

# Planning (Regulatory) Committee

**Item No:**

**Report Title: FUL/2023/0019:** Land adjacent to the Barn, Heron Farm, Bunwell Road, Besthorpe, Attleborough, Norfolk, NR17 2LN

**Date of Meeting:** 26 January 2024

**Responsible Cabinet Member:** N/A

**Responsible Director:** Grahame Bygrave (Interim Director of Community and Environmental Services)

**Is this a Key Decision?** No

**Proposal & Applicant:** Change of use of land from open air storage (plant, materials and aggregates in connection with the operations of Newall Plant Ltd) to aggregate and soil recovery facility (Part Retrospective): Newall Plant Ltd

## Executive Summary

Planning permission is sought 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 is 1.14 hectares in size and is sited adjacent to an existing civil engineering business at Heron Farm, Besthorpe. The application seeks to recycle / recover up to 60,000 tonnes per annum of aggregates and soils from imported construction, demolition and excavation waste linked to the adjacent Newall civil engineering business.

No objections have been received from statutory consultees subject to conditions. However, objections have been received from the Spooner Row, Sutton and Wattlefield Community Council and 4 members of the public, raising objections in respect of amenity, landscape impact, highway movements and principle.

This is a finely balanced planning application giving consideration to a similar proposal on adjacent land which was refused by members (in 2016) and dismissed at appeal, and a subsequent application on the same land as the current proposals which was refused by members (in 2021).

The current proposal does however differ from the appeal site in that it would be on previously developed land with permission having been granted by the district council for open air storage (plant, materials and aggregates). The application also differs from the previous refusal by members in 2021 for a similar proposal in that the district council have now granted permission for the perimeter bunds as they are currently built, and a further storage extension area to the south of the application site.

The applicant has also advised that all plant would be operated at ground level, and has relied upon the existing bunding as authorised by the district council to mitigate the landscape impact.

The applicant has identified a need for the facility at this site, the proposal would promote the movement of waste management up the waste hierarchy, the Environment Agency has issued an Environmental Permit for waste processing at this site. There are benefits in allowing material to be processed at the site in terms of reducing road miles and providing a source of recycled aggregate for their adjacent business. However, to ensure that all plant would operate at ground level to not cause unacceptable landscape or amenity impacts this would need to be controlled by condition. Such a condition would however go against the Health and Safety Executive's best practice guidance for the safe operation of loading a crusher with an excavator. Similarly, the planning inspectorate in the earlier appeal at Heron Farm, did not consider that it would be reasonable to attach such a condition, and the applicant at that time also agreed that such a condition was not practical in terms of health and safety.

So, whilst giving consideration to the benefits of the scheme and its compliance with the locational criteria of the development plan, it is considered that the inability to condition the working height of the plant would result in an unacceptable impact upon the landscape and neighbouring amenity, which are material considerations that outweigh the development plan and the application is therefore recommended for refusal.

### **Recommendations:**

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

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

## **1. Background**

- 1.1.** This report deals with a planning application for development for an aggregate and soil recover facility of up to 60,000 tpa. Newall Plant Ltd operate a civil engineering business at the site specialising in plant hire, groundworks and muck away services with around 50 employees, 30 of which are site based. The area of land subject to this application was granted permission by the district

council in 2019 for the open air storage of plant, materials and aggregates, Newall's civil engineering yard and associated buildings are sited to the west of the application site. The district permission included 5m high bunding to the north, east and south-east of the site as part of the storage permission. The bunding had not been constructed strictly in accordance with the district permission, subsequently a further application to regularise the bunding (as built) was submitted and approved by the district council in 2022. The bunding around the site is approximately 5m in height, although it does rise to approximately 5.47m in places and fall to a minimum of 4.29m.

- 1.2. A planning application for a similar proposal on an adjacent area of land (to the west) was in 2016 recommended for approval by officers, but subsequently refused by members of the planning committee and later dismissed at appeal. The inspector found that the landscape and amenity impacts were unacceptable. A further application was considered by members for an aggregate and soil recover facility on the current application site in 2021, but was refused on landscape grounds as the bunding which had been erected was not in accordance with the district permission and the LVIA was reliant upon this to screen the development. Landscaping had also been proposed as part of the development but this was not shown to be within the application site due to inaccuracies with the submitted plans. It was considered that the applicant had not demonstrated that landscape impacts would be adequately protected and the application was refused on this basis. This led to the applicant subsequently applying to the district council to regularise the bunding around the site and also to gain permission for a further extension to the south of the application site for additional storage and further perimeter bunding.
- 1.3. This current application differs from the appeal site in that the area of land subject to this application has been granted permission for open air storage, and is enclosed by approximately 5m high bunds. The proposal would no longer be considered a departure from the development plan in land use terms as the site would now constitute previously developed land.
- 1.4. The main difference with the current application and that previously refused by members in 2021, is that the district council has now granted permission for the perimeter bunds as built, the applicant has also confirmed the working heights of the plant and this is reflected in the LVIA, and a plan has been produced to accompany the application which shows that the soft landscaping can be provided within the red line planning application boundary.
- 1.5. It should also be noted that the applicant had previously advised that it was not practical and that there would be health and safety implications to operate all plant at ground level, which in the planning consideration raised amenity and landscape concerns. The applicant has now advised that they are able to operate all plant at ground level and the application is therefore considered on this basis.

- 1.6. As regards justification for the development, the submitted Planning Statement advises that the purpose of the proposed facility is to allow for materials generated by the company's off-site engineering works, to not only be stored at the site, but also to be recycled moving waste further up the waste hierarchy. This would in turn reduce road vehicle miles by allowing waste to be processed at the site which would alternatively need to be transported elsewhere for treatment or disposal. It should be noted that the extant permission at the site does not allow for waste to currently be brought to the site. So, if as the application sets out waste is currently being brought to the site this is outside of any existing lawful permitted planning use.

## **2. Proposals**

### **2.1. SITE**

- 2.2. The area of the application site is 1.14ha in total, which includes the access, perimeter bunding and existing storage area. The actual operational area would be approximately 0.5ha. The site is currently used for open air storage of plant, materials and aggregates associated with the operations of Newall Plant Ltd (planning permission granted 2019). The site is located to the east of Newall's civil engineering yard (planning permission was granted in 2007) which the applicant advises employs some 50 people. The site includes an existing access road that links the site to the C139 Bunwell Road which is also used by the civil engineering business. A further storage area immediately to the south of the application site has in 2022 been granted permission by the district council, again with similar height perimeter bunding.
- 2.3. Besthorpe village is 2 kilometres west of the site and Attleborough is a further kilometre west. The A11 Trunk Road is some 2.3 kilometres to the north. The nearest residential properties to the site are Heron Farm and Heron Cottage the boundaries of which are approximately 50 metres and 115 metres respectively from the operational area of the site. A further cluster of residential properties lie both approximately 0.5 kilometres east of the site and 0.5 kilometres north west of the site.
- 2.4. To the south, east and west lie agricultural land. Much of the land to the south was formerly the Old Buckenham airbase (some runway infrastructure still remains). The landscape character of the area is open countryside characterised as Plateau Farmland.
- 2.5. The site is largely (north, east and south east boundaries) enclosed by perimeter bunding which formed part of the open air storage permission issued by the district council. An area of agricultural land separates the application site from Heron Cottage to the north, and the buildings associated with the Civil engineering business lie between the site and Heron Farm.

