

# Planning (Regulatory) Committee

Item No.

<b>Report title:</b>	<b>C/1/2017/1003: Boundary Pit, Off Sandy Hill lane, Old Yarmouth Road, North Walsham</b>
<b>Date of meeting:</b>	<b>23 March 2018</b>
<b>Responsible Chief Officer:</b>	<b>Tom McCabe, Executive Director of Community and Environmental Services</b>
<b>Proposal and applicant:</b> Extension of waste recycling site and increase in annual throughput from 75,000 to 90,000 tonnes, to include additional area for inert storage, building extensions, installation of 12no. PV panels, picking line, perimeter bunding, vehicle parking area (part retrospective), re-excavation of eastern end of the site to remove deposited inert waste and achieve final level as approved under application C/1/2011/1003, off site highway improvements and consolidation of planning permissions (Carl Bird Limited).	

## Executive summary

Planning permission is sought to extend the overall size of an existing recycling and waste transfer facility that deals with inert construction and demolition waste, mixed skip waste and municipal waste, from approximately 4 hectares (ha) to 6ha. The application also seeks increase by 20% the site's permitted waste throughput from 75,000 to 90,000 tonnes per annum (tpa). The application includes development within the existing site consisting of a picking line, a new internal road layout and installation of PV panels to the office. The proposed physical extension outside of the existing site would effectively accommodate doubling the size of the existing waste transfer building (to include a picking line), allow for the retention of an unauthorised vehicle parking area, 3no. storage containers and provide a further area for the storage of processed inert waste material and empty skips. The application also details the re-excavation of unauthorised inert material in the eastern inert recycling area of the site to achieve the final site levels as previously approved.

The proposed extension would require the loss of approximately 2ha of greenfield land within the open countryside and accommodate an increase in the operational area within the site by just over 50% providing an additional 1ha (approximately). The extension area is not allocated for waste management use within County Council's Waste Site Specific Allocations Development Plan Document, and the proposal therefore represents a departure from the Development Plan.

Twenty-eight letters of support have been received (predominantly from customers of the applicant and neighbouring businesses), along with a 94 name petition from the applicant in support of the application, and the existing facility offers a valuable resource and encourages the movement of waste up the waste hierarchy. It is accepted that individual elements of the application such as the picking line, parking area, storage containers, PV

panels and installation of new plant are likely to be acceptable and broadly accord with the Development Plan, and no objections have been raised by consultees to the proposals on highway, ecology, archaeology and amenity grounds.

However the site has incrementally developed into a strategic sized facility with permission to process up to 75,000tpa in a non-strategic location and the proposed extension would therefore further increase both the size and capacity of the site. It is considered that adequate justification to expand the facility footprint, which would support the loss of greenfield land within the open countryside has not been submitted. The proposals are considered to be excessive in relation to the needs of the site, seeking an approximate 50% increase of operational land for a 20% increase in the site's throughput, and an objection has been received from the County Council's Landscape and Green Infrastructure Officer. The proposals are considered to be contrary to Norfolk County Council's Minerals and Waste Core Strategy and the National Planning Policy for Waste.

As a departure from the adopted Norfolk Minerals and Waste Core Strategy ('the Development Plan'), the default position is to refuse the proposal unless there are specific material considerations that outweigh the plan, and in this instance there are not material considerations that justify this departure from policy.

In accordance with the County Council's constitution the application can be determined under delegated powers, however the local Member has requested that the application be brought before members for consideration.

**Recommendation:**

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

- I. Refuse planning permission for the reasons set out in Section 12.**

## **1. The Proposal**

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|-----|---------------------|---|---|
| 1.1 | Location            | : | Boundary Pit, Off Sandy Hill Lane, North Walsham  |
| 1.2 | Type of development | : | Extension of waste recycling site to include increase in annual throughput from 75,000 to 90,000.   |
| 1.3 | Area of site        | : | 6.1 hectares including site access.   |
| 1.4 | Duration            | : | Permanent   |
| 1.5 | Plant               | : | <ul style="list-style-type: none"><li>• Parker Rock Ranger Crusher</li><li>• Finlay 520 Reclaimer Screener</li><li>• Finlay 390 Screener</li><li>• Finlay 50/30 Stockpiler</li><li>• Finlay 883 Reclaimer Screener</li><li>• Case 350B Excavator</li><li>• Volvo L150E Loading Shovel</li></ul> |

- Volvo A25C Dumptruck
  - Hitachi Loading Shovel
  - Case CX80 Excavator
  - JCB 53-170 Teleporter
  - Terex Slow Speed Shredder
  - Kiverco Trommel
  - Kiverco 6020 Picking Line
- 1.6 Vehicle movements and numbers : An average of 83 HCV movements to and from the site per day. Which represents an additional 15 HCV movements per day.
- 1.7 Hours of operation : 07:00 - 18:00 Monday to Fridays;  
07:00 - 17:00 Saturdays.  
Importation of green waste 08:00 - 16:00 (April to October)
- 1.8 Access : Access to the site is taken from Sandy Hills Lane, which joins to the Yarmouth Road (C557), and then onto the A149 at the Bengate junction. There is a routing agreement in place to ensure that this is adhered to.
- 1.9 Landscaping : Four to five metre high landscaped bund located around the perimeter of the northern extension, additional tree and hedge planting. Earthworks to accommodate the extension. Existing bund and planting around current site to be retained as previously approved.

## **2. Constraints**

2.1 The following constraints apply to the application site:

- The application extension area occupies grade 3 agricultural land.
- An overhead powerline cross the site.
- The site is identified in the North Norfolk Core Strategy Proposals Map as being located outside any defined development limit, within the countryside policy area.
- A public footpath (Worstead FP4) runs along a length of the private access road to the site.
- The site is located 4.7km from The Broads Special Area of Conservation (SAC), 7.6km from the Southrepps Common which is part of the Norfolk Valley Fens SAC, and 6.9km from Paston Great Barn SAC.
- The site is located within 5km of the Broadland Special Protection Area (SPA).
- The site is located within 5km of the Broadland RAMSAR.
- The site is located approximately 1.3km from Westwick Lakes SSSI and approximately 2.8km from Bryant's Heath, Felmingham SSSI.

### 3. Planning History

- 3.1 Recycling activities at the site were initially granted part retrospective planning permission in July 2001 under application C/1/2000/1006. This permission allowed for the recycling of 20,000 tonnes of construction and demolition waste and agricultural top soils per annum. Since this initial permission a waste handling building has been granted planning permission under ref C/1/2005/1003. Permission was then sought and granted to extend both the site and the recycling building under reference C/1/2008/1009. Following this approval a further application was approved to further extend the building under application C/1/2011/1003.
- 3.2 In addition to the above applications there have been numerous other applications granted to broaden the types of waste accepted and additional relatively minor development at the site.
- 3.3 The site now has permission to accept 75,000 tonnes of waste per annum, which the applicant advises is split equally between the 3 different waste streams (municipal, mixed skips wastes and inert construction and demolition waste). The current site occupies approximately 4ha, with a usable operational area of approximately 2ha.

