

Planning (Regulatory) Committee

Date: **Friday 4 February 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/UCdyUrFjYNPqPg5psa-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.

Councillors and Officers attending the meeting will be taking a lateral flow test in advance. They will also be advised to wear face masks at all times unless they are speaking or are exempt from wearing one. We would like to request that anyone attending the meeting does the same to help make the event safe for all those attending. Information about symptom-free testing is available [here](#).

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 William Richmond

Cllr Christopher Dawson

Cllr Steve Riley

Cllr Barry Duffin

Cllr Mike Sands

Cllr Paul Neale

Cllr Martin Storey

Cllr Matt Reilly

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

Agenda

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

2. **Minutes**

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To confirm the minutes from the Planning (Regulatory) Committee meetings held on 5 November 2021

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/2021/0051: Bittering Quarry (Plant Site), Reed Lane, Bittering; FUL/2021/0052: Land Adjoining Longham Heath and Spreadoak Plantation
Report by the Executive Director of Community and Environmental Services | Page 15 |
| 6. | 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
Report by the Executive Director of Community and Environmental Services | Page 37 |
| 7. | FUL/2019/0031 Lagoons at Upgate Road, Seething, Norfolk, NR15 1EL
Report by the Executive Director of Community and Environmental Services | Page 78 |

Tom McCabe
Head of Paid Service
County Hall
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Date Agenda Published: 27 January 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 5 November 2021
at 11am in the Council Chamber, County Hall**

Present:

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

Cllr Stephen Askew
Cllr Rob Colwell
Cllr Christopher Dawson
Cllr Barry Duffin
Cllr Paul Neale

Cllr Matt Reilly
Cllr William Richmond
Cllr Mike Sands
Cllr Martin Storey
Cllr Tony White

Also Present

Hollie Adams
Ben Allison
Ian Briggs
Karl Robinson
Luke Broom-Lynne
Charles Colling
Ralph Cox
Rachel Garwood
Nick Johnson
Nicola Kerr
Philippa Nurse
Andrew Sierakowski
Fran Whymark

Committee Officer
Registered Speaker
Registered Speaker
Registered Speaker
Registered Speaker
Senior Planning Officer
Principal Planner
Lawyer – Planning
Head of Planning
Registered Speaker
Registered Speaker
Consultant Planner
Local Member

1 Apologies and Substitutions

- 1.1 No apologies were received. Cllr Steve Riley was absent.

2 Minutes

- 2.1 The minutes from the Planning (Regulatory) Committee meeting held on 30 July 2021 were agreed as an accurate record and signed by the Chair.

3 Declarations of Interest

- 3.1 No declarations of interest were made.

4 Urgent Business

There was no urgent business discussed.

Applications referred to the Committee for determination.

5. FUL/2020/0062: Land adjacent to the Barn, Heron Farm, Bunwell Road, Besthorpe, Attleborough, Norfolk, NR17 2LN

5.1 The Committee received the report setting out an application seeking planning permission to change the use of an area of land from open air storage (plant, materials and aggregates) to an aggregate and soil recovery facility (part retrospective). The site was 0.62 hectares in size and sited adjacent to an existing civil engineering business at Heron Farm, Besthorpe. The application sought to recycle / recover up to 60,000 tonnes per annum of aggregates and soils from imported construction, demolition and excavation waste linked to the adjacent Newall civil engineering business.

5.2.1 The Committee heard a presentation by The Senior Planning Officer

- Residential properties were located 500 metres from the site
- A 5-metre bund was allowed around the site, but the bund had been constructed higher than this in places.
- The maximum height of the excavator used on the site was between 6.2 and 6.4 metres. Assessing the impact of this from outside the site had been difficult.
- Processed material would be stockpiled behind the bund.
- Ash trees located on the site had ash dieback; bunds had been placed close to these trees which would compromise their roots.
- The application was proposed for refusal on landscape grounds owing to visibility from outside the site which would result in an industrial feature being visible and which had not been adequately mitigated against.

5.2.2 Committee Members asked questions about the presentation:

- The Senior Planning Officer was asked whether placing the bund so close to the ash trees was permissible and how it would affect the trees. The Senior Planning Officer replied that the County arboricultural officer and landscape officer had raised no objection to this due to the limited life span of the trees caused by ash dieback.
- It was confirmed that landscaping on bunds was not usually suggested; this was because planting on bunds did not grow well and would make the bund a bigger feature in a flat landscape.
- The vehicle movements in and out of the site were queried; a Committee Member pointed out that the report stated 44 additional movements per day. Officers confirmed this was the worst-case scenario put forward by the applicant of 22 movements in and 22 movements out of the site.

- The Vice-Chair queried whether the applicant had been given time to come up with ways to address the issues related to landscaping on the site. The Senior Planning Officer confirmed that the application had been with Norfolk County Council for a year and during this time officers had requested a landscaping plan. The applicant did not feel additional landscaping was required, as set out in their landscaping assessment.

5.3 The Committee heard from registered speakers:

5.3.1 Karl Robinson spoke in objection to the application:

- Over 5 years ago I attended a meeting to voice my objection over the retrospective planning application at the same site and have personal experience of the sound the concrete crusher makes.
- In the summer noise from the site is intolerable but for elderly people, the outside space is key for enjoyment. An increase in noise on the site is confirmed with the environmental officer with the site having moved 50-metres closer to my property.
- At the planning meeting with Breckland District Council, councillors appreciated residents' concerns and listened to concerns about the use of a crusher on the site; the applicant said they wouldn't use the land for crushing so Breckland granted the application with a planning condition that crushers, mineral aggregate and waste processing equipment and plants would not be operated on site with use of the site to be for storage or cleaning purposes only, to protect the amenity of local properties in accordance with the Breckland Local Plan.
- After the meeting I was amazed to find that the application presented today was underway which would overturn what was stipulated at Breckland District Council. When scrutinising the measures put in place by Breckland District Council, no additional measures have been put in place to protect the amenity of local residents.
- When the applicant appealed the previous decision, he made comments about health and safety of using the crusher from ground level however now does so; how is this possible from health and safety guidelines.
- Lorries are tipping at the site from 4.45am which goes against Breckland District Council planning conditions, causing great noise for local residents and increasing traffic on local B roads.
- The application to increase lorries on site has been advertised with the local traffic commissioner but the applicant states there will be no additional traffic to the site.

5.3.2 Ben Allison spoke on behalf of the applicant

- Newall Plant was a family run business employing 30 local people at Heron Farm.
- The application was submitted to process material at the farm which would create more jobs and reduce road miles, lowering the company's carbon footprint.
- The company had met all requirements, showing no adverse effect on local amenity; the bunding was having the required effect

- Highways had no objection from the previous application and Breckland District Council had put in passing places.
- Some objections were received from the public regarding lorry movements as lorries had driven through Attleborough but this was a temporary arrangement due to roadworks in Spooner Row.
- The recommendation for refusal is based on landscaping which is flawed; the application would be beneficial to landscaping due to work being done at land level.

5.3.3 Luke Broom-Lynne spoke on behalf of the applicant:

- Two phases of work were carried out by the applicant; an analysis of effectiveness of the existing bunding via a desktop exercise with a digital model of the bunding and landscape using survey data and lidar of the site and plant; and a visual assessment undertaken from different public and private viewpoints. This analysis showed that the activity on site was well screened. The bunding has now established well with grass and wildflowers. The proposed development will therefore be well screened with negligible impact on the landscape and amenity.
- The Council's landscape officer's work was flawed, using Google Streetview images as part of the visual assessment, showing the digger visible above the bund. Google Streetview is an unprofessional way to obtain visual assessments. The visual presence of a digger on the date the photo was taken related to work for which permission was given. The plant was placed in this precise location with the maximum arm height and assessments undertaken at different viewpoints. This showed that the bunding was effective in screening it from view.
- Paragraph 3.27 of the report states that the bunding was granted up to a height of 5 metres measured from within the site by Breckland District Council, however, there is no requirement for this to be measured within the site. The height of the bund is approximately 5 metres high as agreed in the planning permission.
- It is also stated in paragraph 3.27 of the report that Breckland District Council detailed planting native hedging on the outer slope of the bund, however they did not reference a planting scheme.
- The report states that "the surrounding area is not accustomed to industrial features in the landscape", however, surrounding farms use large mechanical equipment.
- The information on consultation states that no response was received from Breckland District Council, however, an officer delegated report from July 2021 stated that no concerns were raised about the existing bunding or development with the only comments being received regarding noise and hours of working.

5.3.4 Committee Members asked questions of the registered speakers:

- Noting the vehicle movements at 4.45am, a Committee Member asked if there was anything in the planning application to restrict the hours of traffic movements. The Senior Planning Officer confirmed that the District Council

permission allowed 24 tips per year throughout the night however acknowledged that this was a difficult condition to enforce.

- The Head of Planning clarified that the recommendation was to refuse the application but if the Committee were minded to approve the application they would be entitled to put forward any conditions they felt appropriate.
- Karl Robinson was asked whether he had made any formal complaints about out of hours vehicle movements; Karl Robinson confirmed that he had complained to Breckland District Council. The noise was recorded as over 107 decibels and the bunding was not effective at screening the noise.
- When asked if there was any liaison with local residents about issues, Karl Robinson confirmed that he had phoned the company to try and address issues and was told “we are trying to run a business”. Ben Luke-Broome confirmed that there was not a liaison group in place with the local community; one was put in place for the previous planning application and a meeting set up which no residents attended.
- The Senior Planning Officer confirmed that highways officers were not required to provide a survey of traffic movements and information was provided by the applicant, as shown in the report.

5.4 The Committee moved on to debate:

- The discussion about industrial equipment being seen over the bund was noted; the Senior Planning Officer replied that contradicting measurements were provided in the information provided to planning officers, with differing heights of the bund.
- Cllr Tony White proposed approving the application. No seconder was put forward and the proposal was therefore lost.
- The Head of Planning confirmed that if the application was refused, the application had a right of appeal within a 6-month period.
- A Committee Member raised his concerns about the impact of the additional traffic movements on the small road.

5.5 With 8 votes for, 1 against and 3 abstentions, the Committee **RESOLVED** to:

1. Refuse planning permission for the reasons set out in section 11 (Recommendations) of the report.

6. FUL/2020/0064 Salhouse Road, New Rackheath, Norwich, NR13 6LD

6.1.1 The Committee received the application for a partly retrospective application to allow imported waste materials to be crushed and screened and turned into recovered construction products. The application site is one that already benefits from a Certificate of Lawful Use or Existing Development (CLUED) for a Sui Generis use for the storage of top-soil, sub-soil, recycled construction materials and brick rubble.

6.1.2 Committee Members heard a presentation by The Consultant Planner

- The area in which the site was located was allocated for new housing developments.
- Woodland to the north east side of the site provided lots of screening.

- Bunds constructed along the southwest boundary were proposed to be 2 metres high
- Crushing and screening was proposed to be carried out on the southern end of the site with a bund for screening.
- There was a suggested condition included which would limit the height of stockpiles; when the site was visited the stockpile was higher than the bund.
- Highways were happy with proposals for site; no changes to HGV movements were proposed.
- There was a certificate of lawfulness on the site issued by the District Council meaning the site was an existing waste management site and policy compliant with policy CS6 of the core strategy.
- Representations made were about noise, dust and vibration which were regulated by the environmental permit. Advice from the Environment Agency was that they had investigated the complaints and could not conclude there was a breach of the environmental permit. The Committee should therefore conclude whether the application was an acceptable use of land, not decide the application based around issues of noise and dust.
- Certificates of lawfulness had no conditions applied to them, meaning that approving planning permission would give the opportunity to impose controls on the site.
- Three late representations were received raising issues relating to noise, dust and traffic. One issue was raised about the accuracy of plans submitted showing the orientation of the crusher. A late condition had therefore been suggested regarding the geographical location of the crusher to be restricted to the area on the southern area of the site.
- A further email had been received linking to videos showing the noise impact on local properties.

6.1.3 Committee Members asked questions about the presentation:

- The Consultant Planner showed on a map where houses were due to be built, one field away from the site.
- The Consultant Planner confirmed that crushing was taking place on the site; with the certificate of lawfulness the company was permitted to do this for up to 28 days per year.
- The Consultant Planner confirmed that a speed survey and traffic survey had been undertaken on Salhouse Road; this showed that 160mm visibility displays and trimming of the verge were required which the applicant confirmed they would do.
- It was pointed out that the report discussed possible replacement of the bund with a noise barrier; the Consultant Planner clarified that the Environment Agency were responsible for enforcing noise regulations such as this.

6.2 The Committee heard from registered speakers

6.2.1 Nicola Kerr spoke in objection to the application:

- I am a property owner and resident at Rackheath Hall for 20years; it is reported that there are no listed assets nearby but there are, at Rackheath

Hall. My apartment faces south in the direction of the plant, with nine windows facing this direction. The apartment is a heritage asset, grade 2 listed building, meaning that double glazing cannot be installed to mitigate against noise impact

- The noise starts early in the morning and continues during the day; it is loud enough to wake me in the morning when all the windows are closed. Residents experience the noise in the communal gardens which is a problem as most are often home during the day.
- The noise from the crushing machine is intrusive and I hope the committee has seen the September 2021 noise reports which calibrate the noise at an “unacceptable adverse effect” at South Lodges. Another site nearby had a “significant adverse effect” reported from the noise.
- There is significant housing development at White House Farm allocated for development under the emerging Greater Norwich Local Plan with 1200 houses and a school, and multiple other developments nearby which will all be affected by noise from the site.
- The level of noise from the site is unacceptable in a rural setting and this development should therefore take place in a quarry or industrial site; the site has been operating outside permissions for some time in respect of crushing aggregates and the planning application is for retrospective consent to extend this activity which is currently only permitted on 28 days per year.
- The site is located over the road from Rackheath Park which is a historic park and a non-designated heritage asset with three listed buildings and several other non-heritage assets. Historic England stated that other planning applications and applications on the Greater Norwich Local Plan in the area to the west of the A1270 only be used for open space to conserve and where opportunities arise enhance the significance of the grade two listed Rackheath Hall and Bridge.

6.2.2 Philippa Nurse spoke in objection to the application:

- I have submitted detailed footage of noise and dust impact on local amenity; there is continuous vibration on fixtures and fittings and tests have concluded that the crusher is the cause of these. There has been no attempt by the Environment Agency or Gamble to address this issue and no condition put forward to mitigate vibrations.
- The crusher currently runs from 7.20am and causes visible and audible vibrations. The application will allow this crushing of concrete to be extended to 270 days a year.
- The landscape drawing shows the crusher 180° out from the requirements to mitigate vibrations. The crusher is also highly visible when parked against the front of the site from my holiday lodge.
- The Gamble site operate above the legal level of the bund daily and I can see and hear the work from my home.
- No noise levels have been set in the application to protect amenity, leaving the site free to operate breakers, cankers and diggers.
- The noise levels have been so loud as to cause teenagers in my home to cry and guests staying in the holiday home to end their holiday prematurely.

- The owners of the site have manipulated the planning system to industrialise the site. An application for a care home was rejected as it was deemed out of character for the area, however this business is located near to a year-round tourism business near housing estates.
- This application is not fit for purpose and should either be rejected, or appropriate conditions put in place to safeguard amenity.

6.2.3 Ian Briggs spoke on behalf of the applicant:

- The certificate of lawfulness on this site allows a raft of materials to be brought on the site with no control.
- The operator doesn't want to crush for 28 days per year only and then fill up the site as this means that frantic crushing operations occur for 28 days; instead, the operator wants to spread work across the year with a lower rate of operation.
- Throughput would be restricted to 50,000 tonnes per year with operating times of 7.30am til 4.30pm Monday to Friday. This would overcome the stockpile of unrestricted height and allow building of bunds around the site
- There is a deficiency in supply of aggregates to achieve targets set out in the local Development Plan and work at the site would help achieve this.
- Gamble employs 18 people at the site.
- Proposals in the application will allow controls to be put in place. Noise surveys show noise levels comply with planning guidance as to what is acceptable, and this planning application accords with policies and the development plan.

6.2.4 Cllr Fran Whymark spoke as the Local Member

- I live close by to the site and have heard the vibration from the crusher. The nearest lodge is 20 metres away from the site; residents and holiday makers have decided to call their holidays short because of the noise and vibration.
- Recently the plant has started to move concrete and other work.
- As set out in a report by the Environment Agency they have had numerous reports of noise, dust and mud.
- The applicant seeks to increase the 28 days permitted development to 270 days Monday to Friday which will have a negative impact on local residents and will make Poolside Lodges unviable as a business. This has been a successful business in the area for 20 years.

6.2.5 The Committee asked questions of the registered speakers:

- Ian Briggs confirmed that a breaker was put on site in mid-2020. This was asked to be removed and subsequently had been.
- A Committee Member asked if the applicant would be happy for restrictions to be placed on noise and dust. The Consultant Planner clarified that planning authorities could not duplicate controls in the environmental permit. The Head of Planning added that breaching the environmental permit was a criminal offence.

6.3 The Committee moved on to debate:

- The Chair noted that if the application was approved then this would provide the opportunity to put conditions on the site
- A Committee Member queried why no Environmental Agency mitigations were in place and played a recording of noise from the site recorded from South Side Lodge.
- A Committee Member noted that the site was well located for highways infrastructure however was close to existing and new and future housing.
- The Consultant Planner confirmed that if the application was approved then it would supersede the certificate of lawfulness.
- Cllr William Richmond **proposed** refusing the application on the grounds that the proposal would have an unacceptable adverse impact upon the landscape character and visual amenity of the area, with a negative impact upon the rural countryside location. The proposal was seconded by Cllr Mike Sands.

6.4 With 7 votes for, 3 votes against and 2 abstentions, the Committee **RESOLVED** to **refuse** the application on the grounds that the proposal would have an unacceptable adverse impact upon the landscape character and visual amenity of the area, with a negative impact upon the rural countryside location.

The meeting ended at 12:51

Chair



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Planning (Regulatory) Committee

Item No: 5

Report Title: FUL/2021/0051: Bittering Quarry (Plant Site), Reed Lane, Bittering; FUL/2021/0052: Land Adjoining Longham Heath and Spreadoak Plantation

Date of Meeting: 4 February 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:

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)

Executive Summary

The two applications seek to facilitate the relocation of the developer's inert waste recycling facility from the existing Longham extraction area (west of Reed Lane) to a new site to the south of the existing plant site area (east of Reed Lane), and to retain / prolong for a further period an existing storage area within the current plant site for the recycled aggregate prior to its sale.

The proposal is considered to be a departure from the development plan on the basis the proposed new recycling area falls within open countryside on agricultural land whereas the Core Strategy seeks to locate these types of facilities within existing active mineral workings. There are no material considerations that outweigh this policy conflict and 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/2021/0052 on the following grounds:

1. The proposed site for the recycling facility is in open countryside on agricultural land and not within an active mineral working. The County Planning Authority is of the opinion that the facility can be accommodated either within the existing extensive plant site or the new Spreadoak quarry to the south. The proposal is therefore contrary to the Norfolk Minerals and Waste Development Framework policy CS6: *General waste management considerations* which seeks to locate sites only at existing mineral workings.
2. The proposed site falls on existing agricultural land however the applicant has not provided a Soil and Land Quality Survey to distinguish the exact soil classification but acknowledged that it is likely to be Best and Most Versatile (BMV) agricultural land. The proposal does not therefore accord with Norfolk Minerals and Waste Development Framework policy DM16: *Soils* which seeks to direct waste management away from BMV agricultural land.

That the Executive Director of Community and Environmental Services be authorised to **refuse** planning permission for FUL/2021/0051 on the following ground:

1. On the basis that application reference FUL/2021/0052 has been refused, there is no source of recycled aggregates to store or sell, and therefore no need or justification to extend the period of operation of this facility at this location. It would therefore not be sustainable to locate this development at a remote location in the countryside.

Background

- 1.1 This report deals with two interlinked planning applications to facilitate the relocation of the operator's existing inert recycling area to a proposed new site on agricultural land to the east of Reed Lane.

There is a long history of quarrying in the vicinity of this area dating back to the 1970s. In recent years the operations at Longham Quarry west of Reed Lane have come to an end (extraction is required to cease by February 2022) with quarrying operations having already begun within the Spreadoak site to the east of Reed Lane.

With the exception of the access route to the highway, the proposed site for the new recycling area falls within Longham Parish whereas the storage area that is the subject of the other linked planning application largely falls within the neighbouring parish of Beeston with Bittering.

Proposal

SITE

- 2.1 This report deals with two nearby application sites, the new recycling facility, and the existing storage area to the north, within the current plant site.
- 2.2 The new recycling facility would be just under one hectare in size and located on existing agricultural land. The proposed site sits adjacent to the east of Reed Lane where there is an existing hedgerow. To the north of the site is Longham Heath and to the east an existing plantation/woodland. Agricultural land lies to the south beyond which some 300 metres further south is the new area of mineral extraction, Spreadoak Quarry. The existing plant site where the recycled material would be stored before it's sold lies some 20 metres northeast. The existing plant site would also provide access to the recycling facility from the highway (Reed Lane) approximately 300 metres to the north.
- 2.3 The nearest residential property to the current plant site, The Cottage, is situated to the northeast of both sites on Bittering Lane. This dwelling is 450 metres from the existing recycled aggregates storage area (which is to be prolonged) and a further 150 metres from the proposed recycling area. In terms of the proposed new recycling area, the nearest residences are Manor Cottages approximately 450 metres to the north.
- 2.4 To the northeast of both sites lies the deserted medieval village of Little Bittering Scheduled Ancient Monument (SAM) which is some 350 metres to the recycled aggregate storage area and 500 metres to the proposed new recycling area. Also to the northeast, and a similar distance away, is the Grade II* listed Church of St Peter and the Grade II listed Manor Farmhouse around 550 metres and 700 metres respectively of the two application sites. Another Scheduled Monument, the Devil's Dyke ('The Launditch') is located just under a kilometre to the west of both application sites.
- 2.5 The sites lie within the Site of Special Scientific Interest (SSSI) Impact Risk Zones for Horse Wood Mileham requiring consultation with Natural England for both waste sites and quarries. The SSSI itself is approximately 1.8 kilometres to the northwest of the sites.

PROPOSAL

- 2.6 The two planning applications seek to facilitate the relocation of the developer's existing inert waste recycling facility from the existing Longham extraction area (west of Reed Lane) to a new site to the south of the existing plant site area (east of Reed Lane). The necessity to relocate the facility is due to the planned end of extraction at Longham quarry in February 2022 where the current facility has been located since 2009. The applicant has selected this new location on the basis it is situated alongside the access track which leads to the Spreadoak extraction area, 300 metres to the south, which has permission to extract mineral until December 2030 with restoration due by 2032.

- 2.7 The first of the applications, FUL/2021/0052 seeks permission for the new recycling area and the applicant anticipates that the new facility would operate at similar levels to the existing one with throughput expected to be 70,000 tonnes per annum (tpa) of inert waste such as bricks, concrete and soils etc. The northern part of the site would be used for the recycling itself with a McCloskey Screener used to both crush and screen inert waste. The southern half would be used for storage where materials would be stored to a height not exceeding 3.5 metres.
- 2.8 The application states that soils would be stripped from the proposed land which would be used to form 3 metre high soil screen bunds around the northern, western and southern boundaries. The facility would operate until 31 December 2031 with the material incapable of being recovered used to assist in the restoration of Spreadoak quarry. After this period the land would be restored with the stored topsoil evenly respread to a standard suitable for (arable) agriculture.
- 2.9 Operating hours would be as per the existing facility with the site operating between 07.00 – 18.00 hours Monday to Friday, and 07.00 – 13.00 hours Saturday although crushing would not commence until 08.00 hours.
- 2.10 To facilitate this, the applicant also proposes, through a second planning application, FUL/2021/0051, to vary three conditions of an existing permission, reference FUL/2021/0004. That extant permission allows the storage of inert processed aggregate until 31 December 2022 within an area of the existing established plant site. This second application seeks to amend conditions 1, 2 and 3 of the permission to enable the recycled aggregate produced from the new (relocated facility) to be stored here until 31 December 2031 instead of the current end date, 31 December 2022.

Impact of the Proposal

3.1 DEVELOPMENT PLAN POLICIES

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF) and the Breckland Local Plan provide the development plan framework for this planning application. The following policies are of relevance to this application:

Norfolk Minerals and Waste Development Framework

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
DM10: Transport
DM12: Amenity
DM16: Soils

3.2 Breckland Local Plan (2019)

GEN 01: Sustainable Development in Breckland
TR01: Sustainable Transport Network
TR 02: Transport Requirements
ENV 02: Biodiversity Protection and Enhancement
ENV05: Protection and Enhancement of the Landscape
ENV 07: Designated Heritage Assets
ENV 09: Flood Risk and Surface Water Drainage
COM 03: Protection of Amenity

3.3 Neighbourhood Plan

There are not Neighbourhood Plans adopted/in force for either Longham or Beeston with Bittering the two parishes within which the application sites are located.