### **2.6. PROPOSAL**

- 2.7. Planning permission is sought for a (part retrospective) change of use of land from open air storage (associated with the adjacent civil engineering business) to an aggregate and soil recovery facility with a maximum annual operational throughput of 60,000 tonnes. The application is for a change of use only without any operational development, as such no changes are proposed to the perimeter bunding from that which has been granted permission by the district council, no new buildings are required, and no additional lighting is proposed. Permission is sought to operate the site between 07.00- 18.00 Monday to Friday and 07.00 – 13.00 Saturdays, the application states that crushing and screening of waste would only take place between 07.30 – 16.30 Monday to Friday with no processing on Saturdays. Notwithstanding this, 24 tips a year but no more than five per calendar month outside of the above hours are allowed under the terms of the storage permission and the applicant would wish this to continue as part of this application. The application also states that the proposals would create 5 additional full-time employees.
- 2.8. The applicant states that its off-site engineering works have been generating increasing amounts of materials capable of being recovered from demolition and excavation wastes. The applicant further advises that as a result permission was sought and granted by the district council to accommodate storage of this material at the site, some of which would have been processed at source and some untreated. It should be noted that the permission issued by the district council did not include the storage of waste, as such this element of storage would currently be considered unauthorised. The current application seeks to utilise the inert waste material generated by the applicant's engineering business, by carrying out processing at the site of those materials which arrive unprocessed. The applicant advises that this would enable the business to operate more efficiently and reduce the road miles needed to transport the material elsewhere for processing/disposal.
- 2.9. The recycling would take place centrally within the site, with unprocessed material stockpiled behind the bund to the north and processed material in stockpiles again behind the bund to the east and south of the processing area. The application sets out that the material would be fed by excavator into a mobile crusher/screen, which separates out the material into recovered graded aggregates, sands and soil, which would then be moved by loading shovel to the stockpiling areas. Sale of the processed material would be collected by HGV's from the stockpile area and then taken off site for use in the local construction market and wider Norfolk area.

### **3. Impact of the Proposal**

#### **3.1. DEVELOPMENT PLAN POLICIES**

The following policies of the Norfolk Minerals and Waste Development Framework (adopted 2011) (NMWDF), Breckland Council Local Plan (2019) and

Breckland District Landscape Character Assessment (2007) provide the development plan framework for this planning application. The following policies are of relevance to this application:

Norfolk Minerals and Waste Development Framework (2011)

CS3: Waste management capacity to be provided  
CS4: New waste management capacity to be provided  
CS5: General location of waste management facilities  
CS6: General waste management considerations  
CS7: Recycling, composting, anaerobic digestion and waste transfer stations  
CS13: Climate change and renewable energy generation  
CS14: Environmental protection  
CS15: Transport  
DM1: Nature Conservation  
DM3: Groundwater and surface water  
DM4: Flood Risk  
DM7: Safeguarding Aerodromes  
DM8: Design, Local landscape and townscape character  
DM9: Archaeological sites  
DM10: Transport  
DM11: Sustainable construction and operations  
DM12: Amenity  
DM13: Air Quality  
DM15: Cumulative impact

Breckland Council Local Plan (2019)

TR01: Sustainable transport network  
TR02: Transport requirements  
ENV02: Biodiversity protection and enhancement  
ENV03: The Brecks protected habitats and species  
ENV05: Protection and enhancement of the Landscape  
ENV06: Trees, hedgerows and development  
EC01: Economic development  
EC04: Employment development outside General Employment Areas  
COM03: Protection of Amenity

Breckland District Landscape Character Assessment (2007)

E3: Old Buckenham Plateau

**Neighbourhood Plan**

The area in which the planning application is located does not have an adopted Neighbourhood Plan or Neighbourhood Plan in progress.

3.2. **OTHER MATERIAL CONSIDERATIONS**

The revised National Planning Policy Framework (NPPF) was published in December 2023, it 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

14. Meeting the challenge of climate change, flooding and coastal change

15. Conserving and enhancing the natural environment

3.3. Additionally, the following documents form further material considerations as part of the planning process in relation to this application:

National Planning Practice Guidance (NPPG)

This guidance provides supporting information to the NPPF but has lower standing than the NPPF as it is not consulted upon or subject to external scrutiny, unlike the NPPF.

National Planning Policy for Waste (NPPW) (2014)

This sets out national planning policy with respect to waste

Waste Management Plan for England (NWMPE) (2021)

This is the overarching National Plan for Waste Management

Our Waste, our resources: a strategy for England (2018)

This strategy sets out how the Government plans to increase resource productivity and eliminate avoidable waste of all kinds by 2050.

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

3.5. The County Council is currently preparing a Minerals and Waste Local Plan to extend the plan period to the end of 2038. The pre-submission Publication period, under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, ended in December 2022. The pre-submission version of the Minerals and Waste Local Plan, relevant background documents and the representations received have now all been submitted to the Secretary of State for public examination by a Planning Inspector in 2024. So whilst at an advanced stage it is not yet formally part of the development plan for the area and therefore the following policies have been given some weight in the planning balance.

Norfolk Minerals and Waste Local Plan: Publication (2022)

Policy MW1: Development Management Criteria  
Policy MW2: Transport  
Policy MW3: Climate change adaptation and mitigation  
Policy MW4: The Brecks protected habitats and species  
Policy WP1: Waste Management Capacity to be provided  
Policy WP2: Spatial Strategy for waste management facilities  
Policy WP3: Land suitable for waste management facilities  
Policy WP5: Waste transfer stations, materials recycling facilities, end-of-life vehicle facilities and waste electrical and electronic equipment recovery facilities  
Policy WP16: Design of waste management facilities

3.6. Breckland District Council adopted the Breckland Local Plan in November 2019 to replace the suite of plans produced as part of the Local Development Framework process. In September 2022, Breckland Council agreed to undertake a review of the Adopted Local Plan 2019, but this is at a very early stage with no draft policies for consideration. Therefore, this is not a relevant material consideration.

### 3.7. CONSULTATIONS

BRECKLAND DISTRICT COUNCIL – No objection having regard to the understanding that the site will be permitted by the Environment Agency, and subject to the following conditions:

1. The operation of the proposed Aggregate and Soil Recovery Facility hereby permitted shall not take place outside the hours of 07:30 - 16:30 Monday to Friday, nor at any time on Saturdays, Sundays, Bank Holidays or Public Holidays.
2. All external lighting shall be hooded and angled down and installed and maintained in accordance with the manufacturers design.