### 4. Planning Policy

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|---|---|------|--|
| 4.1 Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document (2010-2016) (NMWDF) | : | CS3  | Waste management capacity to be provided                               |
|   |   | CS4  | New waste management capacity to be provided                           |
|   |   | CS5  | General location of waste management facilities                        |
|   |   | CS6  | General waste management considerations                                |
|   |   | CS7  | Recycling, composting, anaerobic digestion and waste transfer stations |
|   |   | CS13 | Climate change and renewable energy generation                         |
|   |   | CS14 | Environmental Protection   |
|   |   | CS15 | Transport  |
|   |   | DM1  | Nature Conservation  |
|   |   | DM3  | Groundwater and surface water  |
|   |   | DM4  | Flood risk   |
|   |   | DM8  | Design, local landscape and townscape character                        |
|   |   | DM9  | Archaeological sites   |
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|--|------|--------------------------|
|  | DM10 | Transport                |
|  | DM11 | Sustainable construction |
|  | DM12 | Amenity                  |
|  | DM13 | Air Quality              |

			DM15	Cumulative impacts
			DM16	Soils
4.2	North Norfolk Local Development Framework, (2008 updated 2012)	:	EN2 EN4 EN6 EN9 EC3	Protection and Enhancement of Landscape and Settlement Design Sustainable Construction and Energy Efficiency Biodiversity and Geology Extensions of Existing Businesses in the Countryside
4.3	North Norfolk Landscape Character Assessment (2009) SPD			Supplementary Planning Document – Low Plains Landscape Character Typology
4.4	The National Planning Policy Framework (2012)	:	1 10 11 12	Building a strong competitive economy Meeting the challenge of climate change, flooding and coastal change Conserving and enhancing the natural environment Conserving and enhancing the historic environment
4.5	Draft revised National Planning Policy Framework (2018)		5 6 14 15 16	Achieving sustainable development Building a strong competitive economy Meeting the challenge of climate change, flooding and coastal change Conserving and enhancing the natural environment Conserving and enhancing the historic environment
4.6	National Planning Policy for Waste (2014)			
4.7	Waste Management Plan for England (2013)			

## 5. Consultations

5.1	North Norfolk District Council (Planning)	:	No objection is raised. Any processing stockpiling outside should be below the height of the boundary bunds and not negatively impact on the appearance of the surrounding area. Landscape – Does not support the extension of the waste site. However it would not cause significant harm to warrant an objection under the council's landscape policies. Local member has raised concern over any increase in traffic through residential areas of North Walsham.	
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5.2	Worstead Parish Council	:	No objection or comment.
5.3	North Walsham Town Council	:	No objection subject to a condition that the access road is repaired as frequent use by heavy vehicles has made the surface difficult and potentially damaging for residents' vehicles when they wish to access the household waste recycling centre.
5.4	Environmental Health Officer (North Norfolk)	:	No objections in relation to air quality and noise, subject to compliance with the details submitted (dust management plan and noise mitigation strategy) with the application.
5.5	Defence Infrastructure Organization (MOD)	:	No comments received.
5.6	National Grid	:	Apparatus within the vicinity of the proposed development. No objection subject to informatives.
5.7	Environment Agency	:	No objection. The applicant may need to vary their environmental permit to ensure that the extended area is covered within the permit boundary. The acceptance of an increased tonnage of combustible waste will increase the fire risk and a fire prevention plan will be required for the variation application.
5.8	Lead Local Flood Authority (NCC)	:	No objection.
5.9	Highway Authority (NCC)	:	No objection subject to conditions concerning: <ul style="list-style-type: none"> <li>• HGV routeing plan.</li> <li>• Localised off-site highway improvements (lining and signing improvements at Bengate Junction)</li> <li>• Construction traffic management plan</li> <li>• Throughput capped.</li> </ul>
5.10	Ecologist (NCC)	:	No objection subject to the mitigation measures being secured by condition.
5.11	Arboriculture (NCC)	:	No objection.
5.12	Landscape (NCC)	:	The proposed extension seeks to considerably increase the size of the current operational site which will undermine local landscape pattern and present an encroachment on the countryside. Notwithstanding the degradation of the

agricultural land prior to the application, preventing adequate assessment of soil quality and eroding landscape value. A landscape objection is therefore raised to the extension in the interests of policies CS14, DM8, DM12 and DM16.

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| 5.13 | Public Rights of Way Officer (NCC)       | : | No objection. A public footpath runs along the boundary of the site, which is not affected, and is crossed by the main vehicular access. Vehicles should be made aware pedestrians have priority at the crossing and signs should be displayed in this respect.  |
| 5.14 | Historic Environment (Archaeology) (NCC) | : | No objection.  |
| 5.15 | Public consultation                      | : | <p>No objections have been received, 20 letters of support have been submitted to the County Council and 8 to NNDC. Comments in summary are. :</p> <ul style="list-style-type: none"> <li>• The applicant deals with waste to a high standard.</li> <li>• Clean, efficient, professional and legal waste disposal service.</li> <li>• Steady growth of business. Much needed facility in this location.</li> <li>• Increased staff and purchased modern efficient machinery to reduce emissions and noise.</li> <li>• If approved safer environment and remove waste from landfill.</li> <li>• Positive effect on local waste disposal sites.</li> <li>• Would be unobtrusive.</li> <li>• Reduce need to use primary aggregates.</li> <li>• The site is professionally managed and operated.</li> <li>• Boundary Pit offers a total waste management package and enables back loading of tipper vehicles.</li> <li>• Would be good to see additional capacity being provided by a kind and responsible company such as Carl Bird, Ltd.</li> <li>• Volumes of waste arriving at the site have increased and the extensions are desperately needed.</li> </ul> |

- The site is essential to myself and other local businesses.
  - Expansion that helps to run the site more efficiently and safely gets our support.
  - Provides excellent service to the local businesses and local jobs.
  - Expansion is next logical step to further recycling and reduce landfill
  - Expansion would allow greater volumes of waste to be recycled.
- 5.16 County Councillor (John Timewell) : No comments received to this application. Previously advised on a similar submission which has been withdrawn and replaced with this application - Knowing the site and the operator who is professional and a credit to the waste industry. No objection and support the application.
- 5.17 Neighbouring County Councillor (Eric Seward) : No comments received to this application. But previously advised on a similar submission which has been withdrawn and replaced with this application – does not wish to fetter judgement in making comments on the application in advance of its consideration by the committee.

## 6. Assessment

### Proposal

- 6.1 Planning permission is sought to extend the existing waste management facility into greenfield land to the north and north-west of the site. The land is not allocated for waste use within Norfolk County Council's Core Strategy or Waste Site Specific Allocations Development Plan Document and the site has incrementally expanded into a strategic size facility (over 10,000tpa) with a permitted annual throughput of 75,000 tpa in a non-strategic location. The application therefore constitutes a departure from the Core Strategy and has been advertised as such.
- 6.2 The facility was first granted permission in 2001 on an area of land totalling 1 hectare for the recycling of construction and demolition wastes and agricultural topsoils with a maximum annual throughput of 20,000 tonnes. Since this date the site has incrementally increased in size and capacity and now totals 3.9ha with a permitted annual throughput of 75,000 tonnes of waste. The site accommodates an office building, a weighbridge and a further office/amenity building and a waste handling building with a floor area of 1,619m<sup>2</sup> which accommodates the skip and municipal wastes brought onto the site. Externally there is an inert recycling and storage area which was extended in 2009. The three waste streams accepted at the site are municipal, mixed skip wastes and



inert construction and demolition waste with the applicant advising that the annual throughput is split equally between the three waste streams.

6.3

The land identified for the proposed north and northwest extension would constitute greenfield agricultural land within the open countryside. The majority of the land has been 'tipped' with inert waste without the benefit of planning permission and this activity has continued up until submission of this application despite written warnings from the County Council's monitoring/enforcement officers. This tipping of waste has resulted in the land now being described as 'agriculturally derelict land', as stated in the agricultural land classification report submitted by the applicant. However as this is as a result of unauthorised activity, in planning terms the site would still be considered as greenfield land.

6.4

The proposals seek approximately a 50% increase to the operational area of the existing site, with a resultant total site area of 6 hectares which would include the site access and both the existing and proposed hard and soft landscaping.

6.5

The application details the extension of the existing waste handling building (1,619 sqm) by a total of 1,981 square metres. The extensions to this building would consist of a picking line to the south and an extension to the waste handling building itself to the north to accommodate an increased area for shredding, bulking up and onward transfer of municipal waste. The existing waste handling building and the proposed picking line would be used entirely for mixed skip wastes. The application also details the addition of a further waste stream to be accepted at the site which is wastes from human or animal care/and or related research, specifically detailed as 'wastes whose collection and disposal is not subject to special requirements in order to prevent infection e.g. dressings, linen and diapers.'