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 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

3.8 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

Breckland District Council

FUL/2021/0052 (Relocated recycling facility): No objection.

FUL/2021/0051 (Recycled Aggregate storage & sales area): No objection.

District Council Environmental Health Officer

FUL/2021/0052: No objection subject to the development proceeding in line with the application documentation including measures set out in the Noise Impact Assessment relating to noise levels and hours of operation.

FUL/2021/0051: No response received.

District Council Environmental Protection Officer

FUL/2021/0052: No objection but request the Environment Agency is made aware that numerous properties in the area are served by private water supplies in case they want to consider the impact of possible ground water contamination.

FUL/2021/0051: No objection providing the application proceeds in accordance with the application detail.

Environment Agency:

FUL/2021/0052: No response received.

FUL/2021/0051: No objection

Natural England

FUL/2021/0052: No objection, consider that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

FUL/2021/0051: Not consulted.

Highway Authority

FUL/2021/0052: No objection subject to conditions relating to the implementation of the HGV management plan and the use of wheel cleaning facilities.

FUL/2021/0051: As above

Lead Local Flood Authority

FUL/2021/0052: No objection, provide standing advice as falls below threshold for detailed comments.

FUL/2021/0051: No comments to make.

County Council Ecologist

FUL/2021/0052: No objection subject to mitigation being carried out to prevent an impact on great crested newts (a protected species).

FUL/2021/0051: No objection (subject to permission being granted for the other application).

County Council Arboriculturist

FUL/2021/0052: No objection, content with proposed stand off to trees.

FUL/2021/0051: No objection.

County Council Historic Environmental Officer (Archaeology)

FUL/2021/0052: No comments to make.

FUL/2021/0051: No comments to make.

Open Spaces Society

FUL/2021/0052: No response received.

FUL/2021/0051: No response received.

Beeston with Bittering Parish Council

FUL/2021/0052: No comments to make.

FUL/2021/0051: No comments to make.

Longham Parish Council

FUL/2021/0052: No response received.

FUL/2021/0051: No response received.

Local Member (Cllr Mark Kiddle-Morris)

FUL/2021/0052: The applicant contends that his application is the most sustainable and environmentally sensitive solution to a problem that the business needs to solve in view of the increased demand for sand and gravel.

FUL/2021/0051: As above

3.10 REPRESENTATIONS

The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. No letters of correspondence were received from the public.

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

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 NMWDF Policy CS6 seeks to limit waste development to specific types of land including existing mineral workings, provided the development is restricted to a temporary period permission lasting until the cessation date for the mineral operation or landfill site. Emerging Local Plan Policy WP4 also underlines that recycling facilities are only permitted on mineral workings to facilitate the timely restoration of the site.

3.14 The site for the storage of recycled aggregate, the subject of application reference FUL/2021/0051, is within the existing established plant site and

therefore complies with this policy. the site for the new recycling facility is located on a greenfield site (arable land) and therefore is not compliant.

- 3.15 The site for the new recycling facility is located within the Speadoak planning permission for extraction, reference C/3/2014/3008 on a greenfield site (arable land). Inclusion of the site within the existing permission does not itself mean that its use for associated operations is compliant with policy NMWDF CS6. The proposed site is some 300 metres from the area permitted for mineral extraction and supporting documents that accompanied the original application upon which permission was granted show that the area was not intended for extraction or other ancillary operations. The proposed use does not therefore comply with policy CS6.
- 3.16 The new recycling facility could also be located within the current operational plant site to the north in order to comply with the policy which currently occupies a footprint of around 17 hectares. Within this plant site there is redundant mineral processing plant awaiting decommissioning and a white lining company, Jointline, that does not necessitate being located here. Therefore it is considered that with rationalisation of the current plant site, the 0.9 hectare recycling facility could be accommodated without the need to encroach onto further agricultural land.
- 3.17 Because there is considered to be adequate space within both the current plant site or the Speadoak extraction area to accommodate the new recycling facility, the proposal is not consistent with this land use policy and is a departure from the development plan. Therefore in accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, unless there are material considerations that override this departure, the starting point is that the application should be refused.
- 3.18 Although the proposal would drive the management of waste up the waste hierarchy in accordance with the National Planning Policy for Waste (2014) (NPPW), on the basis that the proposal is a departure from the development plan, the applicant is also required by the NPPW to demonstrate a need for the facility at this location. This has not been carried out by the applicant and therefore the proposal is also contrary to this material consideration.
- 3.19 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
- 3.20 As stated above, the topsoil of the proposed recycling site would be stripped and used to form 3-metre-high soil screen bunds around the northern, western and southern boundaries and sown with a grass seed mix. As a result the facility would be set down slightly below existing ground levels. The

proposed site also benefits from existing landscaping by virtue of the hedgerows on the western boundary (adjacent to Reed Lane) and woodland planting to the north and east. It is proposed stockpiles of material would be limited to 3.5 metres in height.

- 3.21 The County Green Infrastructure & Landscape Officer states that the proposed sections and the landscape overview assessment provided by means of viewpoints demonstrate that there should be no major landscape or visual impacts by the proposals.

- 3.22 The site of the existing area for recycled waste for storage and sale which is to be retained is within the established plant site and benefits from existing screening and planting etc. It is not proposed that any further landscaping would be required for its retention for a further period. It is therefore concluded that both applications accord with development plan policy.

- 3.23 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.

- 3.24 The proposed new recycling facility is remote from residential property with the nearest dwellings, Manor Cottages, being some 450 metres to the north. The Noise Impact Assessment (NIA) concludes that taking into account the context of the existing noise climate, the operating hours of the processing plant and noise control measures, the residential amenity of the nearest residential receptors would be adequately protected and the proposal would not result in an unacceptable change in noise level. The NIA also states that noise generated would not exceed the existing noise limit of 45 dB (this is presumed to relate to the limit associated with the existing operational adjacent plant site).
- 3.25 Breckland District Council's EHO raised no objection subject to the development proceeding in line with the application documentation including measures set out in the Noise Impact Assessment relating to noise levels and hours of operation. However, whilst the County Planning Authority (CPA) could impose a condition on operating hours, because the proposal is solely for waste recycling (and not mineral extraction), the operation would need an Environmental Permit in order to operate which would be issued and regulated by the Environment Agency. This would control any emissions including noise.
- 3.26 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 should assume this Environmental Permitting regime will operate effectively. Therefore in the event Members are minded to approve the planning application, it would not be appropriate to apply a noise condition as it would duplicate controls exercised through the Environmental Permitting regime.

- 3.27 A Dust Assessment was also submitted as part of the planning application. This concluded that the development would have a negligible impact on the surrounding area and is predicted to be not significant. Furthermore, any dust occurrence event would be minimised by the dust control recommendations in their submitted Dust Management Plan. However as with noise, it would be the role of the Environment Agency to regulate this through the Environmental Permit.
- 3.28 On this basis it is not expected that the proposed new recycling facility would result in unacceptable impacts on amenity. The existing storage area for the recycled aggregate is located within the wider plant site and given the nature of the development (i.e. solely for storage) would not give rise to unacceptable impacts. The application therefore accords with these policies.
- 3.29 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.
- 3.30 The application was accompanied by an Ecological Impact Assessment (EclA) which identified great crested newts (a protected species) within 250 metres of the site. The County Ecologist therefore advised that if the development was to proceed, it would need to do so in line with the mitigation also within the EclA. The EclA also sets out other enhancements including a 5m strip of grassland to be created along the southern boundary of the site and the installation of bird and bat boxes. If Members were minded to permit this application the proposals would therefore need to take place in accordance with this mitigation. Subject to these measures the proposals would accord with the development plan policies and the NPPF. No ecological issues were in relation to the use of the storage area for recycled aggregates for a further period and this application also complies with development plan policies.
- 3.31 Appropriate Assessment
The site is situated within 10 kilometres of the River Wensum Special Area of Conservation (SAC), a European protected habitat. 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 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.

3.32 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*.

3.33 Listed Buildings

As set out above, two Listed Buildings are located to the northeast of both application sites, the Grade II* listed Church of St Peter which is 350 metres from the recycled aggregate storage area and 500 metres from the proposed new recycling area, and the Grade II listed Manor Farmhouse around 550 metres and 700 metres respectively of the two application sites. However, given the distance to the heritage assets and the intervening plant site and existing trees and vegetation along its northern boundary, it is not considered that either proposal would harm the setting of either Listed Building.

3.34 Scheduled Monuments

As also pointed out above, the sites are also within some 350 metres of the deserted medieval village of Little Bittering Scheduled Ancient Monument (SAM) and also the Devil's Dyke ('The Launditch') is located just under a kilometre to the west of both application sites. Scheduled monuments are not afforded additional protection by the requirements of section 66 of the Planning (Listed Buildings and Conservation) Areas Act 1990, but they are nonetheless protected by development plan policy and by Chapter 16 of the NPPF: *Conserving and enhancing the historic environment*. NMWDF policy DM9: *Archaeology* seeks to only permit development which would not adversely affect the significance of Scheduled Monuments and Breckland Local Plan policy ENV 07 states that the significance of scheduled monuments will be conserved and wherever possible enhanced.

3.35 However, similarly to the Listed Buildings, given the distance to the two SAMs, and the existing topography and landscaping that is/would be in place, it is not considered that the proposal would harm the significance of the heritage assets. Accordingly, the proposal is considered compliant with the development plan policy and the requirements of the NPPF.

3.36 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 desked based assessment.

- 3.37 Because of the need to break ground, strip topsoil, and slightly lower grounds levels, the County Archaeologist was consulted on the proposal. However they had no comments to make and did not raise the need for any further assessment of the land for archaeological remains. The application is in accordance with this policy and not expected to affect below ground archaeological heritage assets. The proposal therefore accords with this policy.
- 3.38 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.
- 3.39 The details submitted with the planning application for the new recycling facility, including in the Transport Statement, state that the relocated facility would continue to deal with 70,000 tonnes of inert waste per annum and on average this would be delivered in HGVs with a 13-tonne payload. This equates to approximately 40 daily movements i.e. 20 in and 20 out.
- 3.40 The material that is able to be recovered is then stored for sale in the main plant site and sold as and when it is required by customers. Application reference FUL/2021/0051 states that this is likely to be in the region of 15,000 tonnes. The residue, some 55,000 tonnes would be used for the restoration of the Spreadoak quarry to the south and would therefore not need to be moved via the public highway.
- 3.41 The applicant also submitted a Lorry Management Plan which would replace the historic S106 Legal Agreement previously used to control vehicle movements. The proposed plan stipulates that no more than 6 HGVs per day can access the quarry using Reed Lane to the north which provides access to the B1145. The balance of the movements should travel south on Reed Lane as far as the A47 or travel east or west on Litcham Road once they are able to. The Management Plan sets out that the developer would seek to ensure compliance with the proposed plan through appropriate signage, regular monitoring, and disciplinary measures should drivers not comply.
- 3.42 The Highway Authority raises no objection subject to compliance with this plan and subject to appropriate wheel cleaning measures are in place to ensure mud is not deposited on the public highway. Accordingly the proposal complies with these development plan policies.
- 3.43 G – Sustainability

NMWDF policy CS13: *Climate change and renewable energy* seeks that developers generate at least 10% renewable energy on site and policy DM11: *sustainable construction and operations* require sustainable development to be promoted in waste management.

- 3.44 The applicant has not put forward any proposals for on site micro-renewables to generate power (such as solar panels) and has stated in their Sustainability Statement that these are not viable. Whilst this is regrettable, the proposal does seek to recover inert waste to enable recycled aggregates to be re-used in the construction industry again, and the residual waste used to restore the nearby Spreadoak Quarry. The proposal would therefore drive inert waste management up the waste hierarchy as required by the Government's National Planning Policy for Waste (2014).
- 3.45 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.
- 3.46 Neither the proposed new recycling area nor the existing storage area which is to be retained are in flood zones 2 or 3, and neither site area is over a hectare in size. Therefore, a flood risk assessment (FRA) is not statutorily required. Only standing advice has been provided by the LLFA but it is not considered that the proposals would increase flood risk on or off site.
- 3.47 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.
- 3.48 In their original consultation response, the District Council Environmental Protection Officer highlighted that their records indicate that the area is served by a private water supplies and that the Environment Agency (EA) should be made aware of this. They advised that the operator should have measures in place to avoid groundwater contamination and that the operation would be likely to be covered by an Environmental Permit.
- 3.49 As stated above in section 'C – Amenity' the CPA also understands that this operation would be covered by an Environmental Permit regulated by the EA. Officers have made the EA aware of private water supplies however no consultation response has been received in response to the application for the new recycling facility.

- 3.50 Whilst the developer has not put forward any specific measures to avoid contamination, given both that the material proposed to be recycled is inert, and that this would be a matter regulated through the EA's environmental permit, it is not expected that the proposal would cause contamination of groundwater. Furthermore, the EA has permitted the same recycling operation only a small distance away within the existing Longham Quarry on the other site of Reed Lane. Whilst regrettable a response has not been received from the EA, the proposal is considered to accord with these policies.
- 3.51 J – Loss of Agricultural Land
NMWDF policy DM16: *Soils* states that there is a clear preference for locating new mineral extraction and associated activity on land of agricultural grades 3b, 4 and 5. The supporting text to the policy underlines that most waste management facilities will tend to be suitably located on previously developed land and industrial locations and it is not expected there will be a great need to locate such uses on agricultural land. The exception the policy refers to is for composting facilities with these being appropriate to be located on agricultural land given the need to be away from other sensitive receptors due to bioaerosols etc. In this instance, given the link with the quarrying activities, the Core Strategy position is that these operations would also take place within the operational area of the mineral working. This position is reaffirmed in emerging Local Plan Policy MW6: Agricultural Soils.
- 3.52 Whilst the County Council's mapping browser identifies the land as grade 3, the applicant has not undertaken a Soil and Land Quality Survey to distinguish the exact soil classification. They do however acknowledge in their Planning Statement that 'it would be a reasonable assumption that the agricultural classification of the area is likely to be within the higher agricultural grades being either Grade 2 or 3b [sic]'. This is based on evidence from an earlier survey undertaken by Tarmac prior to the submission of their application in 2007 for the Spreadoak application that illustrated the land to be part of a larger unit of Grade 2 land. On this basis the applicant has recognized the need for high levels of soils handling and management and committed to follow the relevant DEFRA Good Practice Guidance.
- 3.53 However, even with these measures, the land may not be returned to as good a quality as it is now and would be lost from productive agricultural use for at least 15 years when the period of post restoration aftercare is taken into account. Should the applicant need to extend the time period for extraction at the nearby Spreadoak quarry and therefore also seek to extend the recycling operation to assist in the restoration of the land, this period could be significantly longer than 15 years. This scenario is not unlikely given that the mineral extraction within Spreadoak quarry remains only in phase 1 of 6 from a permission originally granted in 2007.

3.54 Notwithstanding this, if as per the CPA's original pre-application advice this facility was accommodated either within the current plant site or the Spreadoak mineral working, there would not be a need to lose or compromise the future quality of any further agricultural land. Given the unnecessary proposed use of this land, the proposed development is not considered to accord with this policy which seeks to direct waste management away from the Best and Most Versatile Agricultural Land.

3.55 **ENVIRONMENTAL IMPACT ASSESSMENT**

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

3.56 **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.

3.57 No responses were received from third parties.

Conclusion, Reasons for Decision and Planning Balance

4.1 Although the relocated recycling facility would continue to promote the management of inert waste up the waste hierarchy and divert it from landfill, it is considered that this could be accommodated within either the existing extensive plant site, or within the newly operational Spreadoak quarry to the south of the proposed site.

4.2 Whilst in isolation the proposed recycling area would not have an unacceptable impact on the landscape, significant weight is given in the planning balance to the loss of both agricultural land and the further unnecessary intrusion into, and industrialisation of the countryside contrary to policy CS6. Substantial weight is also given to the proposed use and loss of nearly one hectare of BMV agricultural which would not be necessary if the facility was located elsewhere. As a result, the second application for the storage of the recycled aggregate would not be required for a further period of time.

4.3 The proposal does not contribute to the achievement of sustainable development in accordance with the NPPF on the basis that BMV agricultural land would be unnecessarily lost for a minimum of fifteen years.

4.4 For the reasons set out in the report, the proposal would be contrary to policies CS6 and DM16 and is considered to be a departure from the development plan. The application has not put forward a demonstrable need for the facility at this location to justify a departure from the development plan, and the proposal is

also contrary to the National Planning Policy for Waste (2014). 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.

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.

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 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 refuse permission for application reference FUL/2021/0052 on the following grounds:

1. The proposed site for the recycling facility is in open countryside on agricultural land and not within an active mineral working. The County Planning Authority is of the opinion that the facility can be accommodated either within the existing extensive plant site or the new Spreadoak quarry to the south. The proposal is therefore contrary to Norfolk Minerals and Waste

Development Framework policy CS6: *General waste management considerations* which seeks to locate sites only at existing mineral workings. No need has been demonstrated for the facility at this location and the proposal is also contrary to the National Planning Policy for Waste (2014).

2. The proposed site falls on existing agricultural land however the applicant has not provided a Soil and Land Quality Survey to distinguish the exact soil classification but acknowledged that it is likely to be Best and Most Versatile (BMV) agricultural land (consistent with the last survey undertaken). The proposal does not therefore accord with Norfolk Minerals and Waste Development Framework policy DM16: *Soils* which seeks to direct waste management away from BMV agricultural land.

11.2 That the Executive Director of Community and Environmental Services be authorised to refuse permission for application reference FUL/2021/0051 on the following grounds:

1. On the basis that application reference FUL/2021/0052 has been refused, there is no source of recycled aggregates to store or sell, and therefore no need or justification to extend the period of operational of this facility at this location. It would therefore not be sustainable to locate this development at a remote location in the countryside.

12. Background Papers

12.1 Planning Application reference: FUL/20221/0052 available here:

<http://eplanning.norfolk.gov.uk/PlanAppDisp.aspx?AppNo=FUL/2021/0052>

Planning Application reference: FUL/20221/0051 available here:

<http://eplanning.norfolk.gov.uk/PlanAppDisp.aspx?AppNo=FUL/2021/0051>

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: <https://www.breckland.gov.uk/adoption>

The National Planning Policy Framework (NPPF) (2019):

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

National Planning Policy for Waste:

<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>

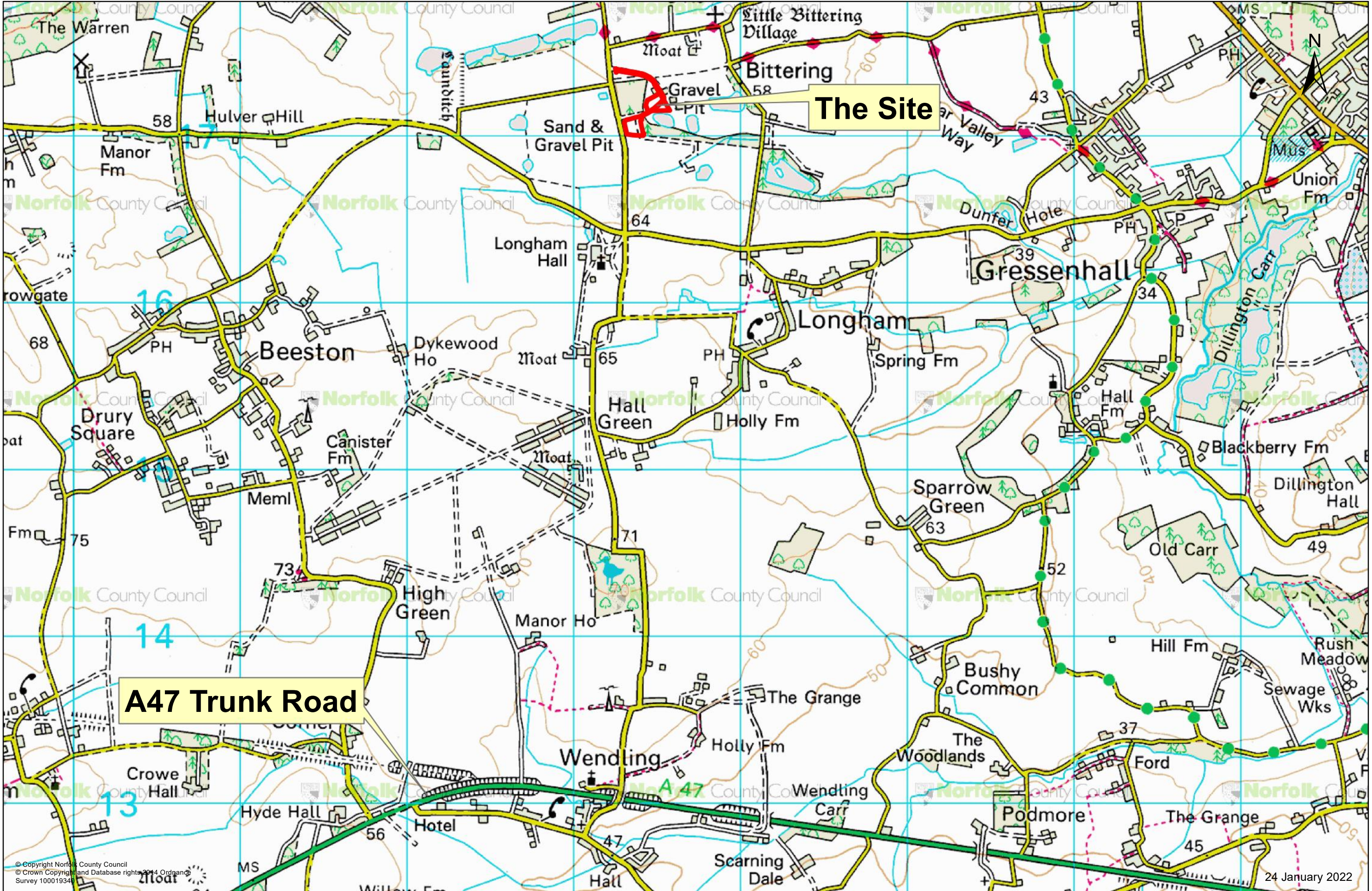
Officer Contact

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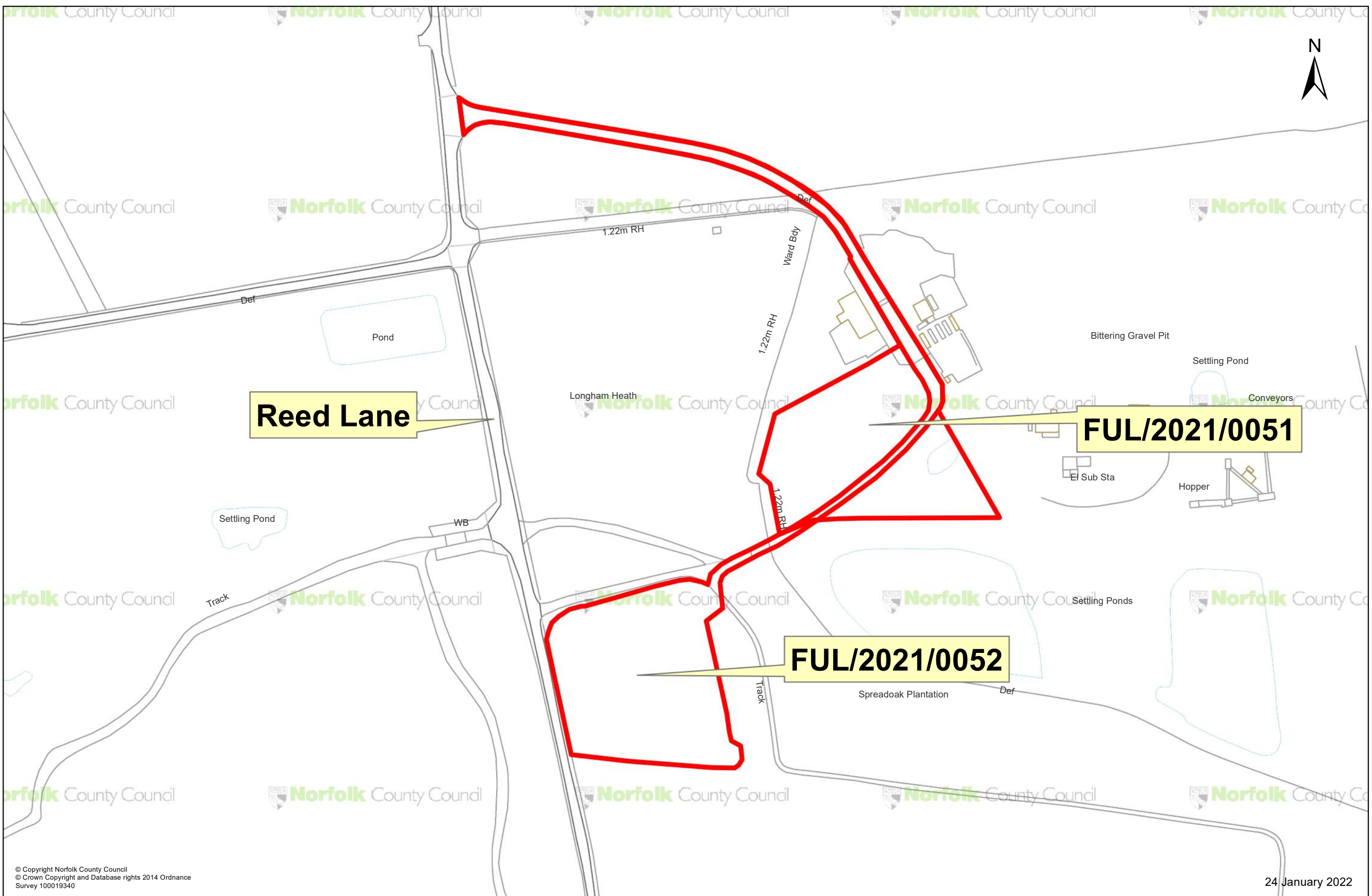
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**Bittering Quarry
Location Plan**



24 January 2022



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24 January 2022

Bittering Quarry Combined Site Plan



Planning (Regulatory) Committee

Item No: 6

Report Title:

C/2/2018/2016: Grandcourt Quarry, Leizate Works, Station Road, Leziate, King's Lynn, PE32 1EH

C/2/2018/2017: Grandcourt Quarry, Leizate Works, Station Road, Leziate, King's Lynn, PE32 1EH

Date of Meeting: 04 February 2022

Responsible Cabinet Member: N/A

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

Is this a Key Decision? No

Proposals & Applicant:

Proposed extension to Grandcourt Quarry for the extraction of industrial sand with progressive restoration to nature conservation (including herb rich grassland, woodland, and lake margins).

