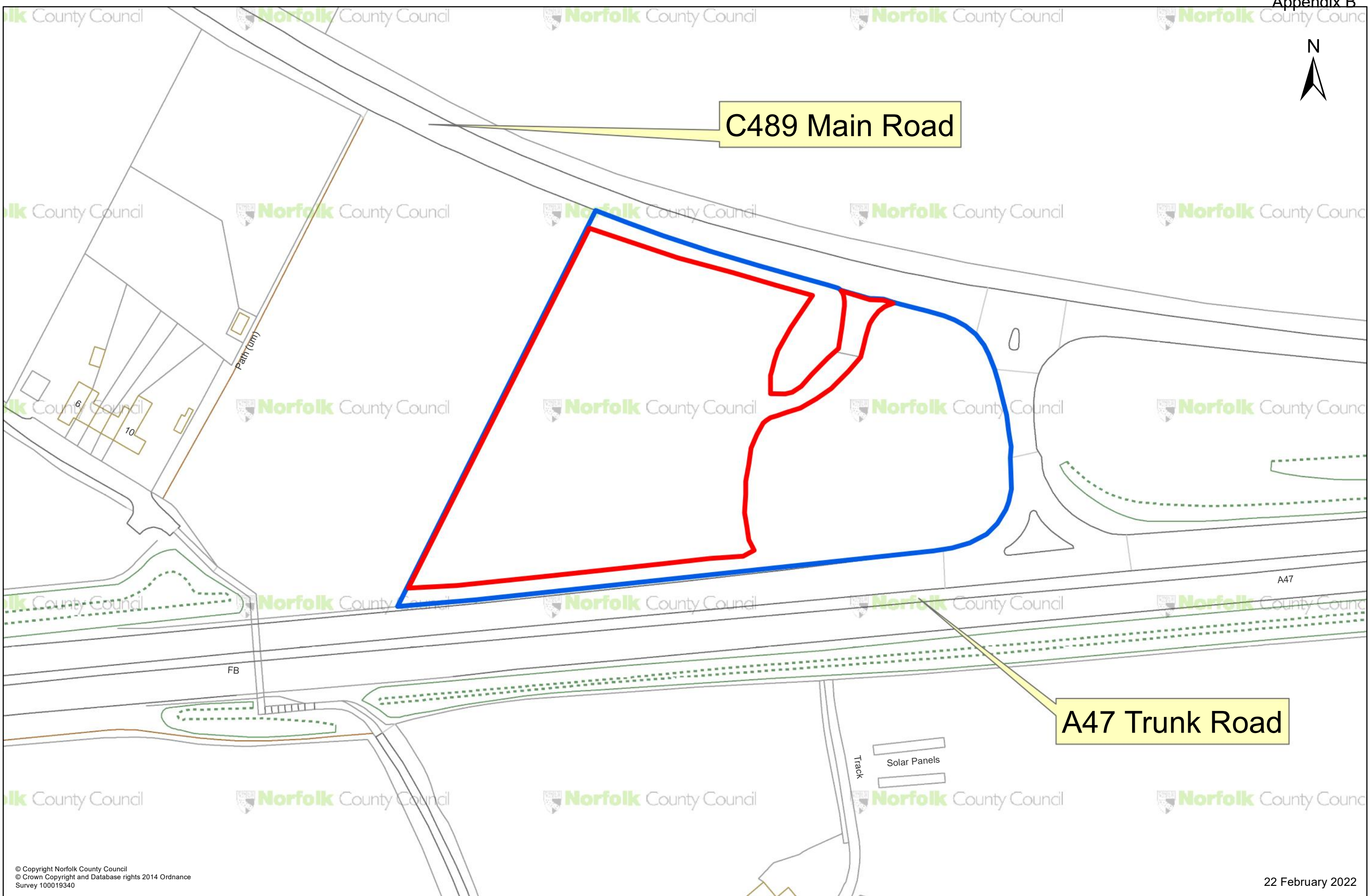
If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.





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