6.6

The application also details a north-western extension to the site in order to accommodate stockpiles of the processed inert recycled products and storage of skips. The plans submitted with the application show one way circulation tracks around the site, including the perimeter of the stockpile area in the north-western extension. In addition to these elements retrospective planning permission is sought to retain a vehicular parking area approximately 0.06ha which has been formed in an elevated position to the north of the existing office/weighbridge. The unauthorised parking area which has been constructed on site is larger than that which the applicant is proposing to retain in this application. As such the application details that this would be scaled back to allow for additional planting to aid in screening this area.

6.7

In order to accommodate the north eastern extension to the site it is proposed to form a landscaped perimeter bund of approximately 4 – 4.5m around the northern extension. The land at present is approximately 7 metres higher than the ground level of the closest part of the existing site. As such significant engineering operations will be required to remove this quantity of material to remodel the landform in order to accommodate the extension.

6.8

The final element of the proposal relates to the existing inert recycling area at the southern part of the site. Permission was granted for an extension to the

inert recycling area 8 years ago in 2009. This permission detailed the formation of a perimeter screening bund and the lowering of the internal site level in two stages. The application required that an interim ground level first be met with a limit on the height of stockpiles to 6m, following this the final base ground level was to be achieved and stockpile heights then limited to 8m. Whilst there was no condition specifying a timeframe for the final base level to be achieved, there is no provision within the permission for this to be altered once achieved. Since the date of this permission being issued, the applicant has confirmed that the final development base level has been achieved and the excavated sand removed from the site. However this part of the site has then been backfilled with inert waste material and the operating level (ground level) is now back at the interim level. This application now seeks permission to remove this material to again achieve the final base level as previously approved. The interim operating level is approximately 4m higher than the finished level which the site should now be operating at, thus resulting in a loss of operational space.

- 6.9 The applicant states that the proposals would allow the facility to handle an increased quantity of waste and meet an immediate local demand, the land for the extension is incapable of beneficial agricultural use, the additional infrastructure will enable greater segregation and a safer working environment, 5 additional jobs created and make a greater contribution towards the county-wide need for waste management facilities.
- 6.10 Existing routing arrangements would continue to be adhered to, with all vehicles traveling the most direct way to the A149, except for those deliveries and collections within a 1 mile radius of the site.

### **Site**

- 6.11 The application site is a waste management facility within the open countryside outside of any defined development limits. The site currently occupies in total approximately 4 hectares, including the perimeter bunding and access. Significant engineering works have taken place in order to accommodate the current site. This has resulted in the excavation of part of the hillside and the formation of landscaped bunds to the northern, southern and eastern boundaries of the site. To the north of the application site are agricultural buildings containing a potato merchants and growers (RBR), and a nursery garden centre (Hadfields), there are also agricultural fields and a hotel (Scarborough Hill House Hotel). To the south is the A149, beyond which is a solar farm. To the east and west are agricultural fields with residential properties beyond.
- 6.12 North Walsham is approximately 2km to the north of the application site, and the village of Worstead approximately 2km to the South. Access to the site is taken from Yarmouth road, which leads to the A149 Bengate junction, approximately 1.75km away.
- 6.13 The land is not within any statutory landscape designation but is identified within the North Norfolk Landscape Character Assessment SPD 2009 as a Low Plains Landscape Character Typology.

## **Environmental Impact Assessment**

- 6.14 The application has been screened in respect of any requirement for an Environmental Impact Assessment (EIA) in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regs'). Though the proposal has been identified as meeting the threshold of Schedule 2 (11b in respect of being an installation for the disposal of waste in excess of 0.5ha in area), the scheme is not considered to be EIA development as it is not in or near a sensitive area and would not be likely to have a significant impact on the environment in the context of the EIA Regs.
- 6.15 Having assessed the application and taken into account the consultation responses received, the proposal has been re-screened for EIA and the Planning Authority remain of the view that the development is not EIA development.

## **Principle of development**

- 6.16 The underlying principle in respect of assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:
- "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise".*
- 6.17 In terms of the development plan, the County Planning Authority considers the relevant policy documents in relation to this application to be the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (the "NMWDF Core Strategy"), Norfolk Waste Site Specific Allocations DPD (2013), and the North Norfolk Development Framework (2008). Whilst not part of the development plan, policies within the National Planning Policy Framework (2012), and the Government's National Planning Policy for Waste (2014) and their Waste Management Plan for England (2013) are also a further material considerations of significant weight.
- 6.18 The NMWDF Policy CS3 advises that the strategy within Norfolk for waste management is to provide sufficient waste management capacity to meet the expected arisings of municipal and commercial and industrial waste and to ensure that sufficient capacity is provided for inert recycling and disposal. As these proposals seek to increase capacity for dealing with these waste streams it is considered that the proposals would accord with the general aims of this policy at the current time. The site/operator currently has a contract with Norfolk County Council to deal with some of the County's municipal waste. The municipal waste received is shredded at the site, bulked up and sent for incineration. It is understood that this contract would continue to be fulfilled irrespective of this application as it would be based on the capacity of the existing site.

- 6.19 Policy CS4: *New waste management capacity to be provided* of the NMWDF, sets out the targets for the plan period up until 2026 for providing sufficient capacity to deal with the expected levels of waste arising. The application advises that the site currently deals with 75,000 tonnes of waste per annum, divided approximately equally between the 3 waste streams with 25,000 tonnes per stream (skip waste, construction and Demolition waste, and municipal. This application seeks to increase the throughput to 90,000 tonnes per annum (additional 5,000 tpa municipal and 10,000 tpa C&D). The planning application advises that the proposed picking line and upgrading of equipment would enable all municipal waste to be used for energy recovery and increase the quantity of skip waste recovered with a reduction in waste being sent to landfill. Given the additional waste capacity which would be provided it is considered that the proposals would accord with the aims of this policy.
- 6.20 The proposal also advises that the extension to the waste management building would accommodate replacement machinery (shredder and teleporter) and allow for the installation of a baler in the future. The future installation of a baler would allow for waste to be baled for onward transfer as a Refuse Derived Fuel. At present the waste is bulked up, with large items first being shredded and then transferred to a bulker for onward transport to be incinerated without baling. Whilst the installation of a baler is noted in the applicant's 'need case' submitted with the application, it does not form part of this application and therefore has been afforded little weight in determining the application as this is a future aspiration which does not form part of the current proposals.
- 6.21 With regards to the scale of the waste management building extension, this application seeks to deal with an additional 5,000 tonnes of municipal waste per annum, the building extensions proposed would effectively double the size of those on site. It is noted that all of the existing waste management building would be used solely for dealing with skip waste (which there would be no increase in tonnage) along with the addition of a picking line. The new waste management building extension would be used solely for dealing with municipal waste, which would be approximately the same size as the existing building which currently accommodates both the skip waste and municipal waste arriving at the site. In this respect the proposals are considered excessive due to the less intensive land use, as a result of the increase in floor space. It is noted that the application advises that the installation of a picking line could potentially reduce the amount of skip waste being sent to landfill by 5,000 tonnes and in this respect the benefits and addition of the picking line are considered to be acceptable. However with regards to the need to effectively double the size of the waste management building, site visits undertaken by officers have not been able to confirm that the existing buildings are being used to their full capacity. It is acknowledged that the extent of the buildings use will differ dependent upon the time of day, however the scale of the proposed extension in this instance is considered to be excessive and future aspirations for installing a baler to produce RDF can be given little weight in considering this application.
- 6.22 In the context of Policy CS5: *General location of waste management facilities* of the NMWDF, the site has incrementally increased in size from an initial 20,000

tonnes per annum up to its current permitted 75,000 tonnes per annum, as such the site is regarded as a 'strategic' sized waste facility by Policy CS5. As the site is not well related to any of the four major settlements listed in this policy (neither within the Norwich Policy Area, nor within 10 miles of Thetford, Great Yarmouth urban area or King's Lynn) the proposed extension would be contrary to this policy. This policy does however acknowledge that given Norfolk is a largely rural county there may be some potential sites which are more distant to the listed major settlements, subject to them being well related to the major road network, take advantage of cross border opportunities or enable the re-use of brownfield sites, may be more appropriate. It is noted that the facility is reasonably well related to the A149 and the application advises that 100% of mixed municipal waste is received from a 15 mile radius. However the extension is not situated on brownfield land and the proposals would further increase the size of a strategic sized facility in a non-strategic location. Whilst the site does serve the local area, these proposals seeks to increase the size of the facility to 90,000 tonnes per annum and would therefore be contrary to the aims of the locational requirements of this policy, which seek to meet the needs of the waste arising from the major urban areas by supporting facilities of this size in geographically well related locations close to or within the major settlements.