Variation of conditions 2, 3, 8 & 9 of permission C/2/2004/2034 to amend the timing of phased working and restoration at Grandcourt Farm Quarry. Applicant Sibelco Ltd.

Executive Summary

Planning permission is sought 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.

There have been three letters of objection received from local residents. Their concerns relate primarily to amenity, flooding, and the need for the extended timescale. Objections have been raised by the Public Rights of Way Team (NCC)

and the Ramblers Association on the basis of the applications resulting in an unacceptable impact on Public Footpath East Winch 2. The applicant has sought to Appeal against Non-Determination of the Application, therefore, the purpose of the report is to seek the decision of the Planning (Regulatory) Committee should they have been afforded the opportunity to make a formal determination on the application, the decision of the Committee will assist the Council's case to be presented to the Planning Inspectorate as part of the Council's Statement of Case.

The key issues are the principle of development, impacts of the development on residential amenity, visual amenity, progressive working and restoration, and cumulative impact. The environmental impacts of the proposal have been carefully considered through the submission of an Environmental Statement. It is considered that the whilst the proposal is an allocated site for mineral extraction, as submitted the restoration scheme does not accord with the aims and objectives of the plan in particular the requirement of policy DM14 for aftercare and restoration proposals to demonstrate that due consideration has been given to opportunities to improve public access. There are no material considerations which would override the plan. Furthermore paragraph 100 of the National Planning Policy Framework weighs against approval and the planning applications are therefore recommended for refusal.

Recommendation:

It is recommended 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 this report.

1. Background

- 1.1. This report covers two intrinsically linked planning applications that would facilitate the extraction of silica sand from an extension area to the existing Grandcourt Quarry. The main application, reference C/2/2018/2016 is for the new area of extraction and has been lodged alongside a planning application, reference C/2/2018/2017 made under section 73 of the Town and Country Planning Act 1990 which seeks a variation of conditions 2, 3, 8 & 9 of permission C/2/2004/2034 to amend the timing of phased working and restoration at Grandcourt Farm Quarry to facilitate the development proposed by the main application.
- 1.2. The two applications have been lodged each with an Environmental Statement submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations'), to assess the impacts of the 'project' as a whole. Therefore, in accordance with the Council's Constitution, the applications need to be determined by the Planning (Regulatory) Committee.

- 1.3. There is an extensive history of silica sand extraction and associated processing in the area dating back many years with the most recent quarry at Grandcourt Farm being granted permission in 2007.
- 1.4 The applicant in parallel to the application process, has lodged an appeal with the Planning Inspectorate on the basis that the County Planning Authority has failed to give notice of its decision within the appropriate period on the application. Therefore, the Planning (Regulatory) Committee is no longer able to formally determine this planning application. The reason for the delay being extensive and on-going discussions with the applicant to resolve issues with the Applicant, the Environment Agency, Natural England and the Closed Landfill Team (NCC) in relation to groundwater drainage and the Highway Authority in relation to the Public Right of Way. Despite these on-going discussions, the applicant has sought to Appeal against Non-Determination of the Application. The purpose of the report is to seek the decision of the Planning (Regulatory) Committee should they have been afforded the opportunity to make a formal determination on the application, the decision of the Committee will assist the Council's case to be presented to the Planning Inspectorate as part of the Council's Statement of Case.

2. Proposals

2.1. SITE

- 2.2. Grandcourt Quarry site lies approximately 7 km south east of King's Lynn and is adjacent to the north of the A47. The village of Leziate is situated to the north and west of the site with villages of Middleton and East Winch located to the west and to the east, respectively.
- 2.3. The existing extraction site and processing plant area which covers 158 hectares, is in control of the applicant and a large proportion of which has already been worked and restored or partly restored. Other worked out areas have been developed for leisure use (as at Leziate Park) or for nature conservation (e.g. Wicken North and Wicken South). The overall application area for both applications covers 37.2 hectares and the proposed additional area for mineral extraction covers 22 hectares.

2.4. PROPOSAL

- Planning permission is sought through application reference C/2/2018/2016 to extend Grandcourt quarry to enable the extraction of silica sand for a further 4 years, with a further year to complete the restoration. It is anticipated the total saleable reserve would be 3,000,000 tonnes of mineral which would be extracted at an average estimated rate of 750,000 tonnes per annum.
- 2.5. Extraction of the silica sand is proposed in three phases and would require the temporary diversion of Public Bridleway East Winch No 1 and Footpath East Winch No.2 during the extraction phases of the development and permanent diversion on completion of the restoration plan. The proposal includes details of

progressive restoration which is proposed to carry on throughout the sand extraction phases. The applicant states that calculations show that only parts of the site can be restored to above the local water table level and therefore the majority of the site is proposed to be restored as a lake feature. The restoration proposal also includes “*species rich grasslands*,” on the lake banks and new hedgerow planting to compensate for some hedgerows being removed by the proposed development. A number of hedgerow trees will also be planted.

- 2.6. Access to the site and the transportation of raw silica sand is proposed via an extension to the existing internal haul route which connects the site with the existing processing plant at the Leziate Works (the Plant Site). The extended haul route is proposed to travel in a westerly, then a north and north westerly direction from the proposed extension area and would be the sole operational access to the extraction area. The haul route is proposed to be at the base of the quarry workings in the extension area, rising to original ground levels some 550 metres to the west of Grandcourt Farm.
- 2.7. Planning permission is sought through application reference C/2/2018/2017 to amend the timing of working and restoration of the existing silica sand workings at Grandcourt Quarry to extend the period of time for the working and restoration. The application is required as a consequence of the proposal in application C/2/2018/2016 to extend the area of the workings to the immediate east of the current operational area of Grandcourt Quarry.
- 2.8. Subject to achieving planning consent for the extension area, the applicant anticipates that mineral extraction in the current permitted quarry would cease. Work would then commence to stabilise the sand and overburden faces in the current permitted quarry, whilst quarrying commences in the new extension area. As mineral extraction ceases in the extension area, development of the current permitted quarry area would recommence at full rate. The site would then continue to be progressively restored as per existing conditions and schemes. This would enable the mineral from the new extension area to be transported through the existing area to the plant site for processing.
- 2.9. It is proposed to operate both the existing quarry and extension area in accordance with current permitted hours at Grandcourt Quarry. These hours are limited to 0700 – 1800 Monday to Friday and 0700 to 1300 Saturday. There will be no working on public holidays or Sundays other than emergency maintenance work.

3. Impact of the Proposal

3.1. DEVELOPMENT PLAN POLICIES

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF), Mineral Site-Specific Allocations Development Plan Document (adopted 2013) (MSSADPD), King’s Lynn & West Norfolk Borough Council Local Development Framework, Core Strategy (adopted 2011), Site Allocations and Development Management Policies Plan (adopted

2016) provide the development plan framework for this planning application. There are no extant Neighbourhood Plans for the application area.

Norfolk Minerals and Waste Development Framework (NMWDF)

CS1: Minerals Extraction
CS2: General Locations for mineral extraction and associated facilities
CS13: Climate change and renewable energy generation
CS14: Environmental protection
CS15: Transport
DM3: Groundwater and surface water
DM4: Flood Risk
DM7: Safeguarding Aerodromes
DM8: Design, Local landscape, and townscape character
DM10: Transport
DM12: Amenity
DM15: Cumulative impact
DM14: Progressive working, restoration and after use
DM16: Soils

3.2. Mineral Site-Specific Allocations Development Plan Document (MSSADPD)

Site Specific Allocation Policy MIN 40

3.3. King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011)

CS01: Spatial Strategy
CS08: Sustainable Development
CS11: Transport
CS12: Environmental Asset

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

DM1: Presumption in Favour of Sustainable Development
DM2: Development Boundaries
DM15: Environment, Design and Amenity
DM20: Renewable Energy

3.5. Neighbourhood Plan

The site is located in the area of East Winch Parish Council, this Parish currently does not have an adopted Neighbourhood Plan.

3.6. **OTHER MATERIAL CONSIDERATIONS**

3.7. National Planning Policy Framework (2021)

6. Building a strong, competitive economy
9. Promoting sustainable transport
14. Meeting the challenge of climate change, flooding, and coastal change

- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment
- 17. Facilitating the sustainable use of minerals

3.8. Emerging Development Plan Policies

- 3.9. 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 following emerging policies carry limited weight:

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

The Norfolk Minerals and Waste Local Plan Review is currently on-going. A Preferred Options Consultation took place in September and October 2019. The Pre-submission Draft of the Plan is due for publication and consultation in 2022. At this stage only limited weight can be attributed to the policies in the emerging plan. Draft policies relevant to this application include the following:

- Policy MW2: Development Management Criteria
- Policy MW3: Transport
- MW4: Climate change adaption and mitigation
- Policy MW6: Agricultural soils
- Policy MP1: Provisions for minerals extraction
- Policy MP2: Spatial Strategy for mineral extraction
- Policy MP6: Cumulative impacts and phasing of workings
- Policy MP7: Progressive working, restoration, and after-use
- Policy MP8: Aftercare
- Policy MIN 40: Land east of Grandcourt Farm, East Winch

3.10. King's Lynn & West Norfolk Borough Council, Local Plan Review: Pre-Submission Document 2021.

The King's Lynn and West Norfolk Local Plan Review is currently ongoing. The pre-submission consultation stage ran from 2 August to 27 September 2021. At this stage only limited weight can be attributed to the policies in the emerging plan. Policies relevant to this application include the following:

- Policy LP01: Spatial Strategy
- Policy LP03: Presumption in Favour of Sustainable Development
- Policy LP06: Climate Change
- Policy LP07: The Economy
- Policy LP13: Transportation
- Policy LP18: Design and Sustainable Development
- Policy LP20: Historic Environment
- Policy LP21: Environment, Design and Amenity

3.11. Norfolk County Council's Environmental Policy

Furthermore, whilst not itself a planning policy, Norfolk County Council's Environmental Policy adopted in November 2019 is also material to the decision albeit one of limited weight.

3.12. CONSULTATIONS

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK (PLANNING)
C/2/2018/2016 & C/2/2018/2017: No objection.

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK
(ENVIRONMENTAL HEALTH)

C/2/2018/2016 & C/2/2018/2017: No objection to the proposal. Particularly concerned to ensure that current dust management plan for Grandcourt Quarry is being adhered to before the site is potentially extended nearer to receptors. Recommend the applicant has a robust system in place to actively remedy any dust issues which impact on residents (both on and off site) i.e. they attenuate the dust on site and also consider paying/arranging for the sand to be removed and cleaned away from the residential properties.

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK (COMMUNITY
SAFETY & NEIGHBOURHOOD NUISANCE)

C/2/2018/2016 & C/2/2018/2017: No objection subject to conditions re hours of operation, noise, dust, external lighting and bunding.

ENVIRONMENT AGENCY

C/2/2018/2016: No objection, providing inclusion of a condition ensuring compliance with the submitted documents, particularly the updated Water Management Plan and Environmental Statement Addendum.

C/2/2018/2017: No comments to make.

NATURAL ENGLAND

C/2/2018/2016 & C/2/2018/2017: No objection, subject to appropriate mitigation being secured. As submitted, the application could have potential significant effects on East Winch Common Site of Special Scientific Interest (SSSI). The groundwater monitoring borehole for between East Winch Common SSSI and the site is agreed to the Environment Agency's specification, in consultation with Natural England, either as a part of the formal planning process or as a part of the water abstraction licencing process. Advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

WATER MANAGEMENT ALLIANCE

C/2/2018/2016 & C/2/2018/2017: The proposed development will require land drainage consent in line with the Board's byelaws. Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As it is strongly recommended that the required consent is sought prior to determination of the planning application. Any additional works proposed within 9 metres of the watercourse, would require consent to relax Byelaw 10. Request that the Environment Agency are consulted.

DEFENCE INFRASTRUCTURE ORGANISATION

C/2/2018/2016 & C/2/2018/2017: No objection.

HISTORIC ENGLAND

C/2/2018/2016 & C/2/2018/2017: No objection.

RSPB

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

WOODLAND TRUST

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

RAMBLERS ASSOCIATION

C/2/2018/2016 & C/2/2018/2017: Objection. The diversion of East Winch Footpath 2, alongside the A47 protected from its effects of noise, draft and fumes by a hedge will be objected to when the applicant applies for an order for such a diversion of this path. The footpath could just as easily be diverted to create a circular walk around the proposed lake/pit. The distance from Grandcourt Farm by this route is about 900 metres. Using the proposed diversion between the same points would be about 1120 metres. Nearly 500 metres of this would be on the new bridleway between the lakes which is designed to have hedges on banks on both sides and thus no views for pedestrians. Another approximately 470 metres would be beside the A47, part of the way separated by a hedge and part by crossing the road to the footway on the south side of the A47.

HEALTH & SAFETY EXECUTIVE

C/2/2018/2016 & C/2/2018/2017: Do not advise against. NORFOLK
GEODIVERSITY PARTNERSHIP

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

HIGHWAY AUTHORITY (NCC)

C/2/2018/2016 & C/2/2018/2017: No objection.

LEAD LOCAL FLOOD AUTHORITY (NCC)

C/2/2018/2016 & C/2/2018/2017: No comments.

HISTORIC ENVIRONMENT SERVICES (NCC)

C/2/2018/2016: No objection subject to a condition requiring compliance with the submitted Archaeological Mitigation Strategy and Written Scheme of Investigation. Also, each phase of quarrying shall not be undertaken until a post investigation assessment has been completed on the previous phase of site investigations in accordance with the programme set out in the archaeological written scheme of investigation.

C/2/2018/2017: There is an outstanding requirement for publication and dissemination of results relating to the archaeological work carried out across the C/2/2004/2034 permission area. We would like confirmation that the applicant is committed to securing an appropriate programme of post-excavation assessment, and provision made for analysis, publication and dissemination of results and archive deposition relating the archaeological work carried out across the C/2/2004/2034 permission area.

ECOLOGIST (NCC)

C/2/2018/2016 & C/2/2018/2017: Due to the passage of time since the Preliminary Ecological Appraisal was undertaken, and the ecology chapter of the ES prepared (based on surveys undertaken in 2017) it will be necessary to update these documents prior to determination

AROBORICULTURE AND WOODLAND (NCC)

C/2/2018/2016: Specific details of the measures taken to protect retained trees are considered appropriate information to ensure that trees are not adversely affected by the development. NCC's arboriculture officer is happy, to be contacted directly in order to agree the specification of the measures outlined in the AMS

C/2/2018/2017: no comment to make from an arboricultural perspective.

GREEN INFRASTRUCTURE AND LANDSCAPE (NCC)

C/2/2018/2016 & C/2/2018/2017: No objection.

PUBLIC RIGHTS OF WAY (NCC)

C/2/2018/2016 & C/2/2018/2017: Objection. The permanent rerouting of Footpath 2 is not acceptable. The suggested alignment is practically an extinguishment of Fp2 as there is already an existing path available to the public on this route and therefore it is not acceptable when there is the capacity for it to be

accommodated around the eastern perimeter of the eastern lake. We will also object to any s257 diversion order that makes this proposal.

LEZIATE PARISH COUNCIL

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

EAST WINCH PARISH COUNCIL

C/2/2018/2016 & C/2/2018/2017: No objection.

MIDDLETON PARISH COUNCIL

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

LOCAL MEMBER, GAYTON AND NAR VALLEY, JIM MORIARTY

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

NATIONAL PLANNING CASEWORK UNIT –

C/2/2018/2016 & C/2/2018/2017: At the time of writing the report no comments received.

3.13. REPRESENTATIONS

The two applications were advertised on four separate occasions by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. Three letters of objection have been received from the public in response to application C/2/2018/2016 and one letter of objection received in response to application C/2/2018/2017. The concerns raised were as follows:

C/2/2018/2016:

- There are currently issues with dust at the existing site. The dust management and mitigation measures must be improved to protect the residential amenity for the extension site.
- Object, on the grounds of its size, depth, width, height (Bunding) and massing which would have an adverse impact on properties immediately adjacent to the proposed application. This is likely to result in noise, disturbance, loss of views, deterioration of air quality and loss of privacy. The proposed diversion routes for the bridleway and footpaths would mean public rights of way being closer to a residential property which will cause nuisance, noise, and loss of privacy along with the new proposed agricultural track.
- We have been mis-led by the applicant as to the distances from our boundary to the edge of the proposed development.

- Outline planning permission (16/00645/0) granted a residential unit next to Holland House has been put on hold due the delays in Sibelco's planning application and the proximity of what they may seek.
- The applicant has made a considerable financial contribution to the owners of Grandcourt Farm for double glazing which underpins noise concerns.
- The local benefits have not been established - economic, community and otherwise.
- The flood report is out of date and needs updating in line with applicable standards and advice for 2019. East Winch has a low flood risk currently and this development of will afterwards clearly increase that risk and have negative community and economic impacts afterwards.
- The HSE has not responded substantively on the proposal. It is relevant to note that the final outcome of the proposal will be an increase in the number of water spaces in the area, which will be in addition to the Bawsey Pits where several tragedies have occurred in the last 10 years.
- Clearly now with substantiated climate change risks as well the phase three development/ eastern lake brim being very close to the East Winch settlement. It would appear now that the risk proximity to dwellings does warrant further analysis and comment on the safeguards required to protect local people and their homes

C/2/2018/2017:

- This application could lead to a considerable delay in restoration work.
- The revised application appears to want to reinstate this part of the proposed Bridleway along the diverted route only with no reinstatement of the original route.
- Once the footpaths (not bridleways) are reinstated along the proposed routes will responsibility for maintenance fall with the landowner or does Sibelco have an ongoing responsibility.

3.14. **APPRAISAL**

The key issues for consideration are:

- A. Principle of Development including Landbank
- B. Landscape & Visual Impact
- C. Amenity
- D. Biodiversity
- E. Impact of Heritage Assets
- F. Transport
- G. Sustainability
- H. Flood Risk, Groundwater and Surface water
- I. Loss of Agricultural Land
- J. Progressive Working, Restoration & After use
- K. Safeguarding Aerodromes
- L. Cumulative Impact

3.15. A - PRINCIPLE OF DEVELOPMENT & LANDBANK

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”.

- 3.16. In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the: Norfolk Minerals and Waste LDF Core Strategy and Minerals and Waste Development Management Policies DPD 2010-2026 (2011), Norfolk Minerals and Waste Development Framework Mineral Site-Specific Allocations DPD (2013/2017), and King's Lynn & West Norfolk Borough Council Core Strategy (2011), and King's Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016). Whilst not part of the development plan, policies within the NPPF are material to the consideration of the application.
- 3.17. Policy CS1 of the NMWLDF Core Strategy sets out the strategy for minerals extraction in Norfolk and that is to allocate sufficient sites to meet the identified need. Policy CS1 states that following an initial period (within the plan period) where a 15-year landbank will be maintained, a 10-year landbank minimum for silica sand will be maintained. The applications under consideration relate to the extension in time of the current working to facilitate mineral extraction from the extension area and the extension, allocated site MIN 40. The applications in combination would contribute 3 million tonnes to the landbank figure.
- 3.18. Section 17 of the NPPF is also a material consideration and states that minerals planning authorities should plan for a steady and adequate supply of industrial minerals and that a 10-year landbank should be maintained. Para 209 of the NPPF underlines that minerals are essential to support sustainable economic growth and our quality of life and, since minerals can only be worked where they are found, it is important to make best use of them to secure their long-term conservation. Furthermore, Para. 211 requires LPAs to “give great weight to the benefits of mineral extraction, including to the economy”. It is therefore considered that the proposal would be in general accordance with the aims of the NPPF.
- 3.19. Planning Practice Guidance recognises that working of minerals is a temporary use of land, although it often takes place over a long period of time and, working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated.
- 3.20. The silica sand landbank figure at the end of January 2022 is calculated to be 3.459 million tonnes which is just over 4.3 years of permitted reserves based on

the 10-year average sales of 800,051 tonnes per annum. This is well below the 'at least 10 years' of permitted reserves stated in the NPPF paragraph. The additional silica sand resource in allocated site MIN 40 (application C/2/2018/2016) is estimated to be 3 million tonnes which, if permitted, would increase the total silica sand landbank to just over 8 years and 6.459 million tonnes. The National Planning Practice Guidance (paragraph 27-089) states that "Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves. However, low stocks of permitted reserves to justify capital investment may be seen as a strong indicator of urgent need."

- 3.21. The application site is outside of the development boundary for King's Lynn policy DM 2 "Development Boundaries" from King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (2016). The policy states that the areas outside development boundaries (excepting specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan. However, the mineral can only be extracted in the countryside and where the geology dictates the silica sand has been deposited.
- 3.22. Policy CS2 of the NMWLDF Core Strategy sets out the principles for the locations for mineral extraction. The continued use of the existing site for mineral extraction is considered to comply with the requirements of the policy and is acceptable in principle. Policy CS2 was written prior to the Planning Practice Guidance which states that *"the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits, taking into account issues such as the need for the specific mineral, economic considerations, positive and negative environmental impacts, the cumulative impact of proposals in the area."*
- 3.23. Policy CS2 also states that given the national significance of Norfolk's silica sand resources, appropriate weighting will be given in decisions on which sites are to be permitted, and sites which would be able to access the existing processing plant and railhead at Leziate via conveyor or off-public highways routes will be preferred. The method for transporting mineral to the existing lawful processing plant will remain unchanged i.e., internal haulage and transported off site following processing, mainly, via the railhead at Leziate.
- 3.24. The adopted Minerals Site Specific Allocations Development Plan Document (DPD) adopted in 2013 is also part of the development plan and includes an allocation for MIN 40 (Land to the east of Grandcourt Farm, East Winch) as a planned extension to the existing Grandcourt Farm Quarry. The application/extension area being proposed is consistent with this allocation and the variation application seeks to facilitate the working of the allocated site.
- 3.25. The County Council is in the process of reviewing the Minerals and Waste Local Plan (MWLPR), to extend the Plan Period to the end of 2036. The MWLPR has completed the Initial Consultation (Issues and Options), and the Preferred

Options Consultation stages, and the emerging Plan is due to go out for the Pre-submission publication representations stage later this year. In the MWLPR Site MIN 40 is recommended for retention as a preferred option for mineral extraction, subject to any future planning application meeting a series of requirements to ensure that no unacceptable impacts occur as a result. The emerging Local Plan is a material consideration but is not yet formally part of the development plan for the area. In accordance with para. 48 of the NPPF, due weight is given to relevant emerging policies.

- 3.26. Notwithstanding all other material considerations and the remaining policies in the development plan, taking into account the above, with regard to the Development Plan, the proposals in combination are considered acceptable in principle, subject to a full policy assessment and consideration of all other material considerations.

3.27. B - LANDSCAPE & VISUAL IMPACT

Policies CS14 and DM8 of the NMWLDF CS, NMWDF Mineral Site-Specific Allocations DPD Policy MIN 40, policies CS06 and CS12 of the King's Lynn & West Norfolk Core Strategy, and sections 15 and 17 of the NPPF apply. Due weight is given to policy MW2 of the emerging Norfolk Minerals and Waste Local Plan.

- 3.28. Policy CS14: *Environmental Protection* requires; that there are no unacceptable impacts and ideally improvements to the character and quality of the landscape. Policy DM8 requires; that developers show how their proposals will address impacts on the local landscape. NMWDF Mineral Site-Specific Allocations DPD Policy MIN 40 requires; A screening scheme which will include mitigation of views from the properties along Station Road, the PROW and surrounding roads, and protection of the setting of listed buildings, including All Saints' Church East Winch.