DISTRICT COUNCIL ENVIRONMENTAL HEALTH OFFICER (EHO) – No objection subject to the development proceeding in line with the application details and subject to conditions recommended in respect of noise levels (no greater than 10db above background level), dust levels, noise and dust mitigation, hours of operating machinery and external lighting.

BESTHORPE PARISH COUNCIL – No comments received

SPOONER ROW, SUTON AND WATTLEFIELD COMMUNITY COUNCIL – Object on the grounds of amenity and safety impacts from the traffic generated by the proposed development. If approved would request a condition for a blanket ban on all associated vehicle movements outside of the hours of 08:00 and 18:00 that traverse Spooner Row as a Parish. No vehicles be permitted by the operator to pass through Spooner Row before 08:00 and after 18:00 regardless of the routing or emergency or any such reason. The operator to take



full responsibility for enforcing this and provide a contact for residents to report any such movements.

HEALTH AND SAFETY EXECUTIVE – Standing advice provided on their website. Does not meet the criteria for bespoke advice.

ENVIRONMENT AGENCY – No objection. The site benefits from a standard rules environmental permit, although the permit boundary differs from the area defined in the planning application, in that it encompasses additional land to the south. Emissions from the waste activities, including noise, vibration and dust, will be regulated under the permit and must not exceed levels likely to cause a pollution outside of the site. Appropriate measures to minimise emissions must be implemented and followed by the operator.

HIGHWAY AUTHORITY – No objection subject to a vehicle routing condition to ensure all vehicles leaving the site turn right (enter turning left), and access the A11 via Bunwell Road / Station Road, and road markings at the entrance refreshed. A condition in respect of ensuring material is not deposited on the highway and a condition to restrict the throughput to 60,000 tonnes per annum are recommended.

LEAD LOCAL FLOOD AUTHORITY – The LPA would be responsible for assessing the suitability of any surface water drainage proposal for minor development in line with the NPPF.

COUNTY COUNCIL'S ECOLOGIST – No objection. Informative suggested in respect of any clearance work taking place outside of the bird nesting period March-August. Further details regarding landscape maintenance, including securing of all planting during the first season following determination, is provided either prior to determination or secured by condition.

COUNTY COUNCIL'S ARBORICULTURIST – No objection. All trees in the area are on the opposite side of the bund, and therefore there will be no impact to them.

COUNTY COUNCIL'S LANDSCAPE & GREEN INFRASTRUCTURE OFFICER  
No objection - The applicant has confirmed that the excavator can be worked at ground level in a safe and legal way. As Health and Safety regulations do not fall within my expertise I will have to defer to other colleagues for this to be confirmed. From a landscape perspective should all working be at ground level, the applicant has stated that the plant will not be visible above the bunding and therefore there should be no landscape/visual impacts.

From the imagery (sections and photographs) provided in the Landscape and Visual Appraisal (March 2023) it appears that no proposed activity will be visible from outside of the site. Therefore should the proposals be approved and completed in strict accordance with the submitted plans, including all mitigation

proposed in the LVA, and working height and storage restrictions can be conditioned I would have no further objections from a Landscape perspective.

PUBLIC RIGHTS OF WAY OFFICER – No comments received.

LOCAL MEMBER ATTLEBOROUGH (RHODRI OLIVER) – No comments received.

### 3.8. **REPRESENTATIONS**

Representation is made by Spooner Row, Sutton and Wattlefield Community Council and 4 members of the public, all of which object to the proposal.

### 3.9. The grounds of objection and concerns raised are summarised as follows:

- Continued use of Spooner Row, undermines credibility of process.
- A single road through Spooner Row with a train crossing and primary school, is unsuitable as a main route for these lorries, which create congestion, endanger pedestrians, cyclists and motorists, pollute the environment, increase noise and damage pavements.
- The frequency of lorries using the route is very high and undermines the rural nature of the village.
- Previous applications rejected and this one should also be.
- Newall's lorries use the single carriageway road through Spooner Row at all times of the day and night. Lorries can't pass each other and have to mount the kerb.
- Location of the site is inappropriate as there are no suitable roads to it hence the objections from all surrounding parishes.
- Spooner Row is not a suitable vehicle route as it impacts on the users of the primary school, the village hall, the church, the pub, the level crossing, residents, pedestrians, and other vehicles using this route. There is a tight 5-way junction opposite the pub which can be quite hazardous.
- Impact of dust, noise and safety concerns from passing lorries.
- Spooner Row is a rural village and cannot provide a suitable route for more lorries.
- Why is this application allowed to be submitted, nothing has changed the noise still cannot be controlled and the bund is the same.
- Lorry tailgate bangs, lorry horns, reversing sounders, excavator bucket noise, noise from tracked vehicles, loud banging noises, engine revving. Lorries arrive and leave the site anytime day or night, there is no operational times the site adheres to, 1am, 3am, starting at 5.30am.
- The dust policy submitted is a work of fiction, during the years of site use clouds of dust appear rolling over the bunds, if you read the current site policy there should be controls in place to prevent this yet it still happens.
- Remote location with poor access, other facilities are available for processing waste.
- Environmental impacts from dumping 100,000 tonnes of waste in the countryside. Excavators constantly towering above the bunds, the landscaping is out of place in this location.

- 60,000 tonnes of material will create more lorry movements.
- Noise survey is inadequate, it does not accurately account for neighbouring properties and the background noise baseline level is artificially generated by the applicant's existing operations.
- Noise is already in excess of the EHO's acceptable level of +10db.
- Plant currently above height of bunds.
- The bunds are higher than those previously refused and dismissed at appeal, how are they now acceptable?
- Amenity protection policies would not be met as the site is now closer to neighbouring properties.
- Planning inspector previously considered that the noise impact on local amenity would be unacceptable.
- Noise is already a problem with the site, the proposed plant will make a lot more noise.
- Why can plant now operate at ground level, when the applicant stated it was not practical in terms of health and safety previously.
- If the application to the district council had included a crusher it would have been refused, why can the applicant now apply for it.
- Unacceptable impact upon landscape character.

### 3.10. **APPRAISAL**

The key issues for consideration are:

- A. Principle of Development / Need
- B. Landscape & Visual Impact / Design
- C. Amenity
- D. Ecology
- E. Transport
- F. Public Rights of Way
- G. Sustainability
- H. Flood Risk
- I. Groundwater/surface water
- J. Cumulative Impacts

### 3.11. **A - PRINCIPLE OF DEVELOPMENT / NEED**

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

*“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*

3.12. In terms of the development plan and material policy/guidance, the CPA considers the relevant documents in relation to this application are those listed above.