- 6.23 NMWDF policy CS7: *Recycling, composting anaerobic digestion and waste transfer stations* states that the development of new, or expansion of existing recycling facilities will be considered favourably as long as they would not cause unacceptable environmental, amenity or highway impacts. These impacts are assessed in the respective sections below.
- 6.24 Policy CS6: *Waste management considerations* of the NMWDF Core Strategy states that waste sites should be developed in accordance with Policy CS3 and will be acceptable on the following types of land, provided they would not cause unacceptable environmental impacts:
  - a) land already in waste management use;
  - b) existing industrial/employment land or land identified for these uses in a Local Plan or DPD;
  - c) other previously developed land; and,
  - d) contaminated or derelict land.
- 6.25 Part of the application site is currently in waste management use, and this element of the proposal would therefore accord with the requirements of Policy CS6. However all of the 2ha which it is proposed to extend the site by, is classified as grade 3 agricultural land and would be considered as being within the open countryside (as confirmed in policy terms in the North Norfolk Development Framework 2008 Strategy Proposals Maps). The proposed site extension is not allocated in the adopted Waste Site Specific Allocations Plan and is therefore not located on any of the types of land specified in Policy CS6. The development therefore represents a departure from the development plan and was advertised as such, in both the statutory press and site notices posted.
- 6.26 Therefore, in accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, it needs to be determined whether there are sufficient material considerations that would justify a grant of permission and

outweigh this land use policy conflict. Also, because the site is not in conformity with the development plan, in accordance with the National Planning Policy for Waste (2014), there is also a requirement for the applicant to have demonstrated a need for the proposed facility.

- 6.27 With regards to this issue and specifically NMWDF policies CS3: *Waste management capacity to be provided* and CS4: *New waste management capacity to be provided*, the application sets out that the applicant considers there a need to expand the facility to meet the current demand, which the applicants states would increase inert construction and demolition waste accepted from 25,000 to 35,000 tpa and municipal waste by an additional 5,000 tpa. From the most recent figures available for the County's waste handling capacity it is accepted that there is currently a shortfall of residual waste treatment capacity compared to the target identified within the NMWLDF.
- 6.28 The application sets out a need case for the development advising that having considered those sites allocated within the Norfolk County Council's Waste Site Specific Allocations Plan and the North Norfolk District Council Site Allocations there are no suitable alternatives available. However there is no information as to the search criteria used. It is therefore unclear what size of site has been searched for, whether the search considered smaller sites and relocating part of the business in another location (for example carrying out all inert recycling in another location). The search in this respect is considered deficient.
- 6.29 One of the sites considered is Waste Allocation Site 94 (Cornish Way), the allocation is within North Walsham approximately 3km from the application site, and extends to 2.78ha, allocated within the NMWLDF Waste Site Specific Allocations DPD for composting and anaerobic digestion. In 2016 planning permission was granted for inert waste storage and recycling on 0.7ha of this allocation with a total annual throughput of 20,000 tonnes, However the applicant has cited that as the allocation is for composting and anaerobic digestion then this land would not be suitable for their proposed use. It should also be noted that whilst there is an acknowledgement within the application that a permission has been granted for inert storage and recycling on part of this site, there is no mention of the permitted throughput, or how this may meet any locally identified need which has been outlined within this application to extend the Boundary Pit site.
- 6.30 The applicant has given consideration to the other allocated sites within both the NMWLDF Waste Site Specific Allocations DPD (2013) and NNDC allocations DPD (2011). The applicant has discounted all of the allocated sites as either not being of an adequate size, potential amenity issues or being allocated for different uses. The assessment does not however consider any existing employment land which is available and in this respect it is considered to be deficient, as in principle existing employment land would be acceptable.
- 6.31 It is acknowledged that the applicant's current site offers a valuable local resource and produces various grades of recycled inert waste, whilst seeking to move all waste received further up the waste hierarchy and avoid sending waste to landfill. However whether this application is refused or approved the facility

can continue to operate within its currently approved parameters. The applicant states that if this application is refused then this could result in not all waste being recovered. The application advises that the proposed development could potentially save 5,000 tonnes of mixed skip waste going to landfill.

- 6.32 The planning statement advises that the site currently accepts 75,000tpa of waste and that it is therefore operating at its current permitted capacity in terms of planning permission. However the annual returns submitted to the Environment Agency, which all such waste operators are required to submit, show that in 2015 the total amount of waste received at the facility was 61,964 tonnes, and in 2016 was approximately 67,000 tonnes which are both less than the permitted annual throughput of 75,000 tonnes. It would therefore seem that the facility is not yet operating at capacity (currently approximately 90%) as set out within the planning application and that in this respect the need argument is deficient.
- 6.33 It is unclear why the figures submitted with the planning application differ from the annual returns submitted to the Environment Agency, however this is a material consideration in assessing the need to increase the size of the capacity of the facility, with further extension into greenfield land in a rural location. The proposals in this respect are not considered to accord with the National Planning Policy for Waste in terms of demonstrating an adequate need for the proposed development.
- 6.34 The current permission for the site does not permit the importation and sale of primary aggregate (sand and gravel) from the site. The applicant is however importing and selling primary aggregate from the site. The planning enforcement officer has advised the applicant that this is unauthorised, however this use has continued. It is acknowledged that this is occurring on a relatively small scale, and the applicant has advised that the intention is to seek permission for this in the future. However this again suggests that the need to expand the site is not as great as set out within the application. If space is at such a premium on the site, and the facility is operating at capacity, then it would seem logical that importing primary aggregate which is outside the scope of the permission for the site, should not be occurring and the whole of the site should be being used for waste recycling as permitted under the planning permission.
- 6.35 With regards to policies in the North Norfolk District Council Core Strategy, policy EC3: *Extensions to Existing Businesses in the Countryside* advises that these will only be permitted where 'they are of a scale appropriate to the existing development and would not have a detrimental effect on the character of the area. As stated above, the NMWDF directs this type of development to industrial/employment land. The scale of the development and impact on the character of the area are discussed later in this report. It is noted that North Norfolk District Council (Planning including landscape) have raised no objection to the proposed application.
- 6.36 In this instance, as outlined above, the application constitutes a departure from the NMWDF, as such the NPPfW requires the applicant to demonstrate an adequate need to justify the departure from the development plan in this

location. It is considered that in this instance adequate need has not been demonstrated as the site is not currently operating at capacity in terms of annual throughput. In addition to this there is some additional capacity available within the site if the ground level of the inert processing area reduced to those which have been approved. It is accepted that the proposals could offer additional waste capacity in Norfolk (5,000 tonnes municipal and 10,000 tonnes of inert), and would move waste up the waste hierarchy in accordance with the National Planning Policy for Waste (2014) and the Waste Management Plan for England (2013), however the need for the extension as set out within the application is not considered to be relative to the scale of the proposed development, and insufficient justification has been submitted to warrant the departure as set out within the application.