- 3.29. King's Lynn & West Norfolk Core Strategy Policy CS06 (Development in Rural Areas) states beyond the villages and in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty, the diversity of its landscapes. Policy CS12 (Environmental assets) states that development proposals should demonstrate that their location, scale, design, and materials will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area, the landscape setting, and features.

- 3.30. The application areas are in the landscape character type and area, "*Farmland with Woodland and Wetland – G3 Gayton and East Winch*," as defined in the landscape character assessment undertaken at Borough level (King's Lynn and West Norfolk Borough Council & Chris Blandford Associates, 2007).

- 3.31. The applicant in the ES states that close-range views into the proposed extension area would be limited from publicly accessed areas, restricted to specific private locations most likely from first floor windows and glimpsed views from the A47. Medium-range views would be restricted to the former permissive path sections

beyond 500m from the site. Views from sections of road beyond this, further to the northeast, would be severely restricted by roadside hedgerow vegetation. Views from Wanser House/Winch Farm, to the north of the dismantled railway line, are restricted by vegetation to partial views from first floor locations facing the site. Long-range views from locations beyond 1km are generally restricted to non-public areas of existing mineral workings and farmland, except where occasional footpaths coincide, on higher land.

- 3.32. In respect of the variation, the assessment of the original application concluded that in landscape terms the existing quarry is acceptable for the duration of the development and that the final restoration would be acceptable in landscape terms. Subject to conditions relating to the routes of the internal haul road, the bunding and overburden stockpiles. In the longer term the restoration proposal was also considered acceptable. The detail of the proposed amendment to the final restoration scheme will be covered in the restoration section of this report.
- 3.33. A local resident has raised concern that the size, depth, width, height (bundling) and massing of the proposed extension area would result in the loss of views.
- 3.34. The County Council's Landscape Officer has been consulted on the application and raises no objection on landscape grounds.
- 3.35. Overall, it is considered that the two proposals would result in no material additional impact on the landscape or visual amenity of the area. The two applications are therefore considered to be acceptable and compliant with the landscape principles set out in the relevant planning policies, and objectives of the NPPF.
- 3.36. 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.

- 3.37. Policy DM15 Environment, Design and Amenity of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals will be assessed against their impact on neighbouring uses and their occupants and development that has a significant adverse impact on the amenity of others will be refused.
- 3.38. The nearest residential properties are approximately 80 metres from the operational area beyond the eastern boundary of the proposed application area and on Gayton Road and the A47, East Winch. Also, on the western boundary (properties known as) "Grandcourt Farm" (approximately 80 metres) and "Grandcourt Cottage," (approximately 100 metres). The property known as "The Bungalow," which is situated within the application area, will be lost to the development.

- 3.39. A local resident has raised concern that the proposals by virtue of the “size, depth, width, height (Bunding) and massing, would have an adverse impact on properties immediately adjacent to the proposed application.” Which would likely result in noise, disturbance, the deterioration of air quality and loss of privacy. Whilst another resident has highlighted an occurrence of a dust issue at the existing site and recommends that the dust management and mitigation measures for the extension site are improved to protect residential amenity.
- 3.40. The applicant considers that the findings of the environmental studies have informed the design of the development, including screening, stand-offs, and buffer zones in-order-to meet national requirements in relation to factors which may have the potential to affect to local amenity. The applicant has also provided a programme of mitigation measures to deal appropriately with any amenity impacts which might potentially include noise, dust, and air quality.
- 3.41. In terms of privacy the bunding being proposed and the distances to the nearest residential properties are considered acceptable in terms of impacts upon amenity. There have been no issues raised by statutory consultees in this regard.
- 3.42. In terms of noise, the Planning Practice Guidance (PPG) provides advice for mineral operators regarding appropriate noise standards for mineral operations. The Environmental Statement contains an assessment of the potential impact at the closest noise sensitive properties, due to noise arising from proposed quarrying activity. The assessment concludes that the noise levels during normal operations will be within the levels advised within the PPG. The assessment also notes short-term activities such as soil stripping and construction of bunding will exceed the guidance levels but that this will be for a short period i.e. no more than 8 weeks per year, which is in accordance with the PPG. In addition, the applicant has committed to use “white noise,” reversing alarms on mobile plant, has a rigorous complaints reporting/investigation procedure and will periodically monitor noise levels.
- 3.43. The Community Safety & Neighbourhood Nuisance Team from the Borough Council of King's Lynn and West Norfolk are satisfied that the control measures embedded and proposed to mitigate the impact on residents from noise should ensure that there is no significant adverse impact on the amenity of residences surrounding the site. Subject to compliance with the Noise Monitoring and Management Scheme submitted with the application. A resident of East Winch has raised concern that the development is likely to result in noise disturbance.
- 3.44. To conclude on the amenity/noise issue, mineral extraction and associated development is likely to give rise to local impacts. However, the impacts are considered short-term and would not exceed the time-periods specified in the guidance. In addition, the Community Safety & Neighbourhood Nuisance Team have not raised an objection. On balance, subject to the development being carried out in accordance with the noise monitoring and management scheme, the development is considered acceptable in terms of the relevant planning policies and NPPF.

- 3.45. In terms of dust/air quality, the applicant has provided within the Environmental Statement a section covering air quality. Within this section a-number-of dust sources are identified, including soil stripping, sand extraction, stockpiling, loading, tipping, haulage, and wind blow. Dust mitigation has been proposed in the form of a Dust Monitoring Scheme & Dust Action Plan. The measures are general site management/good housekeeping measures such as the use of bowsters, regular maintenance of the access routes, speed restrictions, water spray at the active quarry faces, minimised drop heights, soil bund grass planting, tree/hedge planting etc. The action plan and monitoring scheme will also be subject to regular review.
- 3.46. The Environmental Quality Team from the Borough Council of King's Lynn and West Norfolk are concerned because the Environmental Permitting regime regulated by the Environment Agency does not include controls over mineral extraction. However, the Borough Council are satisfied that the Dust Monitoring Scheme & Dust Action Plan should control and mitigate dust emissions and prevent adverse effects from dust at the sensitive receptors.
- 3.47. To conclude on the amenity/air quality issue, officers consider that the mitigation measures proposed are acceptable and subject to the development being carried out in accordance with the Dust Monitoring Scheme & Dust Action Plan, the development is considered acceptable in terms of the relevant planning policies and NPPF.
- 3.48. There is no external lighting proposed in relation to the proposed development and so no mitigation measures are required.
- 3.49. For the variation application, the appraisal of the original application highlights that three residential properties have the potential to be significantly affected by the proposal. The properties known as Grandcourt Farmhouse, Grandcourt Farm Bungalow and Carrpit Cottage which are directly adjacent to the proposed eastern boundary of the active quarry area. The application separated these properties from the quarry by screening bunds and planting. A further cluster of properties which could also have been affected by the proposal were identified as being on the southern side of the A47 and facing directly on to the A47. A further property known as Sandpit Cottage which is located to the north-west of the site, but over 500m from any of the extraction areas, was also identified.
- 3.50. The findings of the former environmental studies (borne out in the original Environmental Statement) informed the design of the development, including screening, stand-offs, and buffer zones in order to meet national requirements in relation to factors which may have the potential to affect local amenity.
- 3.51. In terms of noise, the Environmental Statement for this application contains noise monitoring results from 2009 to 2017 which demonstrate compliance with the existing noise condition and with national noise guidance at the three properties of Grandcourt Farmhouse, Grandcourt Farm Bungalow and Carrpit Cottage. In addition, mineral operations are now moving away from these properties. The applicant is proposing to continue with the good housekeeping measures, such

as ensuring acoustic panels on mobile and static plant is fitted correctly, good plant maintenance & correct driver operating.

- 3.52. In terms of dust, the Environmental Statement for this application contains an assessment of the potential impacts at the sensitive receptors. The current quarry employs dust monitoring in accordance with an approved scheme. The site is not within or close to an Air Quality Management Area. The existing operations, when approved in 2007, were considered acceptable. This application does not propose to amend any of the current working practices only the timings.
- 3.53. There has been a letter of objection received from a local resident, who raises concern relating to a dust issue at the existing quarry which resulted from storm Gareth.
- 3.54. King's Lynn and West Norfolk Borough Council's Environmental Quality team raise no objection and consider that the adoption of the Dust Monitoring Scheme and Dust Action Plan should control and mitigate dust emissions and prevent adverse effects from dust at the sensitive receptors. The Borough Council's Community Safety and Neighbourhood Nuisance Team has not raised an objection.
- 3.55. There is no external lighting proposed in relation to the proposed variation and so no mitigation measures are required.
- 3.56. Given the above, it is considered that the two proposed developments will result in no material harm to the amenities of neighbouring occupiers or the local area. Subject to the proposals being worked in accordance with the supporting information, the developments are considered to be acceptable in terms of the relevant planning policies and NPPF.
- 3.57. D – BIODIVERSITY
- NMWDF Core Strategy policies CS14 and DM1 both seek to protect adverse impacts on biodiversity including nationally and internationally designated sites and species. King's Lynn & West Norfolk, Core Strategy Policy CS12 (Environmental Assets) states that development should seek to avoid, mitigate, or compensate for any adverse impacts on biodiversity. Development should also seek to enhance sites through the creation of features of new biodiversity. Paragraph 180 of the NPPF seeks only to grant planning permission where it would not result in the loss or deterioration of irreplaceable habitats.
- 3.58. Within the application sites for the extension and the variation there are no rare or nationally important habitats, although there is a County Wildlife Site (CWS) known as Conduit Plantation to the north of the site. East Winch Common SSSI is located approximately 775 metres to the south east of the application area.
- 3.59. The applicant has confirmed that the findings of environmental studies in the environmental statement demonstrate that there will be no harm or adverse

impacts to nature conservation sites or habitats, species or features identified in UK and Norfolk Biodiversity Partnership, biodiversity action plans.

- 3.60. The current approval was subject to a “Conservation Management Plan,” which was required by condition and a “Bird Management Plan,” which was secured through a section 106 agreement. The applications include a draft legal agreement for the Bird Management Plan. The Bird Management Plan includes details of the long-term bird management of the proposed lakes and lake margins at the restored site, to ensure that there is no additional bird hazard for aircraft using RAF Marham. The Defence Infrastructure Organisation are satisfied with the proposal and have not raised an objection.
- 3.61. The Council's Ecologist has been consulted on the application and originally raised no objections on ecological grounds. However, they now consider that due to the passage of time since the Preliminary Ecological Appraisal was undertaken, and the ecology chapter of the ES prepared (based on surveys undertaken in 2017) it will be necessary to update these documents prior to determination. For both applications it is recommended that prior to determination a professional ecologist undertakes a site visit (and updates desk top survey data) and reviews the validity of the ecological report and the ES chapter on Ecology. Officers consider that this is an issue for the appeal and officers will make the Secretary of State aware of the situation in the statement of case.
- 3.62. Natural England have commented and raise no objection on biodiversity/ecological grounds subject to conditions. Their comments in the main relate to the potential impact de-watering for mineral extraction may have on East Winch Common SSSI rather than any direct impact on biodiversity. The groundwater issue is covered in more detail in the Flood Risk, Groundwater, and Surface Water section of this report.
- 3.63. Given the above, it is not clear whether the proposal will not have any significant implications for biodiversity. The Secretary of State will be made aware of the situation in the Council's statement of case.
- 3.64. Habitats Regulations Assessment
The application site is located approximately 4 km from “Norfolk Valley Fens SAC,” which is a European designated environmental site. 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 the development does not have a significant impact on the integrity of any protected habitat. Accordingly, there is no requirement for the CPA to undertake an Appropriate Assessment of the development (with regards to impacts on biodiversity).
- 3.65. E – IMPACT ON HERITAGE ASSETS

Policy CS14 “Environmental protection of NMWDF (2011) states that developments must ensure that there are no unacceptable adverse impacts on heritage assets and their setting.

- 3.66. 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*.
- 3.67. Policy CS01 “Spatial strategy,” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that development priorities for the borough will be to protect and enhance the heritage assets.
- 3.68. Policy CS12 “Environmental assets” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that Development should seek to avoid, mitigate, or compensate for any adverse impacts on heritage assets as well as seeking to enhance sites through the creation of heritage interest.
- 3.69. Policy DM15 Environment, Design and Amenity of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that Development must protect and enhance the amenity of the wider environment including its heritage value. Proposals will be assessed against heritage impact.
- 3.70. The Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 66 (General duty as respects listed buildings in exercise of planning functions), states that “*in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*”
- 3.71. There are no designated heritage assets within the boundary of the site itself. The proposed variation and extension development site have the following heritage assets located within 1,500 metres of the site:
- Scheduled Ancient Monument - Moated site of Scales Hall, 1,500 metres
 - Scheduled Ancient Monument - Moated site of Crancourt or Grandcourt Manor - 825m
 - Listed Building - All Saints Church Grade 2* - 50 metres
 - Listed Building – Barn at Station Farm Grade 2 – 600 metres
 - Listed Building - Hall Farmhouse Grade 2 – 140 metres

The applicant in their assessment concludes that there will be no adverse impact on the Scheduled Ancient Monuments or the Grade 2 listed buildings.

- 3.72. In respect of the grade II* listed All Saints Church (ref PA00266645), which is located south of the A47 trunk road. The applicant in their assessment concludes that there would be moderately significant adverse effects upon the setting of a Grade II* church, but that this would fall below the significant or substantial bar. However, following this assessment and at the request of Historic England the restoration scheme has been revised such that the lake which was proposed immediately opposite the church has been removed and replaced by grassland.
- 3.73. Historic England have been consulted on the application since the revision and do not wish to offer any comments. Norfolk Historic Environment Service have also been consulted on the application since the revision and raise no objection. Officers, therefore, consider that the revised scheme has reduced the harmful impact on the significance to the grade II* listed All Saints Church to negligible.
- 3.74. Given the above, it is concluded that the proposal will not have a significant or substantial impact upon or cause any harm to heritage assets and the application is not considered to be in conflict with the Planning (Listed Buildings and Conservation Areas) Act 1990, the relevant planning policies and the NPPF.
- 3.75. F – TRANSPORT

NMWDF Policies CS15: *Transport* and DM10: *Transport* states that new minerals development must not result in unacceptable risks to road users and pedestrians or unacceptable impacts on the capacity or efficiency of the highway network.

- 3.76. Policy CS11 “Transport,” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that new development should demonstrate that they have been designed to provide for safe and convenient access for all modes.
- 3.77. The applicant has explained how the development will continue to utilise internal transport for mineral to the existing processing plant at Leziate and thereafter the majority of the sand will continue to be despatched to customers by rail. The processing plant site is lawful in-its-own-right and could still operate with or without this development. The plant site permission has limits placed on the amount of material that can be transported by road from the site, the applicant is not proposing amendment to these figures through this application.
- 3.78. The Highway Authority has been consulted on the application and has raised no objection, subject to all other highway related conditions (included on permission C/2/2004/2034) being included on any consent notice issued. This would seem to be a reasonable request.
- 3.79. To conclude on the highway issues, the extension of timescales and the extension area will not cause any unacceptable impacts in highway terms. Subject to the aforementioned conditions, the development is considered to be acceptable and compliant with the relevant planning policies and the government objectives of NPPF.

3.80. Public Rights of Way

NMWDF Policy DM14 “*Progressive working, restoration and after-use*,” requires the after-use and restoration proposal to demonstrate that due consideration has been given to opportunities to improve public access, particularly to implement the County Council’s Rights of Way Improvement Plan.

3.81. All local authorities are required to produce a Rights of Way Improvement Plan under the Countryside and Rights of Way Act 2000 (Section 60). The County Council’s, Rights of Way Improvement Plan, was reviewed in 2017 and replaced by the Norfolk Access Improvement Plan (NAIP) (2019 – 2029).

3.82. The NAIP was the result of consultation with many user groups and in general terms seeks to improve and protect the network. It includes a statement of actions which are long term to deliver the County Council’s ambitions/key objectives. The key strategic objectives set out in the NAIP are to:

- manage the countryside access network so that it is better able to meet the varying demands placed upon it,
- increase public, economic, and environmental benefit,
- actively seek the involvement of communities,
- take a collaborative and pragmatic approach to responsibilities and resources; and
- increase investment in the countryside access network.

3.83. The NPPF paragraph 100, states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.

3.84. East Winch Bridleway 1 and East Winch Footpath 2 are both affected by the proposed developments. As such, the proposal seeks to temporarily divert both in order to extract the mineral and then, permanently divert both onto what is effectively a shared north/south route for the final restoration. The re-routing would require the creation of a causeway which would dissect the lake proposal on final restoration. This route would be planted.

3.85. The Ramblers Association and the Public Rights of Way Team (NCC) both object to the proposal. Each on the basis, that the re-routing of Footpath 2 to align with Bridleway 1 is unacceptable and would amount to effectively extinguishing the 500m long Footpath 2. Both would prefer Footpath 2 to remain permanently, on the temporary route being proposed for the duration of the extraction phases, with, a minor additional link to Bridleway 1, to create a circular walk around the new lake proposal.

3.86. The applicant in response, refutes the assertion that the proposed diversion alignment amounts to an extinguishment of Footpath 2. Instead, they consider that Footpath 2, which is at present routed diagonally through the site (original route), would be re-routed along the field boundary with the A47, to the south

before linking up with Bridleway 1 to share the route north along the new causeway being proposed. The applicant considers that the route would be no less convenient for users and point out that the route would be 100m shorter than the existing.

- 3.87. For information, should members be minded to approve these applications, there is a separate process to divert a footpath/bridleway, temporarily or permanently, under the Town and Country Planning Act. Section 261 of the Town and Country Planning Act (1990) as amended allows orders to be made under section 257 to temporarily stop or divert a highway for the purpose of minerals to be worked to ensure the highway can be restored to a condition not substantially less convenient to the public after extraction. An order under section 257 may be made in advance of the granting of planning permission. However, it cannot be confirmed until permission has been granted. In this instance the applicant has carried out preliminary work to promote the order. Should a single objection be received in this process, the secretary of state would have to determine the application. In this instance, the Ramblers Association and the Public Rights of Way Team (NCC) have stated that they would object to an application made under section 257.
- 3.88. A local resident has objected to the proposal on the basis that the proposed diversion routes for the bridleway and footpaths would mean public rights of way being closer to a residential property which will cause nuisance, noise, and loss of privacy along with the new proposed agricultural track. The Rambler's Association and the Public Rights of Way Team (NCC) do not share this view.
- 3.89. Officers agree with the Rambler's Association and the Public Rights of Way Team (NCC) that the that the re-routing of Footpath 2 to align with Bridleway 1 is unacceptable and would amount to effectively extinguishing Footpath 2. The applicant was invited to address the issue but has not chosen that option on the basis that the reason and need for the diversions has been set out clearly in the planning applications. Also stating that the final route of Footpath 2 has to be determined in agreement with the landowner and that this forms part of their decision-making process to reach the proposed route.
- 3.90. Officers consider that the development as proposed would have an unacceptable impact on footpath 2 and would not accord with the requirements of the NMWDF Policy DM14 "*Progressive working, restoration and after-use*," which requires restoration and after-use proposals to demonstrate that due consideration has been given to opportunities to improve public access. Furthermore, a main aim of the NMWDF (set out in section 5) is "*to promote social inclusion, and human health and well-being*." The associated objective being "*to mitigate adverse impacts on amenity resulting from mineral extraction and associated development and waste management facilities*." The local outcomes being healthier lifestyles and stronger communities. The proposed development would not achieve the aims and objectives.

- 3.91. The proposal is also considered to not be in accordance with the NPPF paragraph 100, which states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.
- 3.92. G – SUSTAINABILITY
- NMWDF policy CS13: *Climate change and renewable energy* encourages developers to generate renewable energy on site and policy DM11: *sustainable construction and operations* require sustainable development to be promoted in mineral extraction.
- 3.93. Policy CS08 “Sustainable development,” of King’s Lynn & West Norfolk Borough Council, Core Strategy (July 2011) states that the Council will support and encourage the generation of energy from renewable sources.
- 3.94. Policy DM1 “Presumption in favour of sustainable development” of King’s Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The Council will work proactively and jointly with applicants to find solutions that allow proposals to be approved wherever possible, and to secure development that improves the economic, social, and environmental conditions in the area.
- 3.95. The application is accompanied by a Sustainability Statement: consideration has been given to the possibility of how the development could generate its own energy from renewable or low carbon sources. The applicant has examined the potential for renewable energy on the existing site and the extension site and concludes that since the extraction site itself will only utilise mobile plant, the generation or use of renewable energy on the site is impracticable. Whilst not within the application site, the applicant has given consideration to generating energy at the plant site, however, they have concluded that there are no options available that are commercially attractive. As-regards wind power, the applicant considers it unfeasible due to the land tenancy agreements and height constraints. The applicant in considering solar power states that to produce 10% of the annual site electricity demand would require in-excess of 1,000 hectares of solar panels.
- 3.96. The applicant has confirmed that since 1st January 2018, the Leziate site has been sourcing 100% of its electricity from renewable sources. The applicant has entered into a Climate Change Agreement administered by the Environment Agency which commits Sibelco to a 6.1% overall energy reduction target over eight years. In addition, Sibelco operations in the UK, including the Leziate site, are certificated to ISO 50001:2011 Energy Management Systems.
- 3.97. The arguments put forward by the Applicant for not generating renewable energy on site are accepted in this instance. Given that the potential for on-site renewable energy generation has been considered but has been found not to be viable and that the electricity is currently sourced from renewable sources, it is

considered that the proposals would not be in conflict with NMWDF policy CS13, King's Lynn policies CS08 & DM1 and requirements of the NPPF.

3.98. H – FLOOD RISK, GROUNDWATER AND SURFACE WATER

NMWDF policies CS13: *Environmental Protection* and DM4: *Flood Risk* requires developers to demonstrate mineral sites can be worked without unacceptable flood risk to both the site itself and also that flood risk is not increased as a result of mineral extraction.

3.99. 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.

3.100. Policy DM15 Environment, Design and Amenity of King's Lynn & West Norfolk Borough Council, Site Allocations and Development Management Policies Plan (September 2016) states that proposals will be assessed against their impact on neighbouring uses. Proposals will be assessed against a number of factors including water quality.

3.101. Flood Risk

As-regards, surface water management, areas at the northern end (including part of the plant site) and the southern end of the site are situated within the flow path of the Environment Agency Updated Flood Map for Surface Water (UFMFSW) (1 in 30yr and 1 in 100yr events).

3.102. During the operational phase, to prevent flooding all surface water run-off would be collected in the void and dewatering would continue from the base of the quarry and discharged via the infiltration pond to the Middleton Stop Drain under the terms of a discharge consent.

3.103. In the restored phase, the site will be re-profiled so that surface water is captured within the site towards two open water lakes. Once the extension area is restored, there will be at least 2.5 metre of freeboard above the rest water level within the extension area eastern lake. The applicant considers this to be adequate capacity for storage of surface water run-off. Given that there will be adequate freeboard in the eastern lake, and continuity with the groundwater system, an outfall would not be required.

The applicant explains that the extension of the currently consented restoration lake (with a proposed outfall of 15 m AOD) to include a portion of the west of the extension area, and direct rainfall into this lake, is very unlikely to increase flood risk due to the large area of the lake and the attenuation provided. The lake level it's said will also equilibrate with groundwater. The applicant considers that the proposed development provides significant run-off attenuation above the greenfield condition leading to a net reduction in run-off leaving the site and no mitigation measures are required. The applicant considers that once the site is restored there will not be any engineered features or discharge points from the site that require inspection or maintenance.

- 3.104. No new physical development is proposed in relation to the plant site and no changes to the approved restoration scheme are proposed. It is therefore not considered that the proposals would increase flood risk elsewhere.
- 3.105. As regards sustainable drainage systems, PPG (Flood Risk and Coastal Change – paragraph 050), requires opportunities be sought to reduce the overall level of flood risk in the area and beyond, for instance, through layout and form of development, including appropriate sustainable drainage systems. PPG, paragraph 079 further states that consideration of devising a sustainable drainage system depends on the proposed development and its location, for example whether there are concerns about flooding. Specifically, it states that sustainable drainage systems may not be practicable for mineral extraction.
- 3.106. A local resident has raised a concern that the proposed development would result in increased flood risk in East Winch village.
- 3.107. The Lead Local Flood Authority have been consulted on the application and have confirmed that they have no comments.
- 3.108. The Environment Agency has been consulted on the application and has no comment to make in respect of flood risk.
- 3.109. Planning permission C/2/2004/2034 placed the requirement on the applicant to submit a Water Management Plan. This was done, and regular monitoring of the site has not raised any issues with the implementation of the Water Management Plan. The applicant as part of the planning statement has provided an updated Water Management Plan which includes reference to the extension works proposed by planning application C/2/2018/2016. The plan includes details of the existing and proposed monitoring, it is considered by the applicant that the proposed eastern extension will have little or no additional significant hydrological impacts.
- 3.110. It is therefore considered, taking into account the above, that the development would not materially increase the risk of flooding and the proposal would not be in conflict with the relevant planning policies and objectives of the NPPF.
- 3.111. Groundwater

The site is situated within a Groundwater Vulnerability Zone. The two proposals involve de-watering of the dig area to enable dry extraction of the silica sand. The existing site operations include de-watering with a discharge into the Middleton Stop Drain. The proposed development would see this situation continue into the extension area. The Environment Agency would require the applicant to obtain an abstraction license upfront (under the Water framework Directive) before dewatering can commence. The Environment Agency also, expressed concern that the dewatering being proposed has the potential to fully dewater the Carstone and specified that this would need to be addressed within the restoration scheme. The Applicant addressed this issue by introducing an infiltration pond (at the request of the Environment Agency), which would help to re-charge the aquifer and a series of monitoring points required to monitor the

effect the de-watering is having on the surrounding area, including East Winch Common SSSI.