- 3.13. In the context of Policy CS5: General location of waste management facilities of the NMWDF and emerging Policy WP2 in respect of new waste facilities, the site is regarded as a 'non-strategic' waste facility and is well related to the market Town of Attleborough (only 3 kilometres away), as required by the policies. NMWDF policy CS7: Recycling, composting anaerobic digestion and waste transfer stations states the development of new recycling facilities will be considered favourably as long as they would not cause unacceptable environmental, amenity or highway impacts. These impacts have been assessed in the respective sections below.
- 3.14. Policy CS6: Waste management considerations of the NMWDF Core Strategy states that waste sites should be developed in accordance with Policy CS3 and will be acceptable, provided they would not cause unacceptable environmental impacts, on the following types of land:
- a) land already in waste management use;
  - b) existing industrial/employment land of land identified for these uses in a Local Plan or DPD;
  - c) other previously developed land; and,
  - d) contaminated or derelict land.
- 3.15. The site having been granted retrospective planning permission in 2019 by the district council for open air storage of plant, materials and aggregates associated with the operations of Newall Plant Ltd, would now be considered as previously developed land. In this respect the proposed development would accord with the locational criteria set out within Policy CS6, subject to the proposal not having unacceptable environmental impacts, as discussed below. It is noted that the previous application (and appeal) on adjacent land was considered a departure as it was sited on greenfield land, however this is not the case with this application.
- 3.16. Policies CS3 and CS4 of the NMWLDF CS aim to provide sufficient waste management capacity for the County and set targets for different waste management facilities. NMWLP emerging policy WP1 encourages new facilities which help to achieve the targets for recycling, composting, reuse and recovery set out in the Waste Management Plan for England (2013) and sets out the aim to ensure that capacity exists to manage at least the forecast quantities of, inter alia, commercial and industrial waste. The proposal would provide for the recycling/recovery of inert waste brought to the site as a result of the companies wider engineering works. The recycling of the waste stream on site would allow the movement of waste further up the waste hierarchy in accordance with the National Planning Policy for Waste (2014) and the Waste Management Plan for England (2013), and would thereby assist in meeting forecast increasing requirements for recycling and recovery. It is therefore considered that there would be no conflict with adopted policies CS3 and CS4 or emerging policy WP1.

- 3.17. With regards to policies in the Breckland Local Plan, policy EC04: Employment Development Outside General Employment Areas, deals with development which is not situated within the areas identified within the local plan for employment, which would therefore include this application site. The policy advises that proposals for employment use outside of the allocated sites will be permitted where there are particular reasons for the location of the development, such as the expansion of an existing business, sustainability advantages and that the development would not adversely affect the type and volume of traffic generated.
- 3.18. It is considered therefore that the proposal complies with Policy EC04 in that the proposals would represent an expansion of an existing business, and the location being directly adjacent to the existing civil engineering business would allow for waste generated by that business to be brought to the site for processing, moving the waste further up the waste hierarchy. The impact upon type and volume of traffic is discussed later in the report. Furthermore, it should be noted that the Local Plan Policies have not been formulated to specifically address waste management development and as such the Norfolk Minerals and Waste Local Development Framework: Core Strategy is considered to be the most eminent policy document for assessment of the proposal.
- 3.19. The County Council is currently preparing a Minerals and Waste Local Plan to extend the plan period to the end of 2038. Whilst at an advanced stage it is not yet formally part of the development plan for the area; in accordance with para. 48 of the NPPF, some weight is given to the relevant policies. NMWLP emerging Policy WP3 states that, waste management facilities will be acceptable on: a) land benefiting from a permanent permission for an existing waste management use; b) land in existing B2 or B8 use; c) land allocated for B2 and B8 uses; e) previously-developed land.
- 3.20. It is therefore considered that the proposal would not conflict with adopted Policies CS3, CS4 and would be in compliance with the locational criteria set out within policy CS6 of the NMWLDF, emerging Policy WP3 and EC04 of the BLP.
- 3.21. Whilst not part of the development plan, National guidance forms a material planning consideration. In this case, *National Planning Policy for Waste* underlines that planning is pivotal in delivering the country's waste ambitions through the principle of "driving waste management up the waste hierarchy", which means that WPAs should always try to ensure that waste is managed by the most effective environmental solution, represented by the highest levels of the waste hierarchy, i.e. prevention, re-use and recycling. The application under consideration would enable the recovery of materials, with inert waste brought to the site in connection with the adjacent civil engineering business and then recycled, thereby contributing towards driving waste up the hierarchy.

3.22. Therefore, subject to an assessment of potential impacts, including environmental, amenity and highways impacts, the principle of the proposed use (a non-strategic waste facility, 3km from Attleborough on previously developed land) is acceptable at this location.

3.23. *Need*

As regards quantitative or market need for the proposed waste recycling facility, given that the proposal is considered to be consistent with the Development Plan, in accordance with *National Planning Policy for Waste*, there is no requirement for the applicant to demonstrate a need for the proposal.

#### B - LANDSCAPE & VISUAL IMPACT / DESIGN

3.24. *Landscape and visual impact*

NMWDF Policies CS14: Environmental protection and DM8: Design, local landscape and townscape character both seek to only permit development that does not have unacceptable impacts on the character and quality of the landscape. Breckland Local Plan Policy ENV05: Protection and Enhancement of the Landscape states that 'Development proposals will be expected to contribute to and where possible enhance the local environment by recognising the intrinsic character and beauty of the countryside....consideration to trees and hedges.....and have regard to the Landscape Character Assessment, designed to be sympathetic to landscape character'. Breckland Local Plan Policy ENV06: Trees, Hedgerows and Development requires protection of trees and hedgerows during development and replacement planting where there are unavoidable losses.

3.25. The site is not located within an area that has been designated to be protected for its landscape value (such as would be the case with a Conservation Area or National Landscape) in terms of the NMWDF policies and the NPPF.

3.26. The site is located within the 'E3: Old Buckenham Plateau' in the Landscape Classification of Breckland within Breckland District Council's adopted Landscape Character Assessment (2007) Development Plan Document (DPD). The Landscape Strategy for this classification is to 'conserve the rural, tranquil character. Opportunities should be explored to replant field boundary hedgerows....'

3.27. The site is surrounded by bunding, which was granted approval by the district council with an approximate height of 5 metres (measured from within the site) to the north, east and south east of the processing/operational area. The bunds that were constructed were not strictly in accordance with the district permission in that they had been constructed rising to 5.47m in places and also falling to a minimum of 4.29m. Subsequently the applicant sought a further permission from the district council to regularise the bunds which had been built, and this has now been granted permission by the district council. The district permission also detailed planting (native hedging) at the toe of the outer slope of the bund. The

approved planting is detailed as a hedgerow mix with a tree edge mix beyond this on the northern edge of the site.