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

- 6.37 The protection of amenity for people living in close proximity of waste management facilities is a key consideration and NMWDF policy DM12: *Amenity* states that development will only be permitted where “...unacceptable impact to local amenity will not arise from the operation of the facility.” This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity.
- 6.38 NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 109 requires that new and existing development should be prevented ‘from contributing to unacceptable levels of air pollution’.
- 6.39 The nearest noise sensitive receptors are residential properties and a hotel. The closest residential property is Hadfield House which is located approximately 125m from the application site and has curtilage approximately 100m from the application site. Other residential properties close to the site are Kimberley House to the north, dwellings on Heath Road to the west and properties along Yarmouth Road. In addition to the residential properties there is a Country Inn (Scarborough Hill Country Inn), offering hotel accommodation, restaurant and wedding receptions. The hotel is identified within the noise report as being 140m from the boundary of the application site.
- 6.40 With regards to the actual regulation of an operation such as this, in accordance with paragraph 122 of the NPPF and the National Planning Policy for Waste, the County Council needs to be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency (EA)). However, it is the role of the Environmental Permit as issued by the Environment Agency to actually control issues emissions such as noise and dust through conditions.
- 6.41 The EA in their consultation response commented that they had no objection to the proposal and that the applicant already holds an Environmental Permit for the treatment of 64,999 tonnes within the waste transfer building and up to



100,000 tonnes in the inert recycling area. Should this application be approved the EA have advised that the existing permit will need to be varied to extend the boundary to cover the full application area. Any operational changes would also need to be assessed as part of the permit application and a written Environmental Management System agreed.

- 6.42 As part of the application, a noise assessment was undertaken to identify the key noise sources associated with the development. The assessment concluded that subject to the proposed mitigation measures being in place, the change in noise level would be negligible in terms of impact. The conclusion also advises that the residential amenity of the nearest residential receptors should be adequately protected and not result in an unacceptable change in noise level.
- 6.43 The District Council's Environmental Health Officer (EHO) has raised no objections to the application. Clarification has been sought as to whether outdoor areas which would include residential curtilage and the marquee and grounds outside of the Scarborough Hill House Hotel, had been taken into consideration within the noise assessment. The EHO have advised that an addendum has now been submitted to confirm that outdoor areas have been adequately assessed and no objections have therefore been raised on these grounds.
- 6.44 The EHO has not recommend any conditions, therefore, in order to address this, in the event of planning permission being granted, it is proposed that the operating hours are conditioned as detailed in the application and the plant limited to that set out within the accompanying documents. Other amenity impacts such as noise would be regulated by the Environment Agency through an Environmental Permit.
- 6.45 In addition to these conditions there are bunds proposed around the site and significant earthworks required to accommodate the proposed development. It is therefore likely that there will be noise impact within the construction phase. In this respect if permission is granted it would be prudent to require a construction management plan to ensure the amenities of the close by residents are adequately protected, and an appropriate timescale is agreed for the works to be achieved. From the applicant's planning statement it is likely that all of the works proposed would take up to 3 years to complete, so it would be important that amenities are adequately protected.
- 6.46 With regards to dust and air quality, the conclusion of the submitted Dust/Air quality assessment is that the majority of dust generated from the proposed development will be larger particles which generally deposit within 100m of the source. The report concludes that it is highly unlikely that any significant decrease in air quality will occur due to the proposed development, and that any dust occurrence event would be limited and of a short duration, the impacts of which would be further controlled through a Dust Management Plan. The EHO has considered the detail of these reports and raises no objections on amenity grounds.

- 6.47 No lighting has been detailed in this application. However if permission is granted, given the site's sensitive location within the open countryside it would be normal practice to apply a condition preventing lighting that would cause glare beyond the site boundary, or a condition requiring details of all external lighting to be submitted and agreed in writing.
- 6.48 No objections have been received from the EHO or the EA on amenity grounds. Accordingly it is not considered that there would be an unacceptable impact to local amenity, and the application complies with both NMWDF Policies CS14 and DM12, Section 11 of the NPPF and the National Planning Policy for Waste (2014). It is not considered that the proposal would lead to the designation of a new AQMA and the proposal accords with NMWDF policy DM13.

### **Archaeology**

- 6.49 NMWDF Policy DM9: *Archaeological Sites* states development will only be permitted where it would not adversely affect the significance of heritage assets (and their settings) of national and/or regional importance, whether scheduled or not.
- 6.50 The County Historic Environment Advisor has commented that based on currently available information, the proposal does not have any implications for the historic environment and we would not make any recommendations for archaeological work. The proposal is in accordance with policy DM9 and chapter 12: *Conserving and enhancing the historic environment* of the NPPF.

### **Landscape**

- 6.51 NMWDF Policies CS14: Environmental protection and DM8: *Design, local landscape and townscape* character both seek to only permit development that does not have unacceptable impacts on the character and quality of the landscape. North Norfolk Core Strategy policies EN2: *Protection and Enhancement of the Landscape and Settlement Character* states that development should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment and features identified in relevant settlement character studies. The policy also requires developments to protect, conserve and where possible enhance special qualities of local distinctiveness including gaps between settlements, settlement character, field boundaries, visually sensitive skylines and hillsides.
- 6.52 North Norfolk Core Strategy policy EN4: *Design* states that all development will be designed with a high quality, reinforcing local distinctiveness. It also states that design which fails to have regard to the local context and does not preserve or enhance the character and quality of the areas will not be acceptable.
- 6.53 The site is not located within an area that has been designated to be protected for its landscape value (such as would be the case with Conservation Areas, AONB) in terms of the NMWDF policies and the NPPF.
- 6.54 The site is however situated within the Low Plains Landscape Character Typology, as set out within the North Norfolk Landscape Character Assessment

Supplementary Planning Document (2009). This SPD seeks to protect and support re-instatement of the special characteristics of this landscape through the control of new development. The SPD specifically recognises that landfilling and mineral extraction are activities which may erode the landscape character.

- 6.55 As stated above, the proposal is a departure from policy on the basis that the proposal seeks to extend a waste recycling facility in the open countryside. Normally the presumption for this nature of development would be to locate it on industrial land, or with regards to inert recycling within an existing quarry for the duration of the mineral working. The existing inert recycling site which was granted permission to be extended in 2009, is currently operating at a ground level circa 4m higher than the approval allows for. The ground level of the site was to be lowered in two stages, an interim level and a final level. The applicant has confirmed that the final level has been achieved, however this part of the site has now been incrementally backfilled with inert waste so that the ground level has now been raised back up to the interim level.
- 6.56 It was previously considered important that the final level is achieved and not altered as it was intended that this would reduce the visibility of the site and associated plant within the open countryside. This current application seeks permission to remove the unauthorised material and once again achieve the final development base level. In terms of landscape impact, the removal of this material would be beneficial in seeking to ensure that operations are less visible within this location. However irrespective of the outcome of this application this material will need to be removed as it is in breach of the extant consent, and has caused visibility issues with stockpile heights and machinery in the past which planning enforcement officers have needed to contact the site operator about to rectify the situation.
- 6.57 The current application seeks permission to extend the site in a northerly direction. The site is situated on a hillside, with substantial screening bunds to the southern, eastern and western boundaries. The proposed site extension would constitute a significant engineering operation within the context of the locality. The applicant has not quantified how much material would need to be removed, however from the plans submitted they show that the hillside would need to be excavated by a depth of approximately 7m over an area of 0.86ha.
- 6.58 It is proposed that the northern extension area is also to be surrounded by bunds of 4-5 metres in height. The application details that the screening bunds would be seeded with wildflower meadow seeding, with a native hedge and occasional trees planted at the toe of the bund. On top of the bunds it is proposed that gorse is planted. Landscaping on existing bunds around the site particularly the south eastern bund has not established as well as is shown on the plans submitted with the application. If this application is approved a schedule of maintenance should be agreed by condition to ensure that any additional vegetation is maintained and fully established. As this application seeks a consolidation of the whole site, it may also be worth revisiting the landscaping which has taken place to date to seek improvements. Both the provision of the proposed landscaping and revisiting of existing landscaping could be controlled by condition.