- 3.112. The Environment Agency following extensive dialogue have not raised an objection on the grounds that the applicant will re-charge the aquifer, put measures in place to prevent the permanent de-watering of the Carstone layer of the geology and will introduce borehole monitoring to measure whether the proposed development would have an impact on East Winch Common SSSI or the nearby Blackborough End landfill (to the south of the site). The EHO raises no objection.
- 3.113. The Environment Agency notes that the discharge point for the de-watering into the Middleton Stop Drain is not to be altered. They point out that there is a protected right (licenced abstraction) approximately 250m upstream of the current discharge consent which could potentially be impacted by quarry dewatering. The Agency point out that in the event that this licence is affected by the impacts of quarry dewatering, then a component of the discharge should be discharged further upstream to support this abstraction. The applicant will be required to apply to the Agency for an abstraction license and where protected rights could be derogated an abstraction licence would not be issued without appropriate mitigation in place.
- 3.114. Norfolk County Council's Closed Landfill Team initially raised concerns relating to the current and future impact of dewatering on the NCC closed landfill site at Blackborough End, which was operated as a dilute and disperse landfill, which has no containment for landfill leachate. As such, leachate generated in the site leaches from the base of the waste, moves down through the unsaturated zone, and is then diluted and attenuated in groundwater (through physical and biological processes).
- 3.115. The initial concern being that groundwater flow beneath the landfill has been significantly reduced by the abstraction at the existing quarry. Also, based on the target groundwater level in the proposed extension application, it appeared that should the application be approved it would result in the groundwater flow divide relocating to beneath the NCC closed landfill site. In this situation, there would be minimal dilution for contaminants leaching from the NCC landfill in groundwater.
- 3.116. As a result of the concerns raised and following extensive dialogue it was agreed that the applicant would carry out further investigations and modelling. This work resulted in the applicant submitting a revised Water Management Plan (60792AATN2 Rev4) which alleviated the Closed Landfill Team's original concerns. The revised Water Management Plan outlines additional monitoring, review, and mitigation, to the satisfaction of the Closed Landfill Team who consider that provided the steps are adhered to, a deteriorating trend in water quality, that could lead to harm, would be identified, and addressed as required. The mitigation measures being proposed fall in to three categories: maintenance of water levels (through re-charge and tinkered supplies, if required), groundwater quality monitoring (in addition to that already proposed) and soil moisture augmentation.

- 3.117. Natural England consider that as submitted, the application could have potential significant effects on East Winch Common Site of Special Scientific Interest (SSSI). They raise no objection subject to appropriate mitigation i.e. the groundwater monitoring borehole for between East Winch Common SSSI and the site is agreed to the Environment Agency's specification, in consultation with Natural England. This could be secured by condition.
- 3.118. Given the above, it is therefore considered that the proposal would not be-in-conflict with the relevant planning policy or NPPF, subject to condition. In addition, should Members be minded to approve the applications a legal agreement would be required to secure the offsite monitoring regime and access.
- 3.119. I – LOSS OF AGRICULTURAL LAND
- NMWLDF CS policy DM16 and Section 15 of the NPPF apply. Policy DM16 states that the County Council has a clear preference for locating new mineral extraction and associated activities, and composting facilities, on land of agricultural grades 3b, 4 and 5.
- 3.120. The principle of extraction has long been established on the current site. There are conditions on the existing permission which are aimed at ensuring the productive after-use of the land and it is recommended that these are retained should permission be granted. Given that the variation proposal would not result in the loss of agricultural land beyond that previously agreed it is concluded that the proposal to vary the existing permission will not cause any material harm to soil resources and is not in conflict with the relevant planning policy and NPPF.
- 3.121. As result of both applications there would be a permanent loss of 24.47ha of arable farmland. The Agricultural Land Classification for the site, published by Natural England, is Grade 4 (poor quality). Section 5 of the ES contains the soil assessment which concludes that the extension area is grade 3b soil (moderate quality). Natural England has been consulted on the application and raises no objections on soil resource grounds.
- 3.122. The proposal would result in the loss of an area of grade 3b agricultural land. This loss is considered acceptable with the County Council's preference being set out in policy DM16 (Soil), that is to locate new mineral extraction and associated activities on lower-grade land such as grade 3b or 4. In addition, biodiversity enhancements are proposed. It is concluded that the proposal will cause no material harm to soil resources and is not in conflict with policy DM16 (Soil) or the NPPF.
- 3.123. J – PROGRESSIVE WORKING, RESTORATION AND AFTERUSE
- As required by NMWDF policy DM14: Progressive working, restoration and after use, the applications have been accompanied by a detailed scheme that sets out the progressive working and restoration of the existing operation and the extension area.
- 3.124. Policy MIN 40 of the NMWDF requires a restoration scheme incorporating heathland or a heathland/arable mix with blocks of woodland which provides biodiversity gains and does not result in permanent dewatering of a perched water table in the Carstone aquifer if one is identified in a hydrogeological

risk assessment. No perched water table has been identified. The supporting text states that this type of restoration would not result in an over concentration of open water in the wider area.

- 3.125. The current phasing, restoration and aftercare details for the existing site which consist primarily of a restoration to agriculture and lakes, with habitat creation, were considered acceptable and planning permission granted. The proposed restoration scheme is that of a progressive restoration and remains primarily to agriculture and lakes, with habitat creation also being proposed.

The restoration scheme would lead to the following:

- Loss of grade 3b (moderate quality) agricultural land - 24.47ha
- Increase of Broadleaved Woodland – 1.28ha
- Increase of Species-rich Grassland / Scrub – 6.77ha
- Increase of Open water – 16.84ha
- A net increase of hedgerow – 0.92km
- *Increase of Peripheral areas, tracks etc.* – 0.49ha

The applicant points out that the area covered by these features (other than the agricultural land) is a significant increase over that which currently exists on the site.

- 3.126. The proposal includes provision of biodiversity and landscape enhancements and the restoration is considered acceptable by the Council's Ecologist and Landscape Officer.
- 3.127. The existing permission is subject to a S106 agreement requiring long-term bird management. Application C/2/2018/2016 includes a draft S106 agreement which amends the existing to include the extension area.
- 3.128. As stated, in section F (Transport) of the report the restoration proposal is considered that it would have an unacceptable impact on East Winch footpath 2 and would therefore not be in accordance with the requirements of the NMWDF Policy DM14 "*Progressive working, restoration and after-use,*" which requires restoration and after-use proposals to demonstrate that due consideration has been given to opportunities to improve public access.
- 3.129. Given the above, it is concluded that the proposal accords with the relevant planning policies and the requirements of the NPPF in this respect.
- 3.130. K – SAFEGUARDING AERODROMES
- NMWLDF CS policy DM7 and Section 17 of the NPPF apply.
- 3.131. The site is within the safeguarding zone for RAF Marham. The current Grandcourt Quarry has an approved bird management plan and an updated version has been submitted to support the extension application. The restoration scheme which is being proposed has been designed to keep the risk of bird strikes low. The Defence Infrastructure Organisation Safeguarding has been consulted on the application and raises no safeguarding objections.

- 3.132. Given the above, it is concluded that the proposal accords with the relevant planning policy and the requirements of the NPPF in this respect.
- 3.133. L – CUMULATIVE IMPACT
- NMWLDF CS policy DM15 and Section 17 of the NPPF apply. Due weight is given to policies MW 2 and MP 6 of the emerging Norfolk Minerals and Waste Local Plan.
- 3.134. The planning statement supporting the application identifies the following sites as potentially being relevant in the cumulative impact assessment:
- Holt House Quarry.
 - Blackborough End Materials Recovery Facility (MRF) / East Winch Landfill Site and Quarry.
 - Warren North tailing Lagoon.

In their assessment the applicant notes that all the sites “*have been deemed to be environmentally acceptable both in isolation and cumulatively and are all subject to ongoing mitigation and management measures, where applicable (i.e. dust control, noise limits, archaeological mitigation strategies etc.) to ensure that they continue to be environmentally acceptable.*” Also, that they form the baseline context within which the proposed developments have been assessed. In conclusion the applicant considers that the additional four years of mineral extraction associated with this proposal, where the assessments presented in the ES have found no likely significant effects, would not result in a significant cumulative effect with any of the other projects identified.

- 3.135. In addition, the County Council recently approved the extraction of industrial sand and associated works with progressive restoration at Land East and West of Station Road, Leziate (FUL/2020/0021).
- 3.136. Mineral extraction is a long-established feature of this area dating back many years. The extension area would be worked in a series of phases and progressively restored. Currently, the lawful plant site receives mineral from the active mineral extraction site for processing.
- 3.137. Para 209 of the NPPF recognises that minerals can only be worked where they are found and it is important to make best use of them to secure their long-term conservation, whilst Planning Practice Guidance recognises that working of minerals is a temporary use of land, although it often takes place over a long period of time and, working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated. As detailed elsewhere in this report it is considered that the proposal would not cause unacceptable environmental, amenity and/or highways impacts.
- 3.138. Overall, it is considered that the re-phasing of the existing Grandcourt Quarry area and the proposed extension would not result in any significant change to the day-to-day operations of mineral extraction that could result in a significant effect. Nor would the re-phasing of the existing quarry and as such would not result in a significant cumulative effect with any of the other projects identified. Therefore,

the proposal is compliant with the relevant planning policies, and objectives of the NPPF.

3.139. **ENVIRONMENTAL IMPACT ASSESSMENT**

In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2017 ('the EIA Regs') an Environmental Statement has been submitted with the planning application. This was automatically required on the basis that the original application was an EIA application and the new extension area exceeded the 25 - hectare threshold in Schedule 1 of the EIA Regulations. The statement and other environmental information arising have informed this report and its recommendations.

3.140. **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.

- 3.141. Three representations were received raising concerns about the impact of the development. The following issues have not been covered elsewhere in the report:

Comment	Officer Response
We have been mis-led by the applicant as to the distances from our boundary to the edge of the proposed development.	The location of the proposed development has been clearly set out in the drawings and plans submitted with the application. The applicant has not responded to this specific point. Officers have noted the comments but can give only very limited weight in the assessment.
Outline planning permission (16/00645/0) granted a residential unit next to Holland House has been put on hold due the delays in Sibelco's planning application and the proximity of what they may seek.	Officers have noted the comments but can give only very limited weight in the assessment.
The local benefits have not been established - economic, community and otherwise.	Guidance at Para 209 of the NPPF underlines that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy, and goods that the country needs. Furthermore, Para. 211 requires LPAs to "give great weight to the benefits of mineral extraction, including to the economy." Any local benefit or impacts need to be considered in the context of the wider

	<p>benefits of the extraction and use of silica sand.</p> <p>However, officers consider that the impact the development would have on Public Footpath East Winch 2 and thus the community impact would not be acceptable. Great weight has been given to this in the assessment.</p>
The HSE has not responded substantively on the proposal. It is relevant to note that the final outcome of the proposal will be an increase in the number of water spaces in the area, which will be in addition to the Bawsey Pits where several tragedies have occurred in the last 10 years.	The HSE has provided bespoke advice and they “do not advise against,” granting planning permission. Restoration to water by its nature has an element of risk, however safety will depend on the future long-term management and it is therefore considered acceptable.
Clearly now with substantiated climate change risks as well the phase three development/ eastern lake brim being very close to the East Winch settlement. It would appear now that the risk proximity to dwellings does warrant further analysis and comment on the safeguards required to protect local people and their homes from flooding	The Lead Local Flood Authority and the Environment Agency has not raised the same concern. Officers have noted the comments but can give only very limited weight in the assessment.
The applicant has made a considerable financial contribution to the owners of Grandcourt Farm for double glazing which underpins noise concerns.	Issues of noise have been covered in the amenity section of the report. The alleged financial contribution made to Grandcourt Farm by the applicant is not relevant to the planning application.
C/2/2018/2017	
The revised application appears to want to reinstate this part of the proposed Bridleway along the diverted route only with no reinstatement of the original route.	The bridleway would be permanently diverted due to the proposed lake restoration. The PROW team (NCC) & the Rambler’s Association are satisfied with this aspect of the proposal.
Once the footpaths (not bridleways) are reinstated along the proposed routes will responsibility for maintenance fall with the landowner or does Sibelco have an ongoing responsibility.	As with all other public footpaths the owner or occupier of land with a public right of way across it, must keep the route visible and not obstruct or endanger users. The arrangements of maintaining the public rights of way affected by this proposal would not

	differ from all others in the County. Not material to this application.
This application could lead to a considerable delay in restoration work.	Agreed. Should application reference C/2/2018/2016 be refused there is no justification for delaying restoration and this application should also be refused.

The remaining issues raised through representation have been assessed in the report.

3.142. **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.

3.143. There are not any unauthorised development considerations material to this decision and no weight is given to this in the planning balance.

3.144. **LOCAL FINANCE CONSIDERATIONS**

In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

3.145. In this instance it not considered that there are local finance considerations material to this decision.

4. **Conclusion & Reasons for Decision**

4.1. Planning permission is sought for two intrinsically linked planning applications that would facilitate the extraction of silica sand from an extension area to the existing Grandcourt Quarry, for a further 3 years, with a further year to complete the restoration. The main application, reference C/2/2018/2016 is for the new area of extraction and has been lodged alongside a planning application, reference C/2/2018/2017 made under section 73 of the Town and Country Planning Act 1990 which seeks a variation of conditions 2, 3, 8 & 9 of permission C/2/2004/2034 to amend the timing of phased working and restoration at Grandcourt Farm Quarry to facilitate the development proposed by the main application.

4.2. C/2/2018/2016

The new extraction area is an allocated site (MIN40) in the Mineral Site-Specific Allocations Development Plan Document (adopted 2013). The total saleable reserve would be 3,000,000 tonnes of mineral which would be extracted at an average estimated rate of 750,000 tonnes per annum.

- 4.3. Whilst in principle the proposals are considered to be acceptable and in terms of the majority of the key issues, the proposals meet the requirements of the development plan policies and other material considerations. This is subject to an assessment of the development's potential impact on the Public Right of Way, East Winch, footpath 2. The final alignment of East Winch, Footpath 2, being proposed in the restoration scheme represents what amounts to practically an extinguishment of the footpath which is unacceptable. The proposed developments therefore do not accord with NMWDF Policy DM14 "*Progressive working, restoration and after-use*," which requires restoration and after-use proposals to demonstrate that due consideration has been given to opportunities to improve public access.
- 4.4. Significant concern has been raised by the Public Rights of Way Team (NCC) and the Ramblers Association with regards to the final alignment of East Winch, Footpath 2, as proposed.
- 4.5. In accordance with the requirements of paragraph 211 of the NPPF great weight has been afforded to the benefits of mineral extraction in the assessment, particularly as the landbank of permitted reserves for silica sand is calculated to be only 4.3 years at the end of January 2022. However, on this occasion greater weight in the assessment has been attributed to the requirements of NMWDF Policy DM14 "*Progressive working, restoration and after-use*," which requires the after-use and restoration proposal to demonstrate that due consideration has been given to opportunities to improve public access.
- 4.6. Whilst this is a finely balanced application, owing to the principle of development being acceptable, the majority of the key issues meeting the requirements of the development plan policies & the other material considerations and the great weight that should be given to the benefits of mineral extraction in the assessment. The final restoration scheme would have an unacceptable impact on East Winch, Footpath 2. The need for the mineral extraction does not outweigh the detrimental impacts upon the footpath. The proposal is therefore considered not to be in accordance with the NMWDF policy relating to restoration and Public Rights of Way or the aim of the NMWDF that guide the development of mineral extraction, to promote social inclusion, human health and well-being. On this basis refusal of planning permission is recommended for the reasons stated above.
- 4.7. C/2/2018/2017
As application, C/2/2018/2016 is not being recommended for approval, there is no justification for delaying the final restoration of the existing Grandcourt Farm Quarry. Therefore, application C/2/2018/2017 the section 73 application to amend

the timing of phased working and restoration at Grandcourt Farm Quarry is also recommended for refusal.

- 4.8. In accordance with Regulation 26 of the EIA Regulations, all environmental information has been examined in reaching this conclusion to recommend refusal of the two planning applications. Although with mitigation and monitoring measures in place the proposal would not be likely to have significant effects, the proposal would however have an unacceptable impact on East Winch, Footpath 2.

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

The development itself has no financial implications from the Planning Regulatory perspective. If implemented the Authority will have a duty to regularly inspect the facility which will have an indirect cost.

7. Resource Implications

- 7.1. **Staff:** The development has no staffing implications from the Planning Regulatory perspective. For advice on staffing implications, you may wish to contact your HR Business Partner.
- 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)

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

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

8.5. Sustainability implications

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

8.6. Any other implications

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 advise the Secretary of State that the County Planning Authority would have been minded to refuse the Applications:

- 1. Refuse the grant of planning permission for the two intrinsically linked planning applications C/2/2018/2016 & C/2/2018/2017, by virtue of the final restoration proposal of application C/2/2018/2016 would have an unacceptable adverse impact upon Footpath East Winch 2. The development would therefore not be in accordance with aims and objectives of the NMWDF Core Strategy, Policy DM14 and paragraph 100 of the NPPF.**

12. Background Papers

12.1. 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 Site Specific Allocations Development Plan Document (2013):

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

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 National Planning Policy Framework (NPPF) (2021):

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

Planning Practice Guidance (2021):

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

King's Lynn & West Norfolk Borough Council, Core Strategy (July 2011)

https://www.west-norfolk.gov.uk/info/20219/core_strategy/112/core_strategy_explained

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

[Adopted plan | Adopted plan | Borough Council of King's Lynn & West Norfolk \(west-norfolk.gov.uk\)](https://www.west-norfolk.gov.uk/info/20219/core_strategy/112/core_strategy_explained)

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 in this paper, please get in touch with:

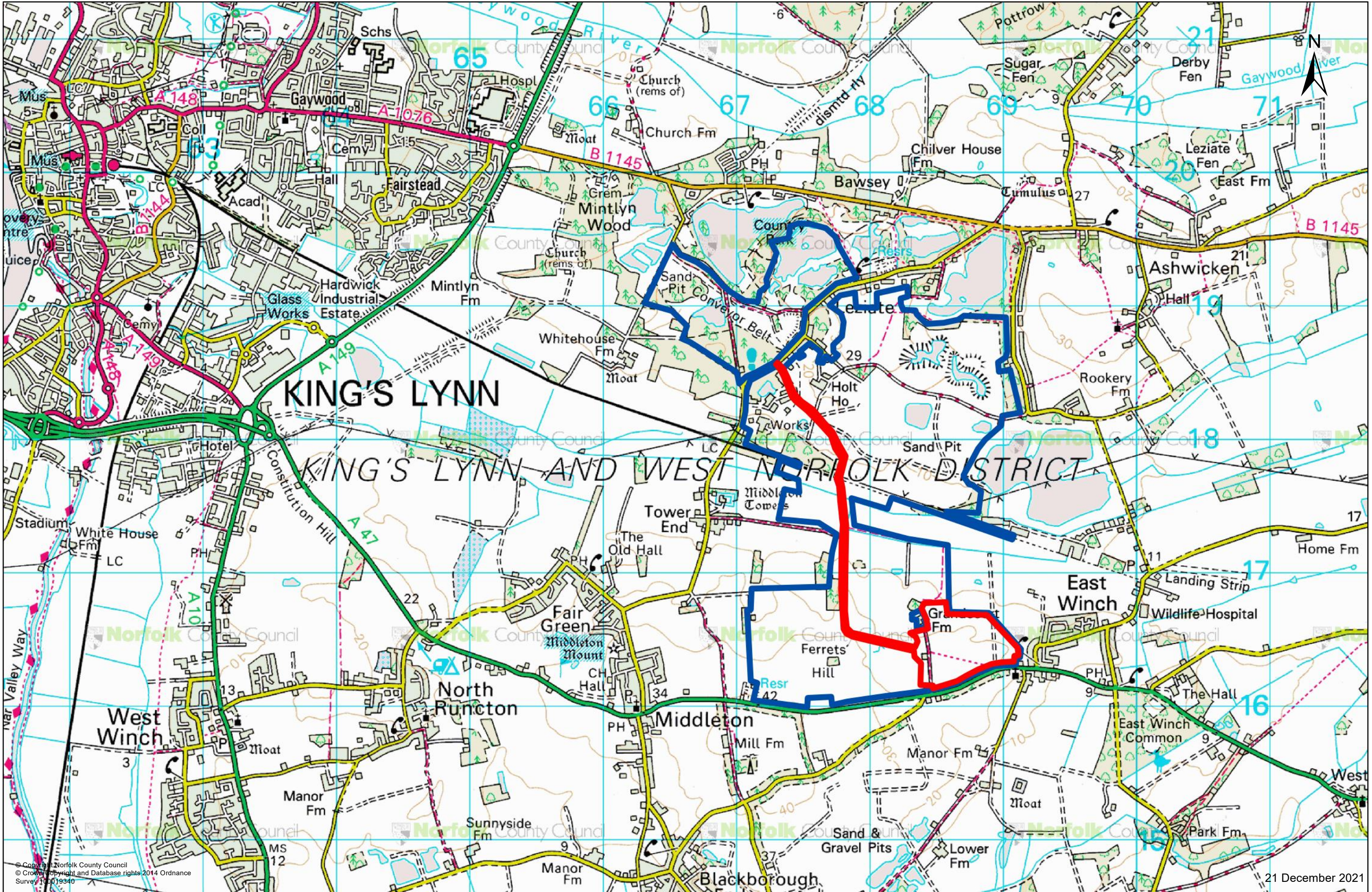
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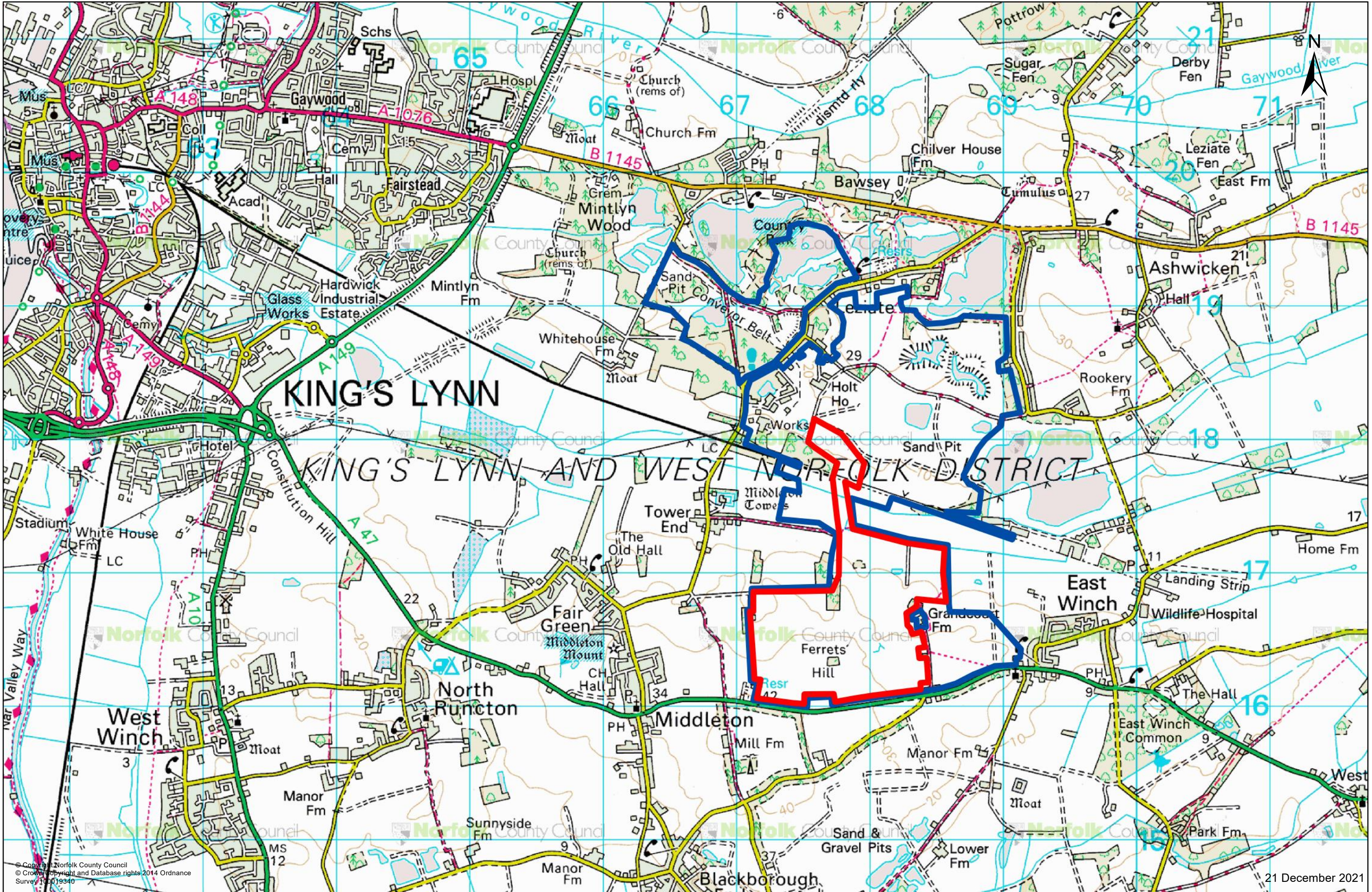