- 3.28. No details of proposed stockpile heights have been provided with the application. If members were minded to approve the application then it would be recommended that stockpiles are limited to a maximum height of 4m, so that they would not be visible from outside of the site. The crusher/screening plant is detailed in the application as having a height of 3.5m to the top of the hopper. As such this element would not be visible from outside of the site. The crusher would however be loaded by an excavator, the elbow of which would have a general operating height of 5.5m rising to 6.5m on occasions. By virtue of the height of the permitted perimeter bunding approximately 5m, the elbow of the excavator would largely be screened by the existing bunds, but would be intermittently visible by approximately 1m when loading material into the hopper with the excavator elbow at its highest required position.
- 3.29. The applicant has submitted with this application the landscaping scheme which has already been agreed/conditioned by the district council in respect of providing landscaping/planting at the foot of the outer slope of the bund. If members were minded to approve this application then a condition could be attached to ensure the timely provision of any planting.
- 3.30. The County Council's Landscape officer objected to the previous application on landscape impact grounds and inaccuracies with the previous application. However, it has now been advised that as the baseline of the bunds has been established (as built), and the working heights of the plant confirmed the application can be assessed in terms of landscape impact on this basis. It is the landscape officer's view that providing all of the plant would be operated at ground level and stockpile heights below the bunds, as set out within the LVIA, views from outside of the site would be very limited with the plant not visible for the majority of the time.
- 3.31. The site being situated in a rural agricultural area with low lying vegetation and open plateau characteristics, is not accustomed to industrial features within the skyline. As such, it is considered important that if the application were to be approved then the plant must be capable of being operated at ground level and consideration given to the feasibility of attaching a condition to secure this.
- 3.32. An Arboricultural Impact Assessment (AIA) accompanies the application which advises that all trees surveyed are outside of the site on the opposite side of the existing bund to the development site. As such the proposals would have no further impact on the trees than that which has already been caused. It is also noted that the trees are all Ash trees with a limited life expectancy due to both ash dieback and compaction of their root systems by the bund that has been placed in their root protection areas. The Arboricultural officer has raised no

objection to the application accepting that all of the trees are on the opposite side of the bund and that there would be no further impact to them.

- 3.33. In summary it is considered that the landscape impacts of the development could be considered acceptable given the height of the bunding that has been approved by the district council which largely screens the proposed development, and subject to the operation of plant at ground level. If the plant however were to be operated in an elevated position then it would be clearly visible within the local landscape and would be considered detrimental to the landscape character of the area, as was the case with the previous appeal albeit on an adjacent area of land. It therefore needs to be considered if such a condition to operate all plant at ground level would meet the six tests as set out in para 56 of the NPPF (necessary, relevant to planning, relevant to the development, enforceable, precise; and reasonable in all other aspects).
- 3.34. The applicant has advised that contrary to previously stating that they would be unable to operate all plant at ground level as it would be impracticable and would result in adverse operational and health and safety implications, as it would require an excavator operator to lift and place material into an elevated hopper which he could not see from his position on the ground, (as stated in the previous inspector's appeal decision), that they are now able to operate all plant at ground level. They have advised that the reason for this change of view, is that the current application site is larger than the appeal site and thus enables greater manoeuvrability. Having checked the operational area of the previous appeal site/application this would equate to approximately 1ha, whereas the current application operational area is only around 0.5ha, so the applicant's statement in this respect is incorrect, as the operational area of the current application site is around half the size of that which was previously refused by members and dismissed at appeal. It may be that the applicant contends that the shape of the previous site was a limiting factor, however the physical size of the site would have allowed for different configurations for working should the applicant have wished. No further information or explanation has been provided from the applicant in this respect to justify the change in rationale for now being able to operate all plant at ground level.
- 3.35. Furthermore the Health and Safety Executive (HSE) have produced guidance in respect of the 'Safe operation and use of mobile jaw crushers'. This guidance advises that if the crusher is to be fed by excavator (as is the case here), then the excavator should be on a stable pad high enough for the operator to monitor the feed hopper from the cab. The applicant has advised that for this application no raised platforms would be created, and that it would be safe to load the hopper from the ground as there is adequate operable space for the excavator to manoeuvre. It is also advised that to further aid operations cameras would be fitted or a banksman used. Whilst the health and safety requirements of operating the site would lie outside of the planning remit, members should be aware that if the application were to be approved and a condition imposed



requiring all plant to operate at ground level, this would not accord with the best practice produced by the HSE and in this respect it is considered that it would be unreasonable to attach such a condition which would not meet the tests for conditions set out within the NPPF.

3.36. As with the previous appeal/application the inspector advised *that*:

*'...the practice of loading the hopper from an elevated position with plant of an industrial nature protruding above the height of the bunds would have serious landscape and visual implications. The operation of plant and machinery on top of a stockpile in an elevated position would enable the machinery to be seen from outside the site above the height of the bunds and exacerbating the adverse visual impact of the development. The overall impact on landscape character and visual amenity would be unacceptable in this rural countryside location and would be at odds with the adopted Landscape Character Assessment. Furthermore, the development could not be made acceptable by the imposition of planning conditions that would comply with the guidance set out in the NPPF.'*

It is accepted that the appeal site was a different parcel of land to the south of the application site, however the overall findings of the appeal are considered relevant to this application, given the close relationship between the sites.

3.37. In summary had it been considered reasonable to condition that all plant is to be operated at ground level, then this would have adequately protected the visual amenity and landscape character of the area. However as outlined above, and as advised by the County Council's Solicitor, such a condition would not meet the tests as set out within the NPPF. It is therefore considered that there can be no control over the height of the operating plant, as such the proposals are considered to undermine the development plan policies outlined above, namely, NMWDF policies CS14 and DM8 and Breckland Local Plan policies ENV05 and ENV06, in that the operation of plant in an elevated position would have an unacceptable impact on the character and quality of the landscape and would not contribute to or enhance the local environment, and no such reasonable control over this can be secured as part of the planning application. It is noted that the district council permission for storage of aggregate, materials and plant does not include any conditions in respect of stockpile heights, which if this application were to be approved could be brought under control by condition. However, the district permission does not permit processing and it is the impacts associated with use of the site for processing which are being considered as part of this application.

#### C – AMENITY

3.38. The protection of amenity for people living in close proximity of waste management facilities is a key consideration and NMWDF policy DM12: *Amenity* states that development will only be permitted where "...unacceptable impact to local amenity will not arise from the operation of the facility". This echoes policy NMWDF CS14: *Environmental protection* which also seeks to avoid unacceptable impacts on amenity. Breckland

Local Plan policy COM03: Protection of Amenity also seeks to prevent new development causing unacceptable impact on residential amenity. NMWDF policy DM13: *Air Quality* seeks to only permit development where development would not impact negatively on Air Quality Management Areas (AQMA), or lead to the designation of new ones. Furthermore, NPPF paragraph 109 requires that new and existing development should be prevented 'from contributing to unacceptable levels of air pollution'.

3.39. The nearest residential properties to the site are Heron Farm and Heron Cottage the boundaries of which are approximately 50 metres and 115 metres respectively from the operational area of the site. A further cluster of residential properties lie both 0.5 kilometres east of the site and 0.5 kilometres north west of the site.