- 6.59 Part retrospective permission is also sought within this application for a vehicle parking area which has been formed in an elevated position on the northern boundary between the existing site and Carlton farm. The parking area is outside of the site areas enclosed by bunds. Given the elevated position of this parking area and the intention to use this for parking of up to 15 light vehicles and 8 HGV's (HGV's parked overnight), the applicant has proposed to reduce the size of the unauthorised parking area, in order to allow additional space to provide additional planting to help in screening the parking area. If the application is approved it is recommended that a detailed scheme of landscaping be agreed by condition.
- 6.60 The County landscape officer has noted that an access track and fencing is shown on sight line sections submitted with the application, around the northern perimeter of the site. This is outside of the application site and the track has already been formed (approximately 3 years ago). No planning permission was granted for this track and no agricultural prior notification submitted to the district council either. In this respect the track is unauthorised and should be considered as such in determining this application and when considering the authorised context of the site, including the historic field boundaries.
- 6.61 The District Council's landscape officer has raised no objection to the application, but has questioned whether such a large extension is appropriate in this rural location. Comments also advise that the landscape officer of the District Council does not support the extension, but does not consider that significant harm would be caused to warrant an objection.
- 6.62 The County Council's landscape officer has however raised an objection to the application. The objection notes the unauthorised activity which has taken place to the north of the site towards Kimberley House. This unauthorised activity involves the depositing of waste material outside of the application site. The depositing of material has now changed a former grade 3 agricultural field which was within agricultural production, to 'agriculturally derelict' land as described within the planning application documents. The landscape officer does not consider that the presence of nearby agricultural buildings, other nearby agricultural type uses or presence of a solar farm which is not inter-visible with the application site, as a suitable basis to draw the conclusion that the proposed development is appropriate to the location and suitable within the surrounding landscape context. It is also noted that the proposed development, particularly the extension to the northern part of the site would result in an amorphous shape taking the site up and onto a natural plateau, thus not respecting the natural, historic or traditional form of landscape development within the locality contrary to NNDC SPD.
- 6.63 The NNDC SPD also acknowledges that landfilling and mineral operations may erode the Low Plains character. It is worth acknowledging that both landfilling and mineral operations are temporary in nature with the land ultimately being restored once operations have ceased. This application seeks a permanent change to the landscape, and landform within this countryside location. It is accepted that the existing and proposed landforms around the site offer a good

level of screening, however they do represent a permanent landscape change in this locality.

- 6.64 With regards to landscaping it is considered that the design of the proposed buildings would be of a similar appearance to those existing, finished in materials to match which would be appropriate. The reduction in the height of the ground levels in the southern inert processing area, to that previously approved, would help reduce the visibility of activities within the site (although this would need to be achieved irrespective of the outcome of this application). The unauthorised parking area which it is sought to partially retain is an elevated position and not screened by any physical landforms. However this would be largely screened by existing and proposed vegetation. How well this establishes would be important to how effective the landscaping is as a visual screen. The northern extension accommodating the processed materials would be located within the hillside excavated to a depth of approximately 7m, with bunds formed around the perimeter to aid in reducing the visual impact of the development. The northern extension would not however respond to the historic and development patterns and would be of an irregular shape not typical of other development within this locality.
- 6.65 In summary it is considered that whilst the majority of the development could be visually screened by excavating the land, the formation of additional perimeter bunds and additional landscaping, the proposed development would be contrary to the NNDC SPD which seeks to protect the character of the Low Plains landscape typology. The extension and associated provisions would present an erosion of historic field and development patterns and would result in the permitting of a further extension to a permanent strategic sized waste development in the open countryside. The proposals are therefore considered to be contrary to policies CS14, DM8 and DM12 of the NMWLDf in that a significant extension to the site as detailed in the application would undermine the local landscape pattern and present an unacceptable encroachment into the open countryside.

### **Biodiversity and geodiversity**

- 6.66 NMWDF policy CS14: *Environmental protection* states developments must ensure there are no unacceptable adverse impacts on biodiversity and geodiversity including nationally and internationally designated sites.
- 6.67 A habitat survey and assessment has been submitted as part of the application documentation, it could not fully assess the ecology of the site as the unauthorised deposition of waste of the northern extension area has resulted in the land now being described as derelict. The reports does however suggest mitigation and enhancement measures which could be incorporated as part of any approval. The report concludes that the 'site can be developed without significant negative impact on the local ecology and indeed the long term use of the development area could bring about ecological benefits'.
- 6.68 The County Ecologist has stated that the habitat survey and assessment is acceptable and that the proposals are not likely to have any adverse effects on

protected species or long term impacts on biodiversity. It has however been advised that any approval should be subject to a condition requiring all relevant mitigation to be followed, including timing and clearance works. The proposals from an ecological perspective are therefore considered to accord with policy CS14 of the NMWDLF.

6.69 Habitats Regulation Assessment

The site is 4.7 kilometres from the Broads Special Area of Conservation (SAC) and the Broadland Special Protection Area (SPA), 7.6km from the Norfolk Valley Fens SAC and 6.9km from Paston Great Barn SAC, however in accordance with an assessment under Article 61 of The Conservation of Habitats and Species Regulations 2010, it is felt that the development would be very unlikely to have any adverse impacts on the ecology of the designated areas hence an Appropriate Assessment is not required.

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

**Transport**

- 6.71 NMWDF Policies CS15: *Transport* and DM10: *Transport* requires that proposed new waste facilities and extension to existing facilities which would lead to an increase in traffic, will in terms of access be satisfactory with regards to anticipated HGV movements, taking into account any mitigation measures proposed, do not generate, inter alia, unacceptable risks/impacts to the safety of road users and pedestrians, the capacity and efficiency of the highway network, or to air quality and residential and rural amenity, including from air and noise.
- 6.72 The site has a bespoke access which leads to Sandy Hills Lane, which then joins with the Yarmouth Road (C557), and then onto the A149 at the Bengate junction. There is a Section 106 routing agreement in place to ensure that all HGV's use this route with the exception of collections and deliveries within a 1 mile radius of the application site.
- 6.73 The application sets out that the site has a permitted annual throughput of 75,000 tonnes of waste split between three waste streams as municipal, skip and inert construction and demolition waste. The transport statement sets out that this equates on average to a total of 68 HCV's per day. It is proposed to increase the annual throughput to 90,000 tpa. The transport statement sets out that this would lead to a total of 83 HCV movements per day (an increase of 15 HCV's per day).
- 6.74 The transport statement advises that the applicant is proposing a series of localised signing and lining improvements at the Bengate junction to mitigate the increase in traffic. A lorry routing management plan has also been submitted with the application which outlines a continuation of the existing routing arrangements currently secured at the site through a Section 106 routing agreement.

- 6.75 The County Highway Authority has raised no objection to the proposal subject to a number of conditions concerning the HGV Management Plan for the routing of vehicles to and from the site, a construction management plan, limit on throughput (90,000tpa) and the provision of the offsite highway improvements works at the Bengate junction.
- 6.76 It is therefore considered that subject to the conditions outlined by the County Highway Authority, the proposal complies with NMWDF Policies CS15 and DM10, which considers proposals acceptable in terms of access where anticipated HGV movements do not generate unacceptable risks or impacts.
- 6.77 North Walsham Town Council have raised no objections to the application but have advised that the frequent use of the road, which is used to access the site has resulted in the surface becoming difficult and potentially damaging for residents accessing the HWRC. It has been requested that a condition is attached if permission is granted to ensure that this road is repaired whenever damage occurs. However as this is a public highway the highway authority have a duty to maintain this for all uses, it would not be possible to condition that the applicant pay for damage which occurs. If the road is not of a suitable standard to accommodate the facility then this cannot be rectified with a condition to this application.