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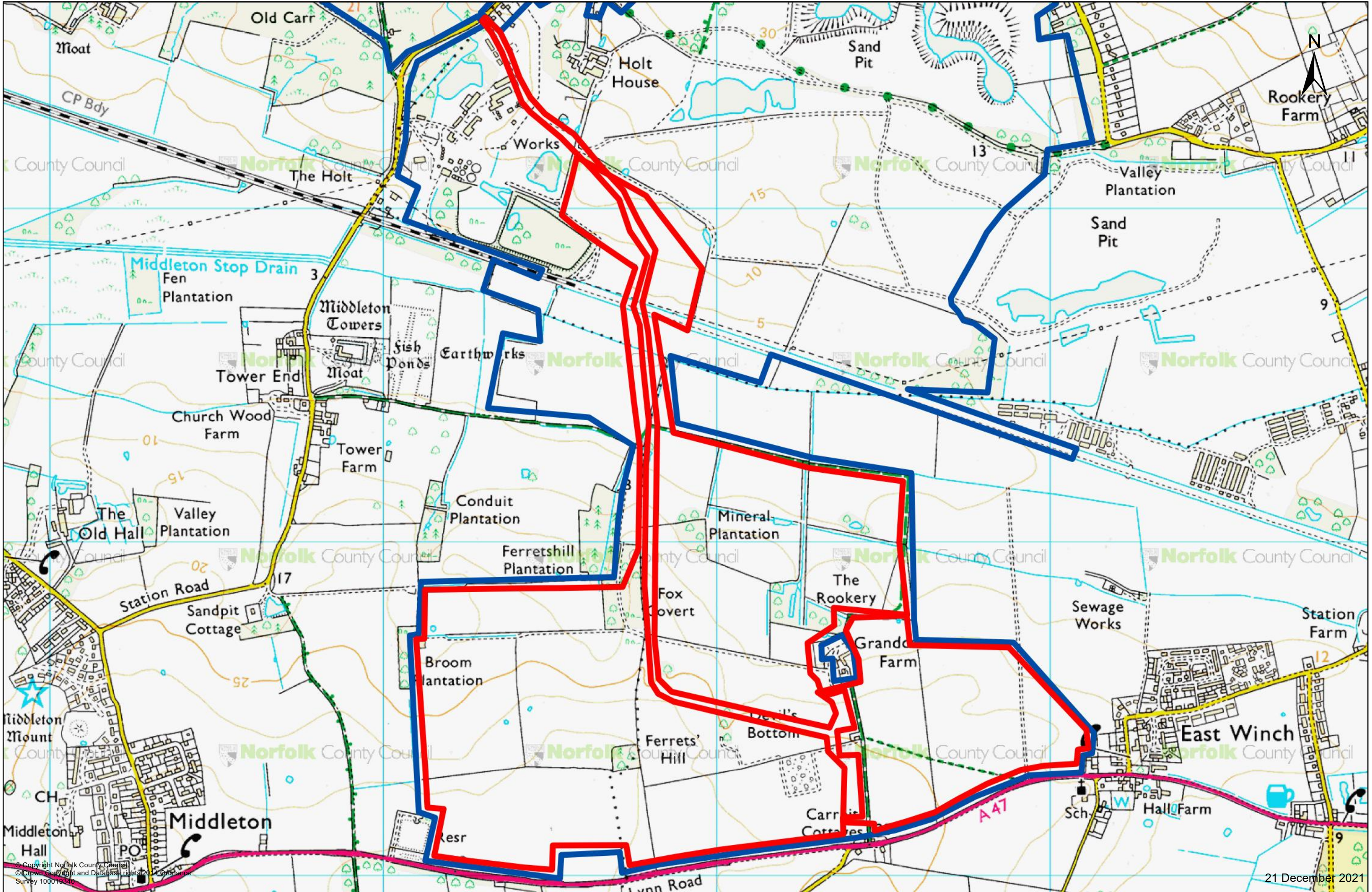
**Grandcourt Quarry Extension
Location Plan**





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Survey 100019340

21 December 2021



Planning (Regulatory) Committee

Item No: 7

Report Title: FUL/2019/0031 Lagoons at Upgate Road, Seething, Norfolk, NR15 1EL

Date of Meeting: 04 February 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: Retrospective Application for a change of use to use the lagoons for the storage of organic liquid waste: Whites Recycling Limited

Executive Summary

This is 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.

There has been a holding objection from the Highway Authority on the basis that inadequate information has been provided to demonstrate that the site can be operated without giving rise to unacceptable highway safety impacts and adverse impacts on the capacity of the local highway network. There have been significant concerns expressed by the Seething Parish Council and the adjacent Parish Councils

There have been 120 third-party representations submitted in response to the application, all of which object to it, raising a number of concerns, with the most significant being about the impact on amenity and the natural environment, including the impacts on ecology, as a result of emissions of odour and noise, the risk of pollution to groundwater, highway safety, the amenity impacts from the resulting HGV movements, and a potential land use conflict with the safe operation of the adjacent Seething airfield.

Given the inadequacy of the submitted information to demonstrate that the site can be operated without giving rise to unacceptable highway safety impacts, it cannot be considered to be compliant with the Norfolk Minerals and Waste Development Framework (NM&WDF) Core Strategy Policies CS5, CS7, CS15 and DM10, the South Norfolk Local Plan Development Management Policies Document Policy DM3.11, the NPPF paragraphs 110-113 and the NPPW, paragraph 7 and Appendix B (Location Criteria – Paragraph (f) Traffic and Access).

It has also not been demonstrated that the site can be operated without giving rise to unacceptable impact in terms of noise, vibration and disturbance and therefore that it would be acceptable in terms of its amenity impacts on the residential properties along the proposed lorry route to and from the B1332 and elsewhere. It cannot also therefore be considered to be compliant with the Norfolk Minerals and Waste Development Framework (NM&WDF) Core Strategy Policies CS6, CS7, CS14 and DM12 and DM13, the South Norfolk Local Plan Development Management Policies Document Policies DM 1.4, DM3.13 and 3.14, the NPPF paragraphs 130, 174, 185 and 1883 and the NPPW, paragraph 7 and Appendix B (Location Criteria - Paragraph (g) air emissions, including dust, Paragraph (j) noise, light and vibration.

Recommendations:

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

- 1. Refuse planning permission for the reasons set out in section 11.**

1. Background

- 1.1 The application site is one on which Planning Permission Ref. C/7/2007/7001, for the small-scale recycling of waste cooking oil to bio diesel and small-scale consolidation of waste from plastic for processing elsewhere, was approved in June 2007. It is understood that the lagoons were constructed in the 1990s without the benefit of planning permission, for use in association with the adjacent pig rearing unit and were then subsequently leased to third party operators for the storage and manufacture of liquid fertiliser. The area covered by the existing permission included the three lagoons, although the approved use did not involve the use of the lagoons. It also include an open storage area to the south of the lagoons, which forms part of the current application, i.e. both applications included the lagoons and the open storage area.
- 1.2 It is understood that the current applicant moved into the site and commenced its operational use at the beginning of January 2019. The application was

submitted in August 2019, but determination has been delayed pending a response from the applicant to a request for additional information.

- 1.3 The application states that it is accordingly submitted as a retrospective application for a change of use, to use the lagoons for the storage of organic liquid waste from the food and drinks industry.

2. Proposal

2.1 SITE

- 2.2 The application site, which an irregular shaped area extending to 1.4 hectares, is located within the existing industrial area on the north side of the Seething Airfield, approximately 1km south of Seething, 5km south-west of Loddon and 15km south-east of Norwich. It comprises three existing lagoons and a car parking/turning/open storage area to the south of these, and the access track to the industrial area and airfield which extends approximately 600m to the east to the Seething Road/Upgate Road. This runs north-south to the east of the airfield, and connects via Harvey Lane to the B1332, 2.4km west of the site.
- 2.3 The land to the west, north and east comprises arable agricultural land, whilst the land to south forms part of Seething Airfield. The airfield is privately owned and is the base for the Seething Flying Club and Waveney Flying Group and includes a clubhouse and hangars. The airfield was previously part of RAF Seething, a former World War II United States Air Force base for Liberator Bombers, known as Station 146. The current industrial area previously formed part of the airfield. There is an intensive pig rearing unit immediate adjacent to the west side of the site. There are a number of other barns and sheds in the area immediately to the south of the lagoons.
- 2.4 The nearest residential property is a bungalow, which is located on the north side of the airfield access, to the south the adjacent pig rearing unit, approximately 140m south-west of the lagoons. There are additional residential properties approximately 270m north-east of the lagoons, the nearest of which are Grange House and Mundham Grange (and adjacent properties) at the southern end of Grange Road, and Home Farm and adjacent properties along the Upgate Road, approximately 450m west of the lagoons.
- 2.5 The nearest nature conservation designations are the Hedenham Wood Site of Special Scientific Interest (SSSI) which is located 1.1km south-west of the site and the Tindall Wood, Ditchingham SSSI, which lies 2.3km south-east of the site. The Seething Observatory County Wildlife Site lies approximately 160m south of the site, and the Broads Special Area of Conservation (SAC) and Broadland Special Protection Area (SPA) and Ramsar Site lie 6.3km north-east of the site at their nearest point.

- 2.6 There is one nearby Listed Building, Mundham Grange which is Grade II listed, that is located approximately 420m north-east of the site and there is a nearby Conservation Area, which extends along the length of Seething Street and School Road through the centre of Seething. The southern boundary of the Conservation Areas lies approximately 1km north of the site.
- 2.7 The Site is located in Flood Zone 1 on the Environment Agency's Flood Map for Planning.
- 2.8 The site is already regulated by an Environmental Permit (Permit Number EPR/FB3604MN) issued by the Environment Agency on 13th February 2018 to Whites Recycling Ltd. The Permit authorises the storage of non-hazardous liquid waste and allows for a total of 400,000 tonnes a year of non-hazardous waste to be accepted into the site.
- 2.9 The permit includes, amongst other things, conditions relating to emissions of odour and noise and vibration which are intended to prevent pollution outside the site.
- 2.10 The known County Council planning history of the site includes only one permission, Planning Permission Ref. C/7/2007/7001, for which Agritek Ltd was the applicant. This was for the small-scale recycling of waste cooking oil to bio diesel and small-scale consolidation of waste from plastic for processing elsewhere, which was approved on 28th June 2007.
- 2.11 Planning Permission Ref. C/7/2007/7001 was approved subject to a condition, Condition No. 3, limiting the wastes brought into the site to vegetable oil and plastic farm waste only. It also included a condition limiting the import of waste to 400,000 litres of vegetable oil and 350 tonnes of farm waste plastics. It is understood that the permission was implemented.
- 2.12 There was an additional planning permission, Planning Permission Ref. 2009/0204 for the erection of a building for the repair and maintenance of agricultural machinery, granted by South Norfolk District Council to Agritek Ltd in 2009, which included the current application site, although the building approved under that permission was not located within the current planning application red line boundary.
- 2.13 **PROPOSAL**
- 2.14 The application states that it is a retrospective application for a change of use, to use the lagoons for the storage of organic liquid waste from the food and drinks industry. The organic liquid would be brought on to the application site from supplying food and drinks factories and stored before being taken off-site and applied to agricultural land locally. The organic liquid is used as a

substitute for commercially manufactured fertilizers, that would otherwise be purchased by the local farmers.

- 2.15 All of the organic liquid that will be stored in the lagoons is first analysed by an independent laboratory, as required by the Environmental Permit for the site, to ensure its suitability for use as an agricultural fertilizer.
- 2.16 The development utilises three of the existing lagoons, which are understood to have been on the site for more than ten years, for the storage of the organic liquid. The application states that the lagoons were previously operated for a similar purpose in connection with agriculture, understood to be pig slurry and then for the production of a nitrogen based liquid fertilizer, and that the use for these purposes has become lawful through the passage of time, under Section 171B of the Town and Country Planning Act 1990 (as amended). It therefore appears that the lagoons were constructed for agricultural purposes, for use in association with the adjacent intensive pig rearing unit, so that their use would have been agricultural rather than industrial but were then used by Agritek Ltd and subsequently by a company called Brineflow, for the manufacture of liquid fertiliser. It should be noted that no evidence has been submitted with the application to support this claim.
- 2.17 There are in fact four lagoons located, side-by-side, on the north side of the airfield, although the application only includes three of these, with the most westerly, excluded from the application. The Three lagoons are described on the application as having the following capacities:
- Lagoon 1 (the easterly lagoon) 17,000m³ which at the time of submission of the application was already in use
 - Lagoon 2 (the middle lagoon) 3,000m³ which at the time of submission of the application was described as being prepared for use; and
 - Lagoon 3 (the westerly lagoon) 7,000m³ which at the time of submission of the application was described as not currently being use.
- 2.18 The figures quoted above do not include allowance for a freeboard capacity (spare capacity allowing for climate change induced rainfall events) of 750mm which is a requirement under the Environmental Permit. The application does not include any operational development and is only concerned with the use of the site.
- 2.19 The application refers to the applicant's business as being the recycling of organic liquid for subsequent application to agricultural land as fertiliser. It states that the majority the organic liquid is taken directly from the factory to the agricultural field for spreading, without the use of facilities such as the application site, but that there are occasions when contingency storage facilities, such as the application site, have to be used. This will usually be in the following circumstances:

- During periods of inclement weather, when agricultural fields are waterlogged, frozen or heavy rainfall is predicted during which land-spreading is not permitted and storage facilities have to be used;
- Where the organic liquid cannot be directly utilised in a land-spreading deployment, because it is not included within the Environmental Permit for land spreading and has first to be placed into permitted storage before it can be applied to agricultural land; and
- Where land-spreading is not permitted under the Environmental Permit. The Application explains that traditionally the Applicant has been permitted to land-spread for twelve months of the year, subject only to a restriction in inclement weather. This approach has now changed with the spreading (at the time of submission of the application) no longer permitted in January. The application states that it is anticipated that this no spreading window, will increase to a three-month period each year in the winter, so that winter storage becomes essential.

2.20 The application states that the Applicant will not be utilising the full 400,000 tonnes throughput of the lagoons allowed under the Environmental Permit, with the upper limit on the amount of waste to be brought into the site identified in the planning application as being 141,258 tonnes. It nevertheless states that the exact level of use is very difficult to quantify, because of the constraints that can impact on the Applicant's business, as set out above.

2.21 The intention nevertheless is to continue as far as possible to take organic liquid directly to fields for spreading. The application states that transferring the organic liquid into storage results in additional cost, as result of the need to double handle it and consequently, the intention is to seek to keep this to a minimum. When use of the lagoons is required, the organic liquid will be removed for spreading on local fields or more widely for use around East Anglia, as early as possible and as part of standard agricultural management methods in line with Nitrate Vulnerable Zones (NVZ) Regulations. This would typically be undertaken by tractor and trailer, with the liquid being pumped out of the lagoons, although the application states that some of the liquid will also be removed by umbilical (i.e. pipe) to the surrounding agricultural land, so that no vehicle movements will be involved.

2.22 The application states that there is little odour as a result of storing the organic liquid waste. The lagoons are located below ground level (although the top of the lagoons are raised slightly), which means that offloading from the delivery vehicle can be done by gravity rather than being pumped. The application states, as the unloading pipe is below the surface layer of the organic liquid in the lagoon, that the surface is not disturbed and a crust forms as an odour barrier.

- 2.23 The organic liquid is delivered mainly by articulated tankers with a load capacity on average of 28m³, although smaller rigid bodied vehicles with a capacity of between 18m³ and 22m³ may also be used. The application does not include a detailed breakdown of HGV movements as it states that this is not consistent because of the unpredictability of when organic liquid can be applied to land, with the result that there is no set delivery schedule.
- 2.24 The application is accompanied by a Traffic Management Plan, which includes routing to the south only to Harvey Lane, and then along Harvey Lane to its junction with the B1332 Norwich Road.
- 2.25 The site benefits from ample parking and an area for unloading and loading, so that there is no risk of applicant's vehicles obstructing or causing congestion on the public highway.
- 2.26 No specific hours of operation are proposed, i.e. the application is intended to allow for 24 hour working, seven days a week, 365 days a year.

3. Impact of the Proposal

3.1 DEVELOPMENT PLAN POLICIES

- 3.2 The following policies of the Norfolk Minerals and Waste Development Framework: Core Strategy and Minerals and Waste Development Management Policies Development Plan Document (DPD) 2010-2026 (2011), the Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011, amendments adopted January 2014), the Greater Norwich Local Plan (GNLP) Submission Draft (July 2021), and the South Norfolk Local Plan Development Management Policies Document (Adopted October 2015) provide the development plan framework for this planning application:

Norfolk Minerals and Waste Development Framework: Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011)

Policy CS3 - Waste management capacity to be provided
Policy CS4 - New waste management capacity to be provided
Policy CS5 - General location of waste management facilities
Policy CS6 - General waste management considerations
Policy CS7 - Recycling, composting, anaerobic digestion and waste transfer stations
Policy CS13 - Climate change and renewable energy generation
Policy CS14 - Environmental protection
Policy CS15 - Transport
Policy DM1 - Nature conservation
Policy DM3 - Groundwater and surface water
Policy DM4 - Flood Risk

Policy DM7 - Safeguarding aerodromes
Policy DM8 - Design, local landscape and townscape character
Policy DM9 - Archaeological sites
Policy DM10 - Transport
Policy DM11 - Sustainable construction and operations
Policy DM12 - Amenity
Policy DM13 - Air quality
Policy DM15 - Cumulative impacts

Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011, amendments adopted January 2014)

Policy 1 - Addressing Climate Change and Protecting Environmental Assets
Policy 2 - Promoting good design
Policy 3 - Energy and water
Policy 6 - Access and Transportation
Policy 7 - Supporting Communities
Policy 9 - Strategy for Growth in the Norwich Policy Area
Policy 17 - Smaller Rural Communities and the Countryside

South Norfolk Local Plan Development Management Policies Document (Adopted October 2015)

Policy DM1.1 - Ensuring development contributes to achieving sustainable development in South Norfolk
Policy DM1.4 - Environmental quality and local distinctiveness
Policy DM 2.1 - Employment and business development
Policy DM 3.10 - Promotion of sustainable transport
Policy DM3.11 - Road safety and free flow of traffic
Policy DM3.12 - Provision of vehicle parking
Policy DM3.13 - Amenity, noise and quality of life
Policy DM3.14 - Pollution, health and safety; and
Policy DM4.2 - Sustainable Drainage and Water Management.

3.3 There is no Neighbourhood Plan for Seething.

3.4 **OTHER MATERIAL CONSIDERATIONS**

3.5 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 material consideration capable of carrying significant weight. The NPPF sets out the presumption in favour of sustainable development and 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.

- 3.6 Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, the Waste Management Plan for England (WMPE) (January 2021) is the overarching national plan for waste management and is a further material consideration in planning decisions.
- 3.7 In addition, paragraph 48 of the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan and 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. Relevant emerging policy includes the following:

The Norfolk Minerals and Waste Local Plan Review

- 3.8 The Norfolk Minerals and Waste Local Plan Review is currently on-going. A Preferred Options Consultation took place in September and October 2019. The Pre-Submission Draft of the Plan is due for publication and consultation in 2022. At this stage only limited weight can be attributed to the policies in the emerging plan. Draft policies relevant to this application include the following:

Policy MW2 - Development Management Criteria;
Policy MW3 - Transport;
Policy MW4 - Climate Change Mitigation and Adaption;
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 WP5 - Waste Transfer Stations, Material Recycling Facilities, ELV facilities and WEE Recovery Facilities.

Greater Norwich Local Plan (GNLP) Submission Draft (July 2021)

- 3.9 The Greater Norwich Local Plan (GNLP) is at an advanced stage of preparation. It will supersede the current Joint Core Strategy for Greater Norwich and the Site Allocation Plans in each of the three districts (i.e. Norwich, Broadland and South Norfolk). The GNLP was submitted to the Secretary of State for independent examination on 30 July 2021. There are two parts to the GNLP, the first part is the GNLP Strategy, which contains the planning strategy for growth in the Greater Norwich area from 2018 to 2038 and the second part, is the GNLP Sites document, which has planning allocation policies for the sites to deliver the strategy. Policies included in the GNLP Strategy relevant to this application include the following:

Policy 2 - Sustainable Communities; and

3.10 CONSULTATIONS

3.11 **South Norfolk District Council Planning** - Advise, subject to the comments of the District Council's Environmental Quality Team, regarding odour and noise being taken into account, that they have no further comments.

3.12 **South Norfolk District Council Environmental Quality Team** - Advise in relation to odour, that the site has an Environmental Permit under the Environmental Permitting (England and Wales) Regulations (2016) and consequently is regulated by the Environment Agency. Although odour emissions are covered by the Permit the Odour Assessment submitted with the application demonstrates that odour impacts are considered to be significant (before mitigation) at 2 out of 8 nearby receptors. In order to reduce potential odour impacts they recommend that the following points are considered:

- That the applicant should explore the option of installing covers on the lagoons;
- That the submission of an Odour Management Plan for approval be conditioned. The Odour Management Plan should include an assessment of the odour risk and identify any potential sensitive receptors and any mitigation measures to be employed to minimise the identified risks;
- That a condition be included, limiting the use of the lagoons for the storage of organic liquid waste only and not septic tank or sewage effluent;
- That a condition be included requiring the lagoons to be managed in such a way so as to maintain a crust across their surface;
- That a condition be imposed requiring that imported liquid waste shall be placed directly into the lagoon beneath the crust so as to not disturb the crust; and
- That in relation to noise, a condition be imposed limiting the use of the pump units used to fill tankers to between 07:00 - 19:00 to ensure that noise does not affect nearby residential receptors.

3.13 **Environment Agency** - Advises that an Environmental Permit exists for the use of the lagoons and their use as proposed will be regulated by the Environment Agency in accordance with the permit conditions.

3.14 It initially advised that it had a holding objection on the basis that a detailed risk assessment should be carried out by a chartered engineer to identify if the existing lagoons are suitable for the storage of the specified waste types.

- 3.15 It has however now advised that structural integrity of the lagoons would be regulated through the Environmental Permit for the site, and consequently has withdrawn its previous holding objection.
- 3.16 It additionally comments that the Environment Agency has received a number of complaints since the Environmental Permit was issued in February 2018, the majority of these being in 2021. It states that less than 10 reports of odour in relation to the lagoons were received during 2019 and 2020, but that approximately 100 reports of odour were received between 1st January and 31st August 2021. It further advises, due to the location of the storage lagoons, next to the adjacent pig rearing unit and in an area where agricultural spreading takes place periodically, that it has not always been straightforward to determine the source of reported odours, and that many of these reports have not been substantiated. However, it also advises that some of the complaints have been substantiated, and that the operator has taken additional measures to minimise odour from the lagoons as the result of this. A recent trial covering of one of the lagoons with clay balls, it advises, appears to correlate with a reduction in odour complaints. It accordingly requests, if the application is approved, that the remaining two lagoons should also be covered with clay balls. This, it advises, will not eliminate all odour from the lagoons, and it is likely that odour will still be detectable on occasion, as the result of the storage activity.
- 3.17 It advises that it considers that all appropriate measures have been taken by the operator, and that they could be considered compliant with their Environmental Permit, despite some residual odour.
- 3.18 **Highway Authority** - The Highway Authority has advised that the submitted information is inadequate to assess the acceptability of the proposal in terms its impacts on traffic, access and highway safety. It advises that although further information has been submitted, this is still inadequate for the purposes of assessing the proposal.
- 3.19 It comments that it requested that the applicant submit a Transport Statement confirming the existing traffic generation associated with the current permitted use at the site and a worst-case scenario outlining the traffic generation associated with the proposed use, including vehicle type and flow.
- 3.20 It acknowledges that whilst the site benefits from the existing Planning Permission, Ref. C/7/2007/7001, it is understood that the consented use previously generated 16 vehicle movements per week (eight in and eight out) all of which use the proposed route from the B1332. However, it is not clear (from the information submitted) if the proposals will increase HGV traffic to/from the site, and if so what the levels will be.