3.40. The EA in their consultation response advise that they have no objection to the proposal and that the applicant already holds one of their Standard Rules Environmental Permits for the treatment of waste to produce soil, soil substitutes and aggregate at this site. The Environment Agency have advised that *'emissions from the waste activities, including noise, vibration and dust, will be regulated under the permit and must not exceed levels likely to cause a pollution outside of the site. Appropriate measures to minimise emissions must be implemented and followed by the operator'*.

3.41. As part of the application, a noise assessment was undertaken to identify the key noise and vibration sources associated with the development. The assessment concluded that

- i) *Noise from the use of mobile processing plant within the designated area would not exceed noise criterion according to PPG during the daytime for a mineral related site.*
- ii) *Cumulative noise from the use of the mobile processing plant and the recently consented open air storage area would not exceed noise criterion according to PPG during the daytime for a mineral related site.*

The report further advises that *'...with the implementation of the noise mitigation strategy to ensure that the noise levels and acoustic character of the plant do not change over time, the resulting noise levels are acceptable at neighbouring noise-sensitive receptor locations.'*

3.42. Section 5.0 of the report advises that this assessment is based on all plant being operated at ground level, and the application should therefore be assessed on this basis.

3.43. The District Council's EHO has raised no objections subject to a number of conditions in respect of limiting noise levels, dust levels, following mitigation measures set out within the accompanying reports, lighting and hours of operating machinery. The EHO has suggested a condition restricting the hours of operation of the processing site to those set out within the application 07:30 to 16:30 Monday to Friday with no operation on weekends.

- 3.44. The applicant also seeks permission to operate the site in terms of loading and unloading of vehicles/material between the hours of 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on Saturdays, with no working Sundays and Bank Holidays. These hours would replicate those already allowed under the district permission, and in this respect those hours are considered acceptable. The district permission did however also allow under condition an additional 24 tips per year outside of these hours, with a register of these to be kept at the site. The applicant has indicated that they would wish this to continue. However, no justification has been submitted with this application for these additional tips to continue outside of the site operating hours. In addition, it is considered that such a condition would be difficult to enforce, as such if members are minded to approve the application it is recommended that this does not form part of the schedule of conditions/approval.
- 3.45. With regards to the actual regulation of an operation such as this, in accordance with paragraph 194 of the NPPF and the National Planning Policy for Waste, the County Planning Authority needs to focus on whether proposed development is an acceptable use of land, rather than the control of processes or emissions, and the CPA needs be satisfied that the facility can in principle operate without causing an unacceptable impact on amenity by taking advice from the relevant regulation authority (the Environment Agency). However, it is the role of the Environmental Permit (which the facility would also require before it can operate) as issued by the Environment Agency to actually control emissions such as noise and dust through conditions, and Planning Authorities should assume this regime will operate effectively.
- 3.46. The EHO has recommended a condition concerning noise levels (that levels at surrounding noise-sensitive properties do not exceed the background noise level by more than 10dB(A)). However, as stated in 3.45, the control of noise is a matter for the EA's Environmental Permit.
- 3.47. It should be noted that the practice of loading the hopper from an elevated position i.e. on top of stockpile heaps not only poses a risk of noise emissions to local properties, but would also have an increased impact on the surrounding flat landscape (i.e. plant of an industrial nature protruding higher above the height of bunds). Therefore, as set out with section 3.37 of this report, it would be unreasonable to impose such a condition requiring that all plant is operated at ground level, as this would not meet the tests within the NPPF in that the condition would not be reasonable, owing to its conflict with the best practice guidance issued by the HSE as outlined in section 3.35 of this report.
- 3.48. With regards to dust and air quality, the dust management plan submitted with the application advises that '*due to the nature of the materials being handled on site the particle size of the dust is of intermediate to large particles. Therefore, it can be concluded that these particles are highly likely to be deposited within 50m of source*'. The EHO and EA raise no objection in relation to dust and air

quality. It is therefore not expected this would cause an unacceptable impact on amenity or air quality subject to appropriate working practices taking place on site as set out within the dust management plan, such as damping stockpiles etc in dry weather etc. It is not considered that the proposal would lead to the designation of a new AQMA and the proposal accords with NMWDF policy DM13.

- 3.49. No lighting has been proposed at this site and if permission is granted a condition would be recommended preventing lighting that would cause glare beyond the site boundary.
- 3.50. Subject to conditions including those discussed above, there are no outstanding objections from the EHO or the Environment Agency with regards to matters relating to amenity. However having considered the tests associated with attaching planning conditions in respect of operating all plant at ground level, it is considered that this would not be reasonable. Furthermore the noise and dust assessments have been carried out on the basis that all plant would be operated at ground level. As this cannot be feasibly secured through a planning condition, if operated at a greater height it is unknown what level of impact this would have upon neighbouring occupiers as this has not been assessed in the accompanying noise and dust assessments. Accordingly, it is considered that the proposals would have the potential to have an unacceptable impact to local amenity, and the application therefore in this respect would not comply with both NMWDF Policies CS14 and DM12, Breckland Local Plan COM03, and Section 11 of the NPPF and the National Planning Policy for Waste (2014).
- 3.51. Objections received state adverse impact upon amenity as one of the reasons for objecting. It has also been raised (as noted in the landscape section of this report) that the applicant had previously advised that they are not able to operate all plant at ground level for health and safety reasons. In addition the inspector considered impact upon amenity on the previous application on land adjacent to this site, to be unacceptable in terms of noise. The inspector's assessment was made in relation to plant being operated in an elevated position and that the noise report accompanying the application, had not fully considered this. In this application the applicant has advised that all plant would be operated at ground level, and the accompanying noise and dust reports have been carried out on this basis. However as set out within section 3.50 of this report, it is not considered reasonable to attach such a condition and the reports do not consider the operation of plant in an elevated position. As such it is considered that adequate protection of neighbouring amenity cannot be secured as part of this application as submitted.

#### D – ECOLOGY

- 3.52. NMWDF policy CS14: Environmental protection states developments must ensure there are no unacceptable adverse impacts on biodiversity and geodiversity including nationally and internationally designated sites.