### **Cumulative Impact**

- 6.78 NMWDF policy DM15 seeks to ensure that there are no adverse cumulative impacts from developments of or at waste management facilities. In this instance there is a HWRC close to the site and the cumulative impact of this has been considered through the transport statement, to which there are no objections raised. There are no other sites within close proximity of the application site and the proposals are therefore considered to be compliant with this policy.

### **Sustainability**

- 6.79 NMWDF policy CS13: *Climate change and renewable energy generation* seeks to ensure seeks to generate a minimum of 10% renewable energy from new development. The applicant proposes to provide 12no. Photovoltaic panels to the existing office/weighbridge building. No plans of the panels were originally submitted, however the applicant has now provided plans and asked that they be considered as part of the development. From the information and consumption figures provided with the application this number of panels would achieve the 10% renewable energy target required by the policy.

### **Groundwater/surface water**

- 6.80 NMWDF policy DM3: *Groundwater and surface water* seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. None of the proposed development site lies above a groundwater protection zone and the

Environment Agency has not raised any issues with regards to this. Accordingly the proposal is compliant with NMWDF policy DM3.

### **Flood Risk**

- 6.81 NMWDF policy DM4: *Flood risk* only seeks to permit waste management sites that do not increase the risk of flooding. Although the entirety of the application site falls in flood zone 1, a Flood Risk Assessment (FRA) was submitted as part of the application in accordance with chapter 10: *Meeting the challenge of climate change, flooding and coastal change* of the NPPF which requires an FRA for proposals of 1 hectare or greater in flood zone 1 (the application site area is 6.1 hectares).
- 6.82 The FRA concludes that development will not increase fluvial flood risk to the site nor increase fluvial flood risk elsewhere. The FRA also concludes that there is a low risk to the site from surface water (pluvial) flooding and a negligible risk of pluvial flooding beyond the site boundaries.
- 6.83 The EA has not raised any objection or provided any detailed comments in this respect. The Lead Local Flood Authority (LLFA) initially raised an objection to the application, advising that 'insufficient information had been provided to demonstrate that surface water can be managed on the site and discharged to the ground via filtration without resulting in an increase in the risk of flooding'. The application proposes at least a 50% increase in buildings on the site and additional concrete access tracks and hard surfacing around the buildings. As such it is considered that the management of surface water on site needs to be adequately assessed. The applicant has subsequently submitted a revised surface water management scheme and consequently the LLFA has removed their objection. In doing so the LLFA recommended that the CPA ensures it is satisfied that the applicant can install soakaways at the same time as, or ideally prior to, the installation of any additional impermeable areas. It is therefore considered that the proposals are compliant with policy DM4: *Flood Risk* of the NMWDF and chapters 10 and 11 of the NPPF.

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

- 6.84 Some 2 hectares of the application site constitutes agricultural land. The remainder of the application site (4 hectares) is already in waste management use consisting of the access to the application site and the buildings, processing and storage areas. Due to the size of the application site, it is not necessary to consult Natural England for comments on this issue as the site is not over 20 hectares in size, nor would it cumulatively lead to a further loss of agricultural land amounting of 20 hectares.
- 6.85 The agricultural land is grade 3 however the applicant has been unable to submit any evidence to demonstrate whether it is grade 3a or 3b land, due to unauthorised depositing of waste which has taken place. Aerial photographs of the site and photographs from site visits from the County Council's planning enforcement officers show that this land was in agricultural use (arable production) during 2011. Since this date however the land has been periodically



used for the unauthorised deposit of inert waste. The applicant advises that much of the waste constitutes potato washings from the previous owner, however aerial photographs show that this land was previously in agricultural use by the previous owner for arable farming. Site visits by the County Council's Enforcement officers have documented the authorised disposal of inert waste on this agricultural land, along with the storage of machinery outside of the site.

- 6.86 An agricultural land classification survey has been carried out which confirms that due to the quantity (1.5m in depth on over half of the site) of unauthorised disposal of inert waste on the land and subsequent compaction, the land is now in such a poor condition that it would be considered as 'non-agricultural' or 'land not surveyed' for the purposes of the report.
- 6.87 The proposal would result in the irreversible loss of this land given that the application would not only seek to change the use, but would also require significant engineering operations to bring the land down to the same level as the existing site (approximately 7m). If members are minded to refuse the planning application, it will be necessary to consider measures including enforcement action to remove the unauthorised waste and reinstate the land to its previous condition (i.e. suitable for agriculture).
- 6.88 Due to these factors, the proposal is not considered to be compliant with policy NMWDF Policy DM16: *Soils* which seeks to direct waste development onto either previously developed land or grades 3b, 4 and 5 agricultural land. Whilst it is acknowledged that in respect of paragraph 112 of the NPPF the proposal would not be considered to constitute a significant loss of agricultural land. The fact that the applicant has been unable to demonstrate the agricultural land classification due to unauthorised waste disposal, and the loss of this agricultural land is a material consideration in determining this application. The proposals are therefore in this respect considered to be contrary to Policy DM16 of the NMWDF, and that land would not constitute 'previously developed land' due to the unauthorised development which has taken place, as purported to in the application.

### **Heritage**

- 6.89 There are not any heritage assets in the vicinity of the application site that would be harmed, or have their setting be harmed, as a result of the proposed development. The Weeting Hill Conservation Area is approximately 1km from the application site, however it is not considered that the proposals would have any unacceptable impacts upon this in accordance with NMWDF Policies DM8 and CS14.

### **Public Rights of Way**

- 6.90 Public footpath (Worstead FP4) runs along a length of the private access road to the site. With the exception of increased vehicle numbers to and from the site, the current footpath arrangements would remain unchanged. No objection has been raised by the County Public Rights of Way officer, and existing signage

advises drivers using the access road that pedestrians have priority at the crossing. The proposals in this respect would accord with NMWDF Policy CS15 in that the development would not lead to an unacceptable risk to the safety of pedestrians.

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

- 6.91 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 6.92 The letters of support including the petition have been noted. It is clear that many of the customers, adjacent businesses (RBR, Hadfield's nursey and Lilly's Tearooms), employees of the business and associated contractors support the application, and reiterate that the facility offers a valuable resource within the locality. However limited weight can be given to these as the comments are made on personal experience of the facility/applicant and not a reflection of a quantifiable need. In addition to this the petition makes no reference of the actual planning application reference number or makes any reference to the material planning issues regarding this application including that the development proposal would constitute a departure from the County Council's Core Strategy, resulting in the loss of greenfield land within the open countryside. For members information the wording of the petition was as follows:

*'We need your support please! Carl Bird Limited has recently submitted a new Planning Application to Norfolk County Council to extend the Boundary Pit Waste Recycling Site and also the Waste Handling Building. Expansion of the site is needed to be able to improve our ability to cope with the increased quantities of waste being brought in and still be able to continue to operate a tidy and safe operation'.*

- 6.93 The recommendation to refuse this application is not a criticism of the operation of the applicant's current business, or a negative reflection of the valuable contribution which it makes towards dealing with the County's waste. The recommendation is based on an assessment of need and consideration of the material planning merits of the proposals as set out within the report, and little weight can be given to the developer.

### **Intentional Unauthorised Development**

- 6.94 Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development must now be a material consideration in the determination of all planning applications received after 31 August 2015. This is therefore capable of being a material consideration in the determination of this application.
- 6.95 In this instance the applicant has indicated that the waste deposited on the extension area, which is now in such a poor condition it is incapable of being used for agricultural purposes, consists of inert waste, mixed with soils and potato washings. The application cites the former owner of the land as being responsible for depositing the waste. This may be the case to some degree,

however, it is clear that the applicant has also been responsible for depositing and storage of inert waste, and machinery on this land, and has continued to do so despite warnings from the County Council's Enforcement Officers. Waste has continued to be deposited on this land by the applicant up until May 2017.