- 3.21 The latest information submitted, is not the Transport Statement requested, but a spreadsheet of vehicle loads delivered to the site in 2020 which shows that there were 344 deliveries (688 movements) equating to 13 per week – which is below the previous operational figure of 16 per week. It is unclear what input rate this is based on or if this is a typical year or whether it is anticipated that the volume of waste brought to the site would increase. The application form suggests an annual maximum throughput of 141,258 tonnes per year, but no detail is provided of how this material would be delivered to the site.
- 3.22 The Highway Authority also comments that the submitted figures relate only to deliveries to the lagoon and do not take into account the removal of the liquid for spreading. Whilst it is understood that some of the product will be removed by pipe or without accessing the highway, the remainder will involve vehicle movements. As a result, the figures provided cannot be accurate and are not adequate or acceptable for the purposes of assessing the proposal.
- 3.23 The Highway Authority therefore advises that there is significant information lacking regarding the maximum levels of input and the associated traffic generation. It is therefore not clear if the proposals will intensify the use of the site, in terms of traffic generation, and if so to what extent. In addition, it is not clear what level of traffic will be associated with the off-site transport of liquids and to where and by what routes, it will be transported. On this basis the Highway Authority maintains a holding objection.
- 3.24 **Lead Local Flood Authority** - No objection, subject to proposal being in compliance with the NPPF paragraphs 155 - 165 by ensuring that the proposal would not increase flood risk elsewhere and will incorporate sustainable drainage systems, and that it accords with national standards and relevant guidance, including Planning Practice Guidance - Flood Risk and Coastal Change; the Non statutory technical standards for sustainable drainage systems (March 2015, DEFRA); and the SuDS Manual C753 (2015).
- 3.25 **County Council Ecologist** - Advises that further information is required regarding potential impacts from air pollution. They comment that the site is located within the SSSI Impact Risk Zone of Hedenham Wood SSSI (located 1.3km south-west) and Tindall Wood Ditchingham SSSI (c 2.4km south-east). The Seething Observatory County Wildlife Site also lies approximately 160m south of the site. This known to support great crested newts.
- 3.26 They comment that no information about potential air pollutants such as nitrogen and ammonia has been submitted with the application and that it is therefore not clear if the proposal will result in an increase in air pollutants and whether any increase would potentially impact on environmental assets such as the SSSIs and County Wildlife Site.

3.27 They therefore recommend that further information be requested regarding potential impacts from air pollution.

3.28 **County Council Arboriculturist** - No objection.

3.29 **County Council Landscape** - No objection.

3.30 **Natural England** - No objection.

3.31 **Seething Parish Council** - Objects strongly to the application. It in summary makes the following points:

- That the development is not minor as stated in the application, is retrospective and the operation of the site has had a significant adverse impact on the amenity of local residents;
- That operations at the site have given rise a significant and unpleasant odour leading to numerous complaints of unpleasant odour made to the Environment Agency. This has adversely affected local residents use of their gardens and the nearby brewery;
- The Odour Assessment submitted with the application identifies that “predicted odour concentrations were above the relevant benchmark at a number of sensitive locations in the vicinity of the site”;
- That the level of HGV movements has not been defined in the application, but could give rise to a very significant increase if the site were to operate at the level allowed by the Environmental Permit, i.e. 400,000 tonnes per annum;
- That in relation to noise, whilst the delivery of liquid wastes into the lagoons is stated as being by gravity, these need to be pumped out again when taken back off-site. This can happen throughout the day and night causing unacceptable noise disturbance to local residents during unsociable hours;
- That there is a risk of pollution to groundwater;
- That the extent of the operations is not adequately defined, with there being a wide range of organic liquids that maybe brought into the site which extends beyond organic liquid waste from the food and drinks industry; no details of the proposed drainage arrangements having been submitted, a maximum throughput of up to 400,000 tonnes, and no specific details of HGV numbers and vehicle movements;
- That there has been an increased incidence of dead small mammals, insects, bees and birds during times of strong odour release from the lagoons and that there is an increased risk of disruption to local ecosystems;
- That there is a lack of proper assessment of the impacts of the proposed use; and
- That the use is causing considerable nuisance and possible harm.

3.32 Mundham Parish Council - Strongly objects on the basis that there has been a considerable amount of concern from residents over the very bad odours, flies, floodlighting, traffic and the environmental impacts that emanate from the lagoons. It states that current methods to manage the smells from the lagoons are not working and consequently that the site should not be allowed to continue to operate. They comment that the lagoons should be covered and that there should be an Odour Management Plan.

3.33 Other comments include the following:

- That there is no restriction on the times at which the site may operate with the result that the pumps on the site and manoeuvring tankers can be heard into the evening and that more generally the site has been working at unsociable hours;
- That concern has also been raised about floodlighting emanating from the site due to its close proximity to Seething Observatory and the use of all-night floodlighting disturbing the residents;
- That the Environmental Permit allows a much wider range of wastes to be brought into the site than waste from the food and drinks industry;
- That the operator of the site should be required to report the escape of any materials from the site;
- Concerns about the potential impact of emissions on the Tindall Wood SSSI and Hedenham Wood SSSI and also wildlife;
- Concern that the site should be made secure to prevent animals and wildlife falling into the lagoons;
- Concerns that the construction of the lagoons is not adequate for the proposed use and may not meet current regulatory standards and that there is a risk stored wastes leaking out; and
- Concern that the inherent hazards arising from the use of the lagoons should be rigorously managed to eliminate risks, hazards and environmental degradation to neighbours, both human and environmental.

3.34 Loddon Parish Council - Has not commented on the Application.

3.35 Hedenham Parish Council - In summary make the following points:

- That the applicant has been operating the site without planning permission;
- That the site has operated for a number of years resulting in a succession of complaints about odours being emitted and the passage of the tankers in the narrow lanes around the site; and
- That operations at the site have been causing distress to local residents;

3.36 **Local Member (Loddon) (Cllr Kay Mason Billig)** - Has not commented on the application.

3.37 REPRESENTATIONS

3.38 The application has been advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. There have been 120 third-party representations submitted in response to the application, all of which object to the application. These in summary identify the areas of concern listed below and make the following points:

Odour and Emissions to Air

- There have been significant unpleasant odour emissions from the lagoons, making it difficult for local residents to have windows at their houses open;
- The lagoons do not crust over, as stated in the application, so that there is not effective control of odours and the lagoons are stirred to ensure effective mixing with the result that a crust cannot form;
- A crust forming on the surface of the lagoons is unlikely to provide effective mitigation of the odours produced;
- Odour and flies cause problems for the adjacent flying club and their use of the flying club clubhouse on days when the smell is strong;
- Odour emissions have been going on for at least 9 years causing noxious smells to local residents and others;
- The site produces Methane and Hydrogen Sulphide;
- The site has been subject to numerous complaints about odours to South Norfolk District Council and the Environment Agency, whereas the documentation submitted with the application incorrectly states that there have been no complaints;
- The application has not been appropriately assessed in relation to the Environment Agency's Odour benchmarks;
- The burning of plastics appears to have taken place in the vicinity of the site;
- That the statements contained in the submitted odour assessment that as "the site is currently operating a treatment trial, it is likely that any loss of amenity would have been highlighted by any affected receptors" and that "It is considered that the model may be over predicting impacts from the site and the actual effect significance is lower than predicted" are incorrect;
- An effective Odour Management Plan has not been implemented in accordance with the requirements of the Environmental Permit for the site;
- The Odour Assessment is not based on a representative selection of data collected from the site across the seasons; and
- Increased pollution from HGV movements to and from the site.

Health

- There are emissions of hazardous microscopic particles, which cause sores throats and mild coughs;
- Local residents have suffered nausea and headaches as result of the odours an emissions from the site and the operations at the site are a hazard to health;
- The development of the site will adversely affect the mental health of the nearby residents as result of anxiety over noise, smell and highway safety impacts of the development;
- The application should be refused on the basis of the precautionary principle given the potential health risks;

Carbon Emissions and Climate Change

- Waste is brought to the site over substantial distances giving rise to significant carbon emissions;
- Activities at the site are likely to lead to emissions of nitrous oxides and the vehicle movement to CO₂ emissions that would have an adverse climate change impact;

Water Pollution

- There is a risk of seepage or spillage and resulting pollution to watercourses and ground contamination;
- This site and the surrounding area lie within a Nitrate Vulnerable Zone (NVZ) and is a designated Water Quality Priority Area (for phosphate) under the Countryside Stewardship Scheme; and
- No details of foul drainage have been included in the application;

Drainage and Flood Risk

- The application incorrectly states that there are no watercourses in the vicinity of the site when there is along the eastern boundary given rise to the potential for there being a flood risk; and
- The application includes inadequate drainage details;

Operations, Scale and Structural Integrity

- The site does not have a facility for testing the composition of the incoming waste liquids;
- The input of different wastes is likely to give rise to chemical processes so that the operation of the site amounts to more than just storage and is in practice a treatment process;
- Concern that hazardous substances could be brought into the site;
- The scale of operations at the site is likely to expand as the applicant is looking for land to which to apply liquid organic fertiliser;
- The scale of the waste use now proposed is substantially larger than the previous waste vegetable oils and farm plastic waste operation (up

to 1000 times greater by volume and 400 times greater by weight), which had very little impact; and

- The lagoons were constructed and have continued to be used without planning permission, and there is no information submitted with the application to confirm that they are suitable for the use proposed. There is also concern that the wall of one of the lagoons has collapsed;

Highways

- The local highway network is inadequate (i.e. not wide enough) and unsafe for the tanker traffic that is operated in association with the lagoons and will result in increased HGV traffic taking routes through local villages;
- HGV movements had already caused damage to the highway;
- Visibility at the junction of the access with Upgate road is inadequate;
- Adverse impact on pedestrians and cyclists;
- The proposed lorry route, to and from the site, via Harvey Lane to the B1332 is not wide enough for two HGVs to pass one another;
- The proposed HGV route is not always adhered to with HGVs sometimes turning right out of the site and then taking a route through Seething and other surrounding villages, in breach of the existing weight restrictions;

Biodiversity and Wildlife

- The site is close to the nearby SSSIs at Hedenham and Tindall Woods;
- The fencing around the site is inadequate to prevent wildlife from accessing the lagoons which are steep sided;
- The activities of the site would be contrary to the NPPF because of the adverse impact on habitats, including ancient woodland;
- There is significant ecological and biodiversity interest adjacent to the site and in the surrounding area and the application does not assess the potential impact of the proposed use on this;
- Adverse impact on wildlife;
- Adverse impact on bees;
- Bird (swallow) numbers have declined with birds having died after skimming the lagoon surface and taking in water which is toxic; and
- There is a wide range of flora on the Seething Airfield meadows and an area of trees and bushes to the east of the site which are vulnerable to emissions from the site;

Land Use

- The development is inappropriate development in a countryside location;
- It appears that operation of the site is adversely affecting the crops in the fields to the north of the site;
- Adverse impact on local businesses;

- Fires on the site and the release of ammonia are a hazard to the safe operation of the Seething Airfield;
- Odours and emissions from the site are prejudicing the effective operation of the staff of the Seething Fire and Rescue Service, based at Seething Airfield, and accordingly the safe operation of the airfield;
- Spreading of liquid from the site on nearby fields has involved the use of pipes from the site and the deposit of mud, causing a hazard to the safe use of the airfield;
- Lighting from the site has the potential to prejudice the effective operation of the nearby Seething Observatory. Appropriate conditions need to be attached to the grant of planning permission to minimise the light spill from the site;

Impact on Tourism

- The development of site will have adversely affect the attractiveness of the area to visitors, and therefore adversely impact on tourism and the local economy;

Noise, Vibration and Lighting

- The application proposes 24 hour operation, 7 days per week with no limit on hours or working days;
- There has been adverse noise from HGV movements on the site and the pumping out of the lagoons; and
- Light from the operations on the site, has caused disturbance to local residents;

Heritage

- The site is too close to Seething, which is a Conservation Area;

Planning Application

- The application is retrospective;
- The previous planning permission, Planning Permission Ref. C/7/2007/7001, should not be taken as establishing the principle of waste management on the site as the conditions attached to that permission expressly limited the use of the site to waste vegetable oils and plastic farm waste;
- The Environmental Permit for the site allows a much wider range of waste than has been applied for the current planning application, including solvents and other chemical wastes;
- The application fails to provide details of the quantities of waste liquids that would be stored on the site and the number of HGV movements;
- The following details have not been submitted with the application: ecology report; lighting details; lighting assessment; noise assessment; sustainability statement; transport statement; bird hazard assessment;

- heritage statement; contamination report, landscape and visual impact assessment, details of drainage and details of the hours of operation;
- Some of the neighbouring properties to the site have been notified of the application and additional time should be allowed for public consultation; and
- The site is owned by a company of whom a shareholder is a South Norfolk District Councillor, which has not been declared;

Planning Policy

- The application is contrary to Norfolk Minerals and Waste Development Framework: Core Strategy and Minerals and Waste Development Management Policies Development Plan Document Policies CS14 and DM12 and DM13.

3.39 APPRAISAL

3.40 The key issues for consideration are:

- A. Principle of Development
- B. Traffic, Access and Highway Safety;
- C. Amenity Impacts (including Odour, Noise, Vibration and Lighting)
- D. Impact on Trees and Ecology;
- E. Risk of Pollution to Groundwater;
- F. Flood Risk and Drainage;
- G. Incompatibility of Land Use (with the Airfield)
- H. Impacts on Heritage
- I. Sustainability

A. Principle of Development

3.41 The 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”.

3.42 Relevant development plan policy is, as detailed above, set out in the Norfolk Minerals and Waste Development Framework (NM&WDF) Core Strategy, the Joint Core Strategy for Broadland, Norwich and South Norfolk, and the South Norfolk Local Plan Development Management Policies Document.

3.43 In terms of the principle of the development, the main issue is whether the proposal is in accordance with the development plan policy for the location of new

waste management facilities. The issue in this instance is relatively straightforward in that the application site has previously been consented and operated for a waste management use and policy supports the development of new and expanded waste management facilities on land that is already in a waste management use, on existing industrial or employment land and/or on other previously developed and contaminated or derelict land.

- 3.44 The proposed use in this case is a waste storage and transfer use, without an active element of treatment. The NM&WDF Core Strategy, and in particular Policies CS3 and CS4 set out the overall development strategy for the provision of new waste management capacity in the county.
- 3.45 Policy CS3, which is concerned with the amount of waste management capacity to be provided over the plan period, sets out that the aim of the overall strategy is to provide sufficient waste management capacity to meet the expected arisings of municipal and commercial and industrial waste. It does not include explicit reference either to waste transfer capacity or waste management facilities for the transfer of organic liquid waste from the food and drinks industry, although this would form part of the commercial and industrial waste stream in the county. Similarly, Policy CS4 which sets out in more detail, the amount of different types of capacity to be provided, also does not include explicit capacity requirements for waste transfer for the transfer of organic liquid waste from the food and drinks industry.
- 3.46 Policy CS5 which is concerned with the general location of waste management facilities sets out the broad spatial strategy for the location of new waste management capacity and identifies that strategic or major waste management facilities should be well related to the major centres of population and waste arisings in Norwich, Great Yarmouth, King's Lynn or Thetford, whilst non-strategic facilities should otherwise be well located in relation to the County's other main market towns. The policy however also explicitly recognises that Norfolk is a predominantly rural county, and that it may therefore also be appropriate for some waste management facilities to be sited in locations that are less well related to the major centres of population, and this may particularly be relevant in relation to waste streams that arise other than from the main centres of population or where their use may be related to the rural areas of the county. It recognises that agricultural waste treatment plants and waste treatment plants related to agriculture are such a waste stream. This application would fall into this latter category insofar as it would provide a transfer facility for holding liquid organic waste prior to its application to agricultural land.
- 3.47 Where this is the case, the requirement is that proposals in these locations should demonstrate that they would be; well-related to the major road network; or take advantage of cross border opportunities for the efficient management

of waste; or enable the re-use of brownfield sites unsuitable for other uses. The site access and traffic issues are considered in more detail below but the site can in any event also be considered to be re-use of a brownfield site, which will have few if any other viable uses, insofar as the application proposes the use of existing disused storage lagoons on the site.

- 3.48 The two other relevant key policies in relation to the principle of the development are Policies CS6 and CS7. Policy CS6 which sets out general considerations in relation to proposed waste management uses makes clear that proposals on land already in a waste management use, on existing industrial or employment land or land identified for these uses in a Local Plan or Development Plan Document, other previously-developed land; and contaminated or derelict land, will be considered to be acceptable. The proposal included in this application would fall within these types of land, as either land in a waste management use, existing industrial land or alternatively as other previously developed land. The additional qualifying test to be applied is that it should not cause any unacceptable environmental impacts. These are considered in more detail below.
- 3.49 Finally, Policy CS7 which is concerned with applications for recycling, composting, anaerobic digestion and waste transfer stations, to handle all types of waste states that these will be considered favourably, so long as they would not cause unacceptable environmental, amenity and/or highways impacts.
- 3.50 In terms of the principle of the development (i.e. in relation to the type and location of the site only), subject to the additional consideration of the environmental, amenity and highways impacts the application can be considered to be acceptable and in compliance with the development plan policy, i.e. Core Strategy Policies CS3, CS4, CS5, CS6 and CS7 as detailed above. As such and in accordance with paragraph 7 of the National Planning Policy for Waste (NPPW) there is no need for the applicant to have to demonstrate the quantitative or market need for new or enhanced waste management facilities.
- 3.51 The principle of the development is accordingly acceptable in relation to relevant development plan policy.

B. Traffic, Access and Highway Safety

- 3.52 In relation to traffic, access and highway safety, the application raises issues in relation to the type and volume of traffic and in particular the number of HGV movements, access including the routing of HGVs to and from the site, and highway safety and capacity considerations.
- 3.53 Relevant policy includes, the NM&WDF Core Strategy Policies CS5, CS7, CS15 and DM10, the South Norfolk Local Plan Development Management

Policies Document Policy DM3.11, the NPPF paragraphs 110-113 and the NPPW, paragraph 7 and Appendix B (Location Criteria – Paragraph (f) Traffic and Access), which seek to ensure that new development proposals are properly assessed through the submission of an appropriate assessment of the suitability of the road network.

- 3.54 The information on traffic submitted with the application states that whilst the maximum throughput of the site would be 141,258 tonnes per year, no details are included on the length of time that waste would remain within the lagoons, or the number of vehicle movements that are anticipated. .
- 3.55 As detailed above the organic liquid is delivered to the site mainly by articulated tankers with a load capacity on average of 28m³, although smaller rigid bodied vehicles with a capacity between 18m³ and 22m³ may also be used. The application does not include a detailed breakdown of HGV movements as it states that this is not consistent because of the unpredictability of when organic liquid can be applied to land, with the result that there is no set delivery schedule. The application is accompanied by a Traffic Management Plan, which includes routing to the south only to Harvey Lane, and then along Harvey Lane to its junction with the B1332 Norwich Road.
- 3.56 Following a request to provide additional information on traffic associated with the operation of site, the applicant has submitted data for the number of vehicle movements in 2020. This shows that there were 344 deliveries to site, or 688 two-way movements in total, which equates to approximately 13 on average per week. This is below the previous use figure of 16 per week (under Planning Permission Ref. C/7/2007/7001).
- 3.57 The figures do show is that the number of vehicle movements, if far from constant. They can vary significantly from month to month with none at all in some months and that there is no set pattern and so that the total number of HGV movements and how and when these occur may vary widely. Notwithstanding that this may be the case the application states that the use of the site is likely to be higher in autumn and winter than in the spring and summer.
- 3.58 On this basis the application proposes that it should be determined with the only restriction on HGV movements being that the direction of travel of delivery vehicles to and from the site should be as set out in the submitted Traffic Management Plan, i.e. to the south only to Harvey Lane, and then along Harvey Lane to its junction with the B1332 Norwich Road.
- 3.59 The difficulty with this approach is that it would not place any limit on the number of HGV movements and would leave these uncontrolled. The application states that the maximum annual throughput of the site would be 141,258 tonnes of waste, which assuming a payload of 28 tonnes, equates to

over 5,000 loads per annum or 10,000 two-way movements rather than 344. However, as set out above, the Highway Authority advises that the number of HGV movements also needs to include the subsequent removal of the liquid from this site, which the submitted information has not allowed for. This could potentially result in double the number of vehicle movements or more depending on the payload, and the extent to which any waste is spread by umbilical (pipe) directly to the surrounding land. No assessment of the impact of this level of traffic, or indeed any level of traffic has been submitted with the application. It is therefore not possible to determine what this would realistically be, or that safe access to and from the site, using the proposed lorry route can be safely achieved or that the capacity of the road network between the site and the B1332, including the junctions along the route are adequate. It is also unclear what routes any waste being taken out of the lagoons for spreading to land, would take. In addition, no assessment of the amenity impacts of the HGV traffic has been submitted with the application, a point which is considered in more detail below.

- 3.60 Based on the information submitted with the application it is not therefore possible to assess the traffic, access and highway safety impacts and consequently it has not been demonstrated that the use of the site would not give rise to unacceptable highway safety impacts and adversely impacts on the capacity of the local highway network. The proposal cannot therefore be considered to be compliant with the NM&WDF Core Strategy Policies CS5, CS7, CS15 and DM10, the South Norfolk Local Plan Development Management Policies Document Policy DM3.11, the NPPF paragraphs 110-113 and the NPPW, paragraph 7 and Appendix B (Location Criteria – Paragraph (f) Traffic and Access).

C. Amenity Impacts (including Odour, Noise, Vibration and Lighting)

- 3.61 By far the main issue raised by objectors and also by consultees (including the District Council Environmental Quality Team and the Environment Agency) concerns the odour emissions from the operation of the site, but also to a lesser degree noise and general disturbance, particularly arising from potential HGV movements in the surrounding area (as stated in the previous section of this report). There have also been concerns raised by objector about lighting.
- 3.62 Relevant policy includes, the NM&WDF Core Strategy Policies CS6, CS7, CS14 and DM12 and DM13, the South Norfolk Local Plan Development Management Policies Document Policies DM1.1, DM 1.4, DM3.13 and 3.14, the NPPF paragraphs 130, 174, 185 and 188 and the NPPW, paragraph 7 and Appendix B Location Criteria - Paragraph (g) air emissions, including dust, Paragraph (h) odours, and Paragraph (j) noise, light and vibration which variously seek to ensure that proposals for new and extended waste management facilities should not give rise to unacceptable amenity impacts.

- 3.63 As detailed above there is particular concern about odours from the site which appear already to be having a negative impact on the quality of life of local residents in the surrounding area. It is apparent both from officer's own site visits, discussion with the Environment Agency, and the comments of local residents that the adjacent pig rearing unit may also be a potential source of odour and it is unclear to what extent the odours emitted from the two adjacent sites can be distinguished. It is nevertheless clear that there have been not insignificant odour emissions from the site and that these have resulted in complaints to the Environment Agency. The Environment Agency has confirmed that they have sought the implementation of additional "appropriate measures" to ensure that the site operates in accordance with the requirements of the Environment Permit. This has experimentally included the use of clay balls to create a surface over one of the filled lagoons. It is understood from discussion with the Environment Agency, that the effectiveness of the use of the clay balls, has yet to be determined with certainty, although it has advised that the measure has been at least partly successful in controlling odours from the lagoons that are in use. If this is unsuccessful, then the Environment Agency has advised that further options could include enclosing the lagoons with lids to ensure the operation remains compliant with the Environmental Permit. It has nevertheless advised that it currently considers that all appropriate measures have been taken by the operator, and that site can be considered to be compliant with the Environmental Permit. Whilst it considers that there may still be some potential for residual odours on occasions, it does not advise that it considers that these would be at a level to make the use of the site unacceptable.
- 3.64 The position of the County Council in relation to the determination of the planning application is that it should be determined in accordance with the advice set out in paragraph 188 of the NPPF. This advises that decisions (i.e. the determination of planning applications) should be made on whether proposed development is an acceptable use of land, rather seeking to control of processes or emissions (where these are subject to separate pollution control regimes, i.e. the Environmental Permitting regime in this instance). It makes clear that planning decisions must assume that these regimes will operate effectively. As detailed above, the Environment Agency is not objecting to the application on the ground of odour emissions and has not advised that these cannot be adequately regulated through the Environmental Permit. Based on this guidance there is no basis for considering that the use of the site, as proposed, is an unacceptable use of land, because it is not possible to effectively regulate odours through the Environmental Permit.
- 3.65 In relation to noise and vibration, there have been concerns expressed in some of the third-party objections about noise from the operations at the site. It is understood that these arise from the use of a pump to take deposited liquid back out of the lagoons, either when being tankered off-site or when being piped for spreading directly on to the adjoining land, as it is understood has

taken place. Noise, like odour is regulated through the Environmental Permit and is the subject, as with odours, of a condition attached to the Permit. The position consequently is essentially the same to that relating to odour, in that the County Council should determine the planning application on the basis that the Environmental Permitting regime will operate effectively to regulate noise from the site. Again, there is no objection from the Environment Agency to the application on the basis that noise cannot be effectively controlled. As such there is no basis for considering that the use of land as proposed would be an unacceptable use of land in relation to noise emissions from its operation.