- 3.53. The application is accompanied by a Preliminary Ecological Appraisal which concludes that '*Aside from the likely presence of nesting birds in hedgerow boundaries, no other protected species constraints have identified by the PEA.*' The report does acknowledge that if any hedgerows require removal then this should take place outside of the bird nesting period (March- August). And if clearance during this period is not possible then removal must follow a careful and thorough check of the hedgerow by a suitably qualified ecologist to confirm the absence of nesting birds.
- 3.54. The Council's Ecologist raises no objection to the application, noting that no evidence of any protected species have been found at the site in the appraisal, and the further assessment of the ponds to the south (using eDNA testing of water samples), concluded Great Crested Newts are not present, and there is no requirement for any repeat/further testing.
- 3.55. Given the above, it is considered that subject to an advisory note in respect of clearance of vegetation outside of the bird nesting season (or overseen/checked by a suitably qualified ecologist), no unacceptable adverse ecological impacts would arise from the proposal and there would be no conflict with the relevant planning policies, or the requirements of the NPPF.
- 3.56. Appropriate Assessment  
The operational area of the site is within 6.8 kilometres of the Norfolk Valley Fens Special Area of Conservation (SAC), which is a European protected site. The application has been assessed in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. Based on the information submitted to the County Planning Authority, 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 these or any other protected habitat. Accordingly, no Appropriate Assessment of the development is required.
- 3.57. Therefore, the proposal complies with NMWDF policy CS14, which seeks the avoidance of unacceptable adverse impacts on biodiversity, including internationally designated sites and chapter 11: Conserving and enhancing the natural environment of the NPPF.
- 3.58. E – TRANSPORT
- 3.59. NMWDF Policies CS15: *Transport* and DM10: *Transport* requires that proposed new waste facilities in terms of access will be satisfactory where anticipated HGV movements, taking into account any mitigation measures proposed, do not generate, inter alia, unacceptable risks/impacts to the safety of road users and pedestrians, the capacity and efficiency of the highway network, or to air quality and residential and rural amenity, including from air and noise.

- 3.60. Policies TR01 and TR02 of the Breckland Local Plan seek to minimise the need to travel, promote sustainable transport modes, not adversely impact the operation or safety of the strategic road network and support the transition to a low carbon future. The policy requirements also advise developments should protect and where possible enhance public rights of way, avoid inappropriate traffic generation and not compromise highway safety and where significant HGV movements are proposed developments should be accompanied by a routing plan to demonstrate no severe impacts will be caused to the efficient and safe operation of the road network or material harm to the living conditions of residents.
- 3.61. The NPPF section 115 advises that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*
- 3.62. No transport statement has been submitted with the application, although the planning statement includes information in respect of vehicle movements. This information sets out that the proposed annual throughput of material of up to 60,000 tonnes, would as a 'worst case' scenario generate approximately (based on a 20 tonnes pay load over 277 days per year), 22 vehicle movements importing waste per day (11 in 11 out) and 22 vehicle movements exporting the processed material per day (11 in 11 out), which would give a total of 44 vehicle movements per day (import and export combined). This would equate to approximately 4 HGV movements per hour. However it is noted that this is a worst case scenario as it is likely that the applicant would remove processed material from the site in backfilled loads where possible, thus reducing the number of HGV movements required to process the 60,000 tpa applied for.
- 3.63. The site is situated directly off the C139 Bunwell Road with vehicular links (a distance of under 2.5 miles) back to the strategic road network gained via the C140 Bunwell Road /Station Road and directly onto the A11 trunk road. Given the existing operations at the site (including a Civil Engineering operation with a haulage fleet and associated storage of plant, materials and aggregates) HGV movements are already generated to / from the site along this route. The County Highway Authority has raised no objection to the proposal, noting that whilst it is appreciated that the route to the site runs through Bunwell village, they are satisfied that the C140 Bunwell Road/Station Road is (by virtue of its width and alignment) technically capable of accommodating the increase in HGV movements. It is further advised that 'the rural road network does not benefit from any formal pedestrian facilities, and as such pedestrians (as is typical with large parts of the network) are required to walk in the live carriageway. The road however is flanked by a predominantly flat grass verge (on both sides), which offers pedestrians safe refuge should they require it when vehicles pass'. The highways officer has however made this assessment subject to a condition which restricts the throughput of material at the site to 60,000 tpa as set out in the application. A condition in respect of vehicle routing to ensure all vehicles leaving the site turn right (or turn left in) and access the A11 via Bunwell Road /

Station Road. A final condition is recommended to ensure that vehicles leaving the site do not deposit material on the highway.

3.64. It is therefore considered that the proposal complies with NMWDF Policies CS15 and DM10, which considers proposals acceptable in terms of access where anticipated HGV movements do not generate unacceptable risks or impacts.

3.65. F – PUBLIC RIGHTS OF WAY

3.66. There are no public rights of way within the site, however public footpath Besthorpe 5 is in the vicinity of the site. The public rights of way officer has not provided any comments on the application, and no objections have been received from the County Highways Officer. The site already has permission issued by the district council to accept and store aggregates at the site, which is not restricted to any maximum annual tonnage. It is noted that this section of the rural road network does not benefit from any formal pedestrian facilities, and as such pedestrians (as is typical with large parts of the network) are required to walk in the live carriageway. However the highways officer has previously advised that Bunwell Road is flanked by a predominantly flat grass verge (on both sides), which offers pedestrians safe refuge should they require it when vehicles pass. It is therefore not considered that this development would restrict or diminish people's ability to enjoy informal local recreation giving consideration to the characteristics of the road and the existing permitted operations at the site.

3.67. G – SUSTAINABILITY

NMWDF policy CS13: Climate change and renewable energy generation seeks to ensure a minimum of 10% renewable energy from new development. In light of the fact that there would not be any buildings or fixed structures on site to harness renewable energy provision, it would make it very difficult to provide this infrastructure on site for the plant that is used, and the proposal is therefore not considered to undermine this policy.

3.68. H – FLOOD RISK

3.69. The application site lies within Flood Zone 1, which is an area at low risk of flooding. Waste treatment facilities are identified as 'less vulnerable' in the table of Flood Risk Vulnerability Classification as set out in Planning Practice Guidance (PPG). PPG further advises that 'less vulnerable' uses are appropriate in Flood Zone 1. The site is over 1ha in size accordingly a flood risk assessment supports the application which concludes that 'the proposed development can be operated safely in flood risk terms, without increasing flood risk elsewhere'. The report does recommend that percolation testing and if the ground is not suitable for infiltration then surface water could be discharged to the pond to the South. Should members be minded to approve the application then a condition should be attached to agree the precise details of the drainage strategy for the site. On this basis, the proposal is considered acceptable in terms of development within flood zone 1.