- 6.96 The application documentation now describes this land as 'previously developed' due to the unauthorised waste depositing that has taken place. The applicant's planning statement suggests that the proposal would therefore meet with requirements of Policy CS6 of the NMWDF in that the land is now in a previously developed condition due to the damage which has been caused from the unauthorised waste disposal and storage.
- 6.97 It is considered that the applicant's continued deposition of waste onto this land, despite warnings is now a material consideration in determining this application. It is noted that the Government was particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. Whilst not in the greenbelt there still needs to be some recognition of the fact that waste has continued to be deposited on this land despite repeated warnings from the County Council's Planning Enforcement Officers.
- 6.98 It is not considered that the harm/damage caused to the agricultural land alone would represent grounds for refusing planning permission for this development, however this is a material consideration which should weigh against approval.

### **The Community Infrastructure Levy**

- 6.99 The local authority where the site is located does not have an adopted CIL charging regime.

### **Local Finance Considerations**

- 6.100 In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 6.101 In this instance it is not considered that there are local finance considerations material to this decision.

## **7. Resource Implications**

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

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

## **8. Other Implications**

### **8.1 Human rights**

- 8.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant
- 8.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.
- 8.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

### **8.5 Equality Impact Assessment (EqIA)**

- 8.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.
- 8.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.
- 8.8 **Communications:** There are no communication issues from a planning perspective.
- 8.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

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

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

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

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

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

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

- 11.1 It is considered that the proposal is a departure from the development plan in terms of NMWDF policies CS6: *General waste management considerations* because of the location of the site on a greenfield site in the open countryside. In accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, the determination of this application must be made in accordance with the development plan unless material considerations indicate otherwise.
- 11.2 In terms of waste planning policy and waste strategy at national and local level there is support for the development of new or enhanced waste management facilities in appropriate locations. The proposals in this respect are considered to be in accordance with policy CS3 of the NMWDF (waste capacity to be provided). However, the development does not fall within any of the land types and location listed in Policy CS6 and would not be in accordance with that policy. Furthermore, as outlined within the report the facility is not currently operating at capacity, additional capacity could also be gained from reducing the site levels of the inert recycling area in line with the permission for the site. The proposed extension requires significant irreversible engineering operations to accommodate the proposed development, without adequate need having been demonstrated in this specific location.
- 11.3 The extension would result in an increase to the size of the site by approximately 2ha but with only an approximate increase in operational area of 1ha. The proposed layout is considered to be an inefficient use of space with much of the extension being taken up with landscaping and internal roads, and finished materials being stored centrally.
- 11.4 As the application does not accord with the locational requirements of policies set out within the NMWLDF the applicant is required by the National Planning Policy For Waste to demonstrate a need for the facility. It is considered that adequate need has not been demonstrated in the application for the size of extension put forward.
- 11.5

Whilst regard has been had to the benefits associated with the proposals and the support received for the proposals, it is considered that on the whole, insufficient justification has been submitted to demonstrate that the development should be permitted contrary to Development Plan policies. The benefits of the scheme which include employment generation, improving recycling operations and reducing waste being sent to landfill, are not considered to outweigh the development on greenfield land in a non-strategic location, without sufficient justification to demonstrate a need for the development in this location. Whilst some elements of the proposals may on their own be considered acceptable, the development as a whole is unable to be supported.

11.6

The extent of engineering operations and landscaping which would be required in order to reduce the visual impact of the development within the landscape is considered to be excessive in terms of the operational land which would be gained. It is accepted that in terms of landscape impact the application demonstrates that the proposal could be adequately screened from public views within the locality. However, relative inconspicuousness is not considered to be sufficient reason for permitting intrusive permanent development in the countryside.

11.7

An objection has been received from the County Council's Landscape and Green Infrastructure officer advising that the proposals undermine local landscape pattern and present an encroachment on the countryside.

11.8

Whilst there are benefits in terms of moving waste up the waste hierarchy and providing additional waste management capacity, and it is acknowledged that the site could be screened from visual receptors, with no unacceptable highway, amenity or ecological impacts; the proposals are considered to be premature, excessive on the basis of the 50% increase in the size of the site to facilitate a 20% increase in throughput and would result in an unacceptable impact on landscape character. There is not considered to be adequate justification to support the departure from policy and the planning application is therefore recommended for refusal.

11.9

Whilst the principal national guidance for determining waste applications is the National Planning Policy for Waste (2014), the National Planning Policy Framework (2012) is also a material consideration. In the course of determining this planning application the Government published their proposed new replacement NPPF for consultation in March 2018. This is currently in draft form only and therefore this document has very limited weight however the policies within the revised NPPF do not give rise to any material considerations that would justify a departure from the Development Plan and therefore alter this recommendation.

11.10

As a consequence of refusing this application consideration will be given to enforcement action to remove the unauthorised inert waste deposited on land to the northwest of the site, and secure a scheme of works to return the land back to agricultural use. Enforcement action will also be given consideration to ensure that the deposited waste within the inert recycling area which has raised the

working level up higher than that which was previously approved, is re-excavated and the final base level is achieved as detailed in application C/1/2011/1003.

## **12 Grounds of Refusal**

- 12.1 The proposed development would lead to the loss of greenfield land within the open countryside. The proposed site for this element of the development is contrary to Norfolk Minerals and Waste Development Framework Core Strategy Policy CS6: *General waste management considerations* which requires waste sites to be developed on land already in waste management use; existing industrial/employment land or land identified for these uses in a Local Plan or Development Plan document, other previously developed land, or contaminated or derelict land. The proposed site does not fulfil any of these criteria and there are not sufficient material considerations (including need for the facility) to justify a departure from this policy or the National Planning Policy for Waste which requires need to be demonstrated where proposals do not accord with the development plan. Furthermore, the proposed extended site does not fulfil the locational requirements of NMWDF Policy CS5: *General location of waste management facilities* with a strategic-sized facility not within, well related, close to or within the major settlements.
- 12.2 The proposals would have a negative impact upon the landscape character and historic landscape patterns with the extended site presenting an unacceptable encroachment into the open countryside contrary to policies CS14, DM8 and DM12 of the NMWLDF (2010-2026), North Norfolk Landscape Character Assessment (2009) SPD and the National Planning Policy for Waste (2014).
- 12.3 The application proposes permanent development on, and the irreversible loss of some 2 hectares of Grade 3(a or b) agricultural land. Norfolk Minerals and Waste Development Framework Core Strategy Policy DM16: Soils requires that development onto either previously developed land or grades 3b, 4 and 5 agricultural land. Because the applicant has not been able to demonstrate whether the land is 3a or 3b, and that land would not constitute 'previously developed land' as purported to in the application, the proposals are therefore considered to be contrary to Policy DM16 of the NMWDF.

## **Background Papers**

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

<https://www.norfolk.gov.uk/-/media/norfolk/downloads/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning/core-strategy-and-minerals-and-waste-development-management-policies-development-20102026.pdf?la=en>

North Norfolk District Council Local Development Framework (adopted 2008 updated 2012)

<https://www.north-norfolk.gov.uk/media/1370/3- core strategy - incorporating development control policies- adopted 2008 -updated 2012.pdf>

North Norfolk Landscape Character Assessment SPD (2009)

[https://www.north-norfolk.gov.uk/media/1271/landscape\\_character\\_assessment.pdf](https://www.north-norfolk.gov.uk/media/1271/landscape_character_assessment.pdf)

The National Planning Policy Framework (NPPF) (2012)

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

Planning Practice Guidance (2014)

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

National Planning Policy for Waste (2014):

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

Waste Management Plan for England (2013)

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

Government's Ministerial Statement on Intentional Unauthorized Development

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

## Officer Contact

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

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