3.66 In relation to lighting, there have also been concerns raised by objectors that this is adversely impacting on the amenity of nearby properties and the Seething Observatory, especially as there appears to be 24-hour working. Whilst the application does not propose any operational development, including any lighting, this is a matter if the application were to be approved that could be controlled by condition, in conjunction with a condition on operating hours.

3.67 The one element of the operation that is not regulated through the Environmental Permit is the noise and disturbance that may be caused by the HGV and vehicular movements away from the site, and in particular along the proposed lorry route from the site to the B1332 via Harvey Lane to the south-east of the site. There are understood to be several residential properties located along the route, but in the absence of any definitive information on the number of vehicle movements that would be associated with the operation of the site (as detailed above) it is difficult to come to any conclusion on the likely impacts as a result of noise and disturbance. If the site were to operate at a level similar that for which traffic data has been provided for 2020, i.e. at an average rate of 13 HGV movements per week, then it is unlikely that the impact would be significant. However, if the site were to operate at a more intensive level, for example up to the maximum 141,258 tonnes, then the magnitude of HGV movements would be likely to amount to a much more significant impact compared with the existing situation in relation to noise and disturbance. The current position is that the application has not provided any details on terms of a realistic limit on the number of deliveries or HGV movements, or of any movements relating to the subsequent removal of waste from the site prior to spreading, and proposes that these movements should be unregulated other than defining the proposed lorry route for delivery vehicles to and from the B1332. As such the application has to be considered to be deficient in terms of the information submitted and inadequate in terms of demonstrating that it would not have an unacceptable impact in terms of noise (and vibration) and disturbance and therefore that it would be acceptable in terms of its amenity impacts on the residential properties along the proposed lorry route for delivery vehicles to and from the B1332, or elsewhere if different routes are to be used by vehicles taking waste away from the site for spreading.

- 3.68 Accordingly, the proposal cannot be considered, by virtue of the amenity impact, to be compliant with the NM&WDF Core Strategy Policies CS6, CS7, CS14 and DM12 and DM13, the South Norfolk Local Plan Development Management Policies Document Policies DM 1.4, DM3.13 and 3.14, the NPPF paragraphs 130, 174, 185 and 1883 and the NPPW, paragraph 7 and Appendix B (Location Criteria - Paragraph (g) air emissions, including dust, and Paragraph (j) noise, light and vibration.

D. Impact on Trees and Ecology

- 3.69 The impact on trees and ecology has been raised by third party objectors and also by the County Ecologist. The concern is that the types of waste stored in the lagoons and the emissions from the operation on the site have the potential to adversely impact, or may already be having an adverse impact, on the surrounding trees and ecology including the nearby SSSIs, at Hedenham Wood and Tindall Wood Ditchingham and also the Seething Observatory County Wildlife Site.
- 3.70 Relevant policy includes, the NM&WDF Core Strategy Policies CS6, CS7, CS14 and DM1, the South Norfolk Local Plan Development Management Policies Document Policies DM1.1, DM 1.4, and 3.14, the NPPF paragraphs 174, 180 and 188 and the NPPW, paragraph 7 and Appendix B (Location Criteria - Paragraph (d) nature conservation and (g) air emissions, including dust, which seek to protect and enhance biodiversity and to promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
- 3.71 The same principle applies in relation of the impact on the natural environment, including impact on trees and ecology, as applies in relation to the amenity impacts, insofar as these too are regulated through the Environmental Permit for the site.
- 3.72 Accordingly, the position of the County Council in relation to the determination of the planning application is that it must be determined in accordance with the advice set out in paragraph 188 of the NPPF (as set out above), and on the assumption that Environmental Permitting regime will operate effectively. As detailed above the Environment Agency has not raised any concerns in relation to potential impact on trees and ecology or advised that it is not able to regulate any impacts on the natural environment effectively. As such there is no basis for considering that the use of land as proposed would be unacceptable in relation to the impact on natural environment and in particular, trees and ecology, or accordingly for considering that the site cannot operate in compliance with relevant development plan and national planning policy as detailed above.

3.73 Appropriate Assessment

- 3.74 It should be noted that the Broads Special Area of Conservation (SAC) and Broadland Special Protection Area (SPA) lie 6.3km north-east of the site at their nearest point to the site. The application has been assessed in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. Due the size and scale of the development, and this distance from the European sites, it is considered there is not a requirement for the CPA to undertake an Appropriate Assessment of the development.

E. Risk of Pollution to Groundwater

- 3.75 As set out in paragraphs 3.13-3.17 and 3.38 above, both the Environment Agency and third-party objectors have expressed concerns about the construction and structural integrity of the lagoons for the storage of liquid organic waste, the adequacy of the freeboard to cater for any rise in levels within the lagoons and the consequential or risk of pollution to groundwater.
- 3.76 The Environment Agency, although having submitted an initial holding objection on the basis that a risk assessment should be submitted to confirm whether the existing lagoons are suitable for the storage of the specified waste types, has subsequently confirmed that this would be matter that would be regulated through the Environmental Permit, as would the construction and suitability of the lagoons for their use and operation in relation to the storage or organic liquid waste. This would ensure that there is no risk of pollution to groundwater or to the water environment more generally.
- 3.77 Again, as a matter that is to be regulated through the Environmental Permit in relation to the risk of pollution, the planning application has to be determined on the basis that the Environmental Permitting regime will operate effectively to do this, in accordance with the advice set out in paragraph 188 of the NPPF. In absence of advice from the Environment Agency that this would not be the case, there is again no basis for determining that the risk of pollution to groundwater is such, that the use of the lagoons for the storage of organic wastes, can be considered not to be an acceptable use of land. Accordingly, the proposed use of the lagoons for the storage of organic liquid waste has to be considered to be acceptable and in compliance with relevant development plan policy and national planning policy which includes Core Strategy Policies CS6 and CS7 and more specifically Policies CS14, and DM3, and South Norfolk Local Plan Development Management Policies Document Policies DM3.14 and DM4.2 and also the NPPF, paragraph 174 and 185 and the NPPW, paragraph 7 and Appendix B, Location Criteria - Paragraph (a) protection of water quality and resources and flood risk management.

F. Flood Risk and Drainage

- 3.78 Concerns about flood risk and drainage, have been raised by third party objectors who have commented that there are no surface water drainage details included in the application. In fact, because the application is only for the change of use of the site and does not include any operational development, there is no requirement to submit either a flood risk assessment or details of the surface water drainage. In addition, the site is located in Flood Zone 1, so is considered to be of low risk of flooding.
- 3.79 The concerns of third-party objectors appear essentially again, to be concerned with the risk of pollution in the event that the freeboard of the lagoons were to be inadequate to contain storm water, but again this, as detailed above, is a matter that is regulated through the Environmental Permit. As set out in the preceding section of this report, the planning application has to be determined on the basis that Environmental Permitting regime will operate effectively to do this, in accordance with the advice set out in paragraph 188 of the NPPF. There has been no objection to the application either from the Lead Local Flood Authority (LLFA) or from the Environment Agency on the basis of flood risk or concerns about the adequacy of the surface water drainage on the site and the application has therefore to be considered to be acceptable in terms of compliance with relevant development plan policy and national planning policy. This includes Core Strategy Policies CS6 and CS7 and more specifically Policies CS14, and DM3, and South Norfolk Local Plan Development Management Policies Document Policy DM4.2 and also the NPPF, paragraph 167 and the NPPW, paragraph 7 and Appendix B, Location Criteria - Paragraph (a) protection of water quality and resources and flood risk management.

G. Incompatibility of Land Use (with the Airfield)

- 3.80 The issue that third party objectors have raised in relation to the incompatibility of land use, which is an issue that referred to in the NPPW, paragraph 7 and Appendix B, Location Criteria - Paragraph (I) potential land use conflict, is that the use of the site, by virtue of the odour emissions is incompatible with the operation and safety of the Seething airfield. Specific issues that have been raised include the use of pipes over and around the airfield to facilitate the spreading of liquid from the lagoons on to nearby fields, resulting in the deposit of mud and causing a hazard to the safe use of the airfield, and that odours and emissions from the site are prejudicing the effective operation of the staff of the Seething Fire and Rescue Service, based at Seething Airfield, and accordingly the safe operation of the airfield.
- 3.81 The key point that arises from these comments, is a point of principle that the planning system must be operated to regulate the development and use of land in the public interest and cannot concern itself competing private interests. Any physical impacts arising from the laying of pipes over and around the airfield or deposit of mud on the airfield, has therefore to be treated as a civil matter between the parties, and not one that gives rise to a valid planning

consideration. The impact of odours on the staff of the Seething Fire and Rescue Service is essentially a facet, in being a result of the emission of odours, that has to be left to be regulated through the Environmental Permit. Neither of the aspects the issue raise about the incompatibility of the land use are therefore one's that provide the basis for considering that there is a potential land use conflict.

H. Impacts on Heritage

- 3.82 Concerns has been expressed by objectors that the site is too close to the Conservation Area in Seething and could therefore adversely impact on the significance of the Conservation Area as a heritage asset. As the Conservation Area is located approximately 1km to the north of the application site and no operational development is proposed, there are not likely to be any direct impacts on its significance as a heritage asset. Indirectly it could potentially be affected by an increase in traffic, although as detailed above, it is proposed that deliveries to the site would be regulated through a lorry routing agreement, with traffic routed to the south to and from the site access via Harvey Lane to the B1332. It is however, not proposed to restrict the routing of vehicles making collections from the site, and it is possible that this traffic could be routed through Seething, which could have the potential to give rise to less than substantial harm to the significance of the Conservation Area as a designated heritage asset. Where this is the case this harm, in accordance with paragraph 202 of the NPPF, should be weighed against the public benefits of the proposal. The impacts in term of noise and disturbance from traffic are considered in more detail in Section C above.

I. Sustainability

- 3.83 The application in this instance is purely for a storage and waste transfer operation with no processing being undertaken on the site. The use of the site is nevertheless intended to facilitate the use of liquid organic waste as fertiliser by its application to land, in periods when this cannot be undertaken, thereby enabling their recycling.
- 3.84 No sustainability statement has been submitted with the application that sets out how the use of the site complies with sustainability principles, details of the energy usage or the carbon emissions or saving arising from the use of the site compared to processing material or its storage elsewhere. The application does not include any on-site energy generation from renewable or low carbon energy sources.
- 3.85 Although this is regrettable, it is not on its own a ground to refuse permission given that the 10% referred to in the NM&WDF, Core Strategy and Minerals and Waste Development Management Policies DPD Policy CS13, is an aspiration rather than a requirement.

3.86 ENVIRONMENTAL IMPACT ASSESSMENT

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

3.88 RESPONSES TO REPRESENTATIONS RECEIVED

3.89 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.

3.90 The responses to the representations from objectors as set out in paragraph 3.38 above. Comments in relation to the issues raised as set out in 3.40 to 3.85 above.

3.91 INTENTIONAL UNAUTHORISED DEVELOPMENT

3.92 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.

3.93 In this instance the application is a retrospective application and it is understood that the storage activities have already commenced on site.

3.94 Whilst regrettable, in this instance it is not considered 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 This is 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 organic liquid will be brought on to the application site from supplying food and drinks factories and stored before being taken off-site and applied to agricultural land locally. The organic liquid is used as a substitute for commercially manufactured fertilizers, that would otherwise be purchased by the local farmers. 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.

- 4.2 Whilst there have been significant concerns expressed by Seething Parish Council and the adjacent Parish Councils and third-party objectors about odours and noise emissions from the operations at the site and the impacts of these on local residents and the environment, these are matters that are to be regulated through the Environmental Permit in relation to which the application must be determined in accordance with the advice set out in paragraph 188 of the NPPF.
- 4.3 Whilst the existing odour issues also weigh against the proposal in the planning balance, ultimately these emissions would be controlled through the environmental permit, and on the basis the EA has already issued this, it would not be reasonable to refuse the application on this ground.
- 4.4 There has been an objection from the Highway Authority on the basis that inadequate information has been submitted to demonstrate that the site can be operated without giving rise to unacceptable highway safety impacts and adverse impacts on the capacity of the local highway network.
- 4.5 Therefore, the application cannot be considered to have demonstrated compliance with the NM&WDF Core Strategy Policies CS5, CS7, CS15 and DM10, the South Norfolk Local Plan Development Management Policies Document Policy DM3.11, the NPPF paragraphs 110-113 and the NPPW, paragraph 7 and Appendix B (Location Criteria – Paragraph (f) Traffic and Access) and significant weight is given to this in the planning balance
- 4.6 In addition, inadequate information has been submitted with the application to demonstrate that the site can be operated without giving rise to unacceptable impact in terms of noise (and vibration) and disturbance and therefore that it would be acceptable in terms of its amenity impacts on the residential properties along the proposed lorry route to and from the B1332 and elsewhere. It cannot therefore be considered to be compliant with the NM&WDF Core Strategy Policies CS6, CS7, CS14 and DM12 and DM13, the South Norfolk Local Plan Development Management Policies Document Policies DM 1.4, DM3.13 and 3.14, the NPPF paragraphs 130, 174, 185 and 1883 and the NPPW, paragraph 7 and Appendix B (Location Criteria - Paragraph (g) air emissions, including dust, and Paragraph (j) noise, light and vibration).

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:**
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 **Equality Impact Assessment (EqIA) (this must be included):**

8.7 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.

8.8 Data Protection Impact Assessments (DPIA):

8.9 There are no data protection implications from a planning perspective.

8.10 Health and Safety implications (where appropriate):

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

8.12 Sustainability implications (where appropriate):

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

8.7 Any Other Implications:

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:

1. Refuse planning permission for the reasons set out below.

11.2 REASON(S) FOR REFUSAL

1. The Information submitted with the application is inadequate and has failed to demonstrate that the site can be operated without giving rise to unacceptable highway safety impacts and adverse impacts on the capacity of the local highway network and cannot therefore be considered to be compliant with the Norfolk Minerals and Waste Development Framework (NM&WDF) Core Strategy Policies CS5, CS7, CS15 and DM10, the South Norfolk Local Plan Development Management Policies Document Policy DM3.11, the NPPF paragraphs 110-113 and the NPPW, paragraph 7 and Appendix B (Location Criteria – Paragraph (f) Traffic and Access).

2. The Information submitted with the application is inadequate and has failed to demonstrate that the site can be operated without giving rise to unacceptable noise (and vibration) impacts and disturbance and therefore that it would be acceptable in terms of its amenity impacts on the residential properties along the proposed lorry route to and from the B1332 and elsewhere, and cannot therefore be considered to be compliant with the Norfolk Minerals and Waste Development Framework (NM&WDF) Core Strategy Policies CS6, CS7, CS14 and DM12 and DM13, the South Norfolk Local Plan Development Management Policies Document Policies DM 1.4, DM3.13 and 3.14, the NPPF paragraphs 130, 174, 185 and 1883 and the NPPW, paragraph 7 and Appendix B (Location Criteria - Paragraph (g) air emissions, including dust, and Paragraph (j) noise, light and vibration).

Informatives

Positive and Proactive Statement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015, the local planning authority has advised the applicant that the application is likely to be refused and has given the applicant a chance to withdraw the application.

12. Background Papers

- 12.1 Planning Application Ref. FUL/2019/0031 - Retrospective Application for the Use of three Lagoons to Store Organic Liquid Waste Lagoons at Ugate Road, Seething
<http://eplanning.norfolk.gov.uk/PlanAppDisp.aspx?AppNo=FUL/2019/0031>
- 12.2 Norfolk Minerals and Waste Development Framework, Core Strategy and Minerals and Waste Development Management Policies DPD 2010-2026 (Adopted September 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>
- 12.3 Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011, amendments adopted January 2014)
<https://www.southnorfolkandbroadland.gov.uk/downloads/file/263/joint-core-strategy-adopted-document-2014>
- 12.4 South Norfolk Local Plan Development Management Policies Document (Adopted October 2015)

<https://www.southnorfolkandbroadland.gov.uk/downloads/file/245/development-management-policies-document>

- 12.5 The National Planning Policy Framework (NPPF) (2021)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf
- 12.6 National Planning Policy for Waste (NPPW) (2014)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/364759/141015_National_Planning_Policy_for_Waste.pdf
- 12.7 Planning Practice Guidance (2014)
<https://www.gov.uk/government/collections/planning-practice-guidance>
- 12.8 Norfolk County Council's Environmental Policy (November 2019)
<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/natural-environment-policies/environmental-policy>
- 12.9 Waste Management Plan for England (January 2021)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955897/waste-management-plan-for-england-2021.pdf

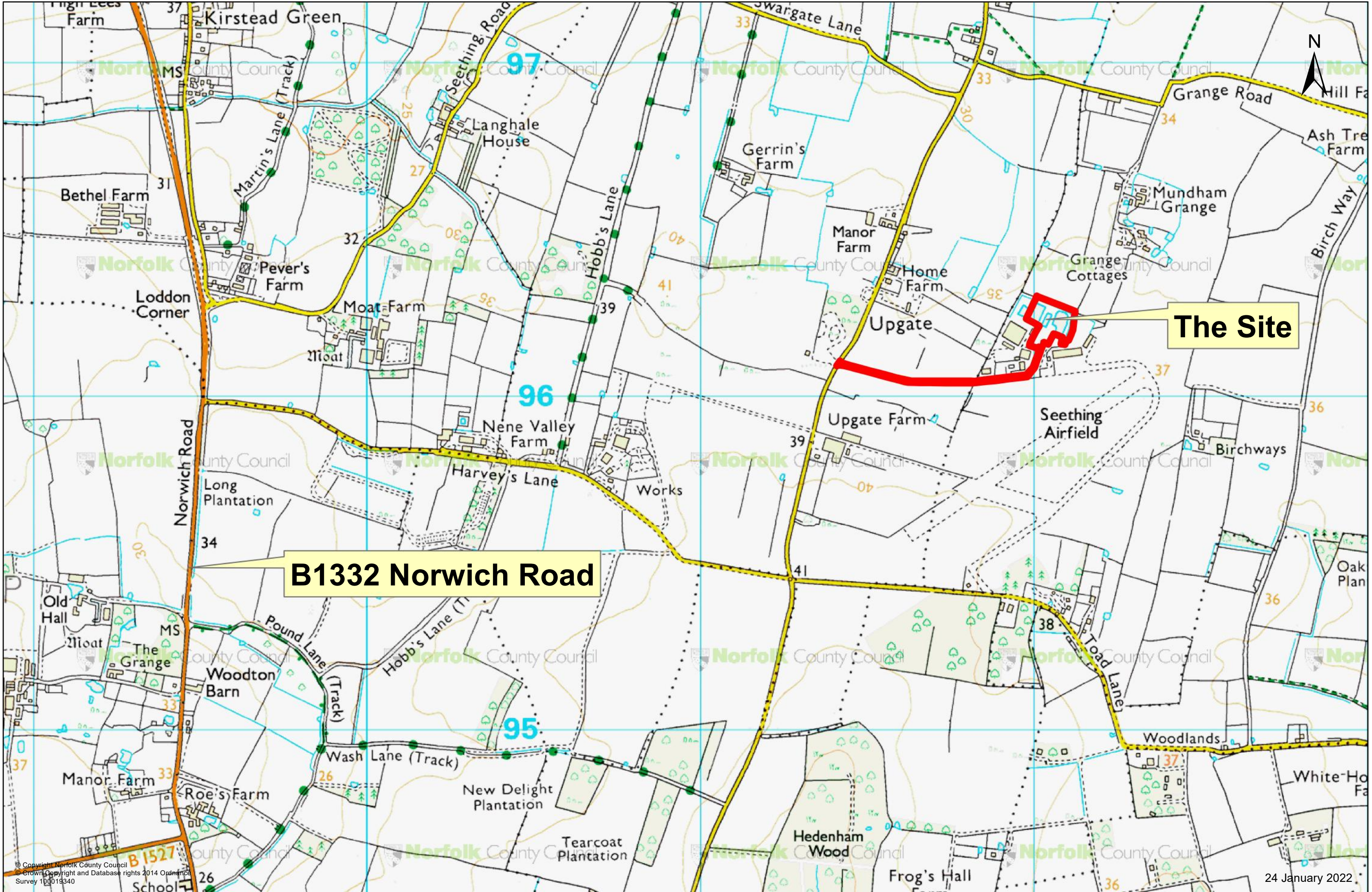
Officer Contact

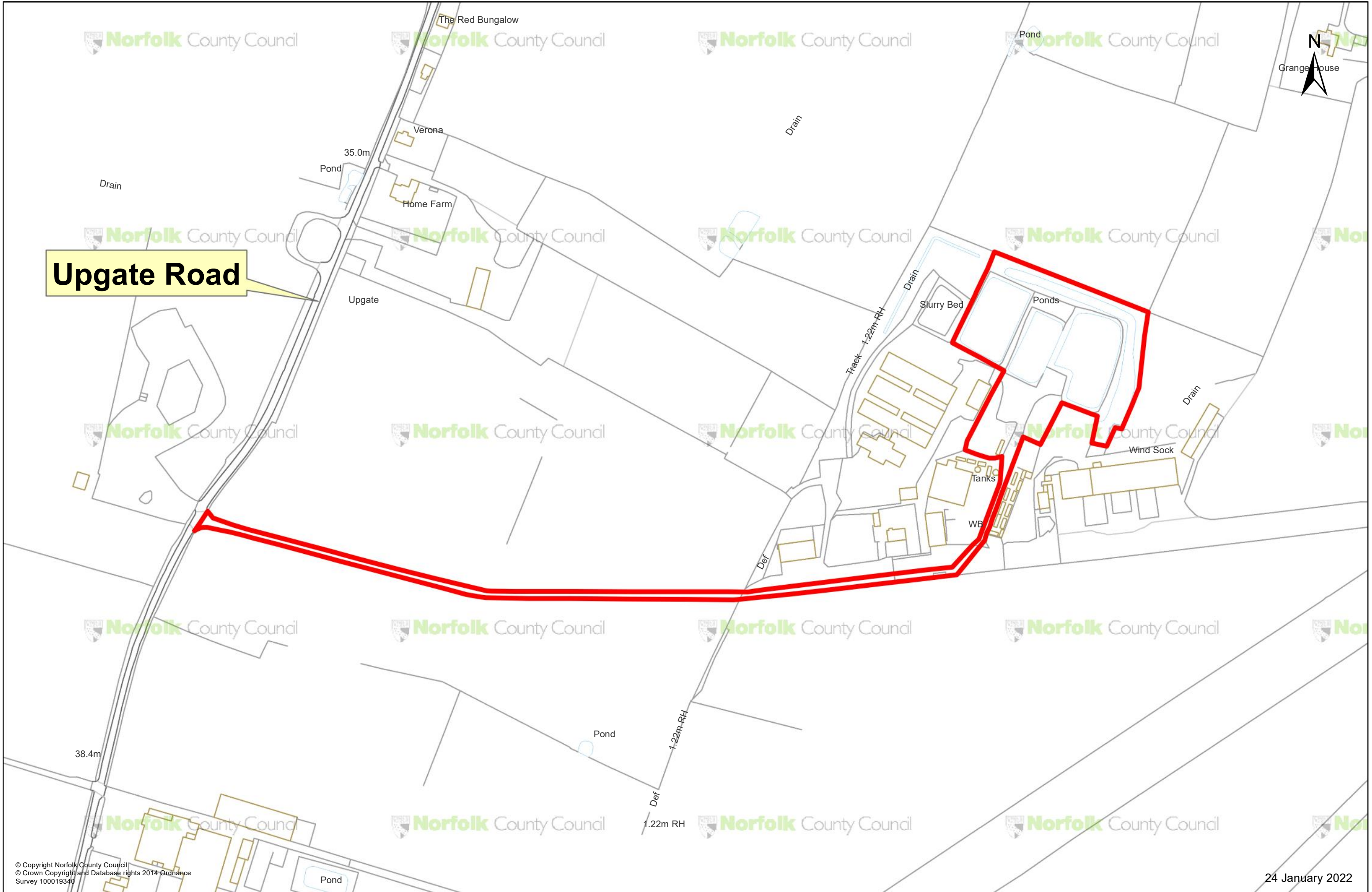
If you have any questions about matters contained within this paper, please get in touch with:

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Seething Lagoons Site Plan