- 3.70. The Lead Local Flood Authority (LLFA) have been consulted on the application and have advised that the scale of the development would constitute 'minor development' and therefore they do not provide any bespoke advice. They have advised that the LPA would be responsible for assessing the suitability of any surface water drainage proposal for minor development in line with the NPPF.
- 3.71. The planning statement advises that *'The processing site comprises a permeable stone surfaced hardstanding able to handle surface water run-off from precipitation. The only additional water likely to arise on site is via water sprays to reduce dust emissions. However, these are only required during dry windy conditions.'*
- 3.72. It is therefore considered, taking into account the above and the conclusion of the FRA, 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.
- 3.73. I – GROUNDWATER/SURFACE WATER
- 3.74. NMWDF policy DM3: Groundwater and surface water seeks to ensure that developments do not adversely impact on ground water quality or resources, or surface water quality or resources. None of the proposed development site lies above a groundwater protection zone and the Environment Agency has not raised any issues with regards to this. The Environment Agency did however request a Preliminary Risk Assessment during the course of the application which was duly submitted. The assessment concluded that there was no evidence of historic contamination from previous uses of the site, and therefore no potentially unacceptable risks associated from previous uses. Accordingly the proposal is compliant with NMWDF policy DM3.
- 3.75. J – CUMULATIVE IMPACTS
- 3.76. Policy DM15 of the NMWLDF seeks to ensure that there would be no unacceptable cumulative impacts as a result of new mineral extraction sites or waste management facilities. Proposals should demonstrate how they relate to other development nearby and demonstrate how any cumulative impacts would be mitigated against.
- 3.77. The planning statement supporting the application advises that *'There is a waste transfer station just over one kilometre to the north. However, noise and dust impacts are typically very localised and the two sites share no common receptors. Traffic and HGV movements are covered by designated routes to and from the A11 that do not overlap. There are no other minerals or waste*



*developments locally that might result in an accumulation of effects that would be considered unacceptable.'*

3.78. An application for a waste management facility at Double Banks Farm, Carleton Road (approximately 2km south of the site) was submitted to the County Council in 2019, however this has now been withdrawn so there would be no cumulative impacts to consider in this respect. No objections have been received from the EHO or the highways officer and the proposals are therefore considered to be compliant with this policy.

3.79. **ENVIRONMENTAL IMPACT ASSESSMENT**

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

3.80. **RESPONSES TO REPRESENTATIONS RECEIVED**

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

3.81. With exception of the following, the response of this authority to the issues raised by third parties in relation to amenity, principle, landscape impact and highway safety are discussed above in the 'Appraisal' section of this report.

3.82. As regards comments in relation to the plant at the site already operating above the height of the bunds, this would be a matter for the district council as it is understood that there are currently no such conditions in place to prevent this from happening. It is however noted from the representations received that operating the excavator at a height above the bunds does currently occur at the site with associated impacts.

3.83. With regards to the lorries currently accessing the site and unloading through the night and the early hours of the morning, this is currently permitted by the district council albeit limited to 24 tips per year. If there is currently a breach of this then the district council would be the enforcing authority.

3.84. **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.

3.85. In this instance, the CPA is aware that the application under consideration is part retrospective in nature, in that waste is currently being brought to site

outside of the permitted planning use granted by the district council. However in terms of impact it is unlikely that the storage of waste only (no processing) would have any greater impacts than that already approved by the district council.

3.86. It is therefore considered that there are not any unauthorised development considerations material to this decision and no weight is given to this in the planning balance.

3.87. **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.

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

#### **4. Conclusion & Reasons for Decision**

4.1. Planning permission is sought for the change of use of 1.14 hectares of land which benefits from planning permission issued by the district council for open air storage of aggregate, material and plant in connection with the adjacent civil engineering business. The site is adjacent to the existing civil engineering business at Heron Farm, Besthorpe, with a further area of open air storage to the south of the application site. The application seeks to recycle / recover up to 60,000 tonnes per annum of aggregates and soils from imported construction, demolition and excavation materials linked to the adjacent Newall civil engineering business.

4.2. The site would constitute previously developed land and in this respect its use as a non-strategic inert waste recycling facility, moving waste further up the waste hierarchy is considered to be compliant with the locational requirements of the development plan policies for the reasons outlined in the report. Whilst the proposals are considered to be acceptable in principle this is subject to an assessment of the development's potential impacts which in this case relate primarily to amenity, landscape and highways.

4.3. With regards to the landscape impact of the development in the countryside, the site benefits from planning approval for 5m (approx) high bunding authorised by the district council in relation to the extant storage permission. It is accepted that the development proposed in this application would be largely screened by the existing bunding with the exception of the excavator elbow which would protrude occasionally at its highest operating height by around 1m above the bunds when loading the crusher. The landscape officer has raised no objections in this respect, but this is subject to a condition being attached to restrict the height of

stockpiles, and the that all plant shall operate at ground level. For the reasons set out within section 3.35 of this report, it is considered that it would be unreasonable to attach a condition requiring all plant to operate at ground level (as set out within the best practice guidance issued by the HSE). As it would not be possible to secure the operation of plant to operate solely at ground level, the development has the potential to have an unacceptable landscape impact, giving consideration to the rural agricultural landscape with low lying vegetation and open plateau characteristics in which the site is situated.

- 4.4. Whilst significant concern has been raised by local residents with regards to the impact on amenity from emissions, including noise and dust, the operation requires an Environmental Permit to control such impacts, and neither the EA nor Breckland District Council's EHO has raised an objection. Furthermore, the EA believe the scheme can be permitted and have already issued an Environmental Permit for the site. However, in terms of assessing this application members are still able to consider amenity impacts in relation to whether this is an acceptable use of land. The assessments carried out in terms of noise and dust are again based on all plant being operated at ground level. As this would be unreasonable to control by condition owing to the conflict with the HSE guidance, it is considered that the application fails to demonstrate that the development can operate without any unacceptable impacts upon residential amenity contrary to policies CS6, CS7 and DM12 of the NMWLDF.
- 4.5. Concern has also been raised regarding the impact on the public highway however the Highway Authority raises no objection subject to conditions concerning highway vehicle routeing.
- 4.6. This is a finely balanced application owing to the benefits of the proposal, the principle of development, ecology and highways impacts being considered to be acceptable. The application site is in a rural location and whilst the application demonstrates that visual impact and residential amenity could be adequately protected with all plant operating at ground level, such a condition to secure this is not considered to meet the tests set out within the NPPF in that the condition would be contrary to HSE guidance and in this respect would be an unreasonable requirement for the operator to comply with. As such the proposal would have the potential to have an unacceptable impact upon the character of the local area and residential amenity owing to the likely use of plant in an elevated position. There is no overriding need for the facility that outweigh the potential detrimental impacts upon the landscape and amenity, and these adverse impacts could not be satisfactorily overcome by the mitigation proposed and/or by the imposition of planning conditions. The proposal is therefore considered not to be in accordance with the policies relating to landscape impact and amenity as set out within the report. On this basis refusal of planning permission is recommended for the reason stated below.

## **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,

approve subject to conditions, refuse or defer the decision to enable either further information to be requested or for some other material planning reason.

## **6. Financial Implications**

- 6.1. 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 routine inspection of the site will be undertaken by existing staff and would therefore have no staffing implications from the Planning Regulatory perspective.
- 7.2. **Property:** The development has no property implication from the Planning Regulatory perspective.
- 7.3. **IT:** The development has no IT implications from the Planning Regulatory perspective.

## **8. Other Implications**

### **8.1. Legal Implications**

There are no legal implications from the Planning Regulatory perspective.

### **8.2. Human Rights implications**

The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.

The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

### **8.3. Equality Impact Assessment (EqIA)**

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**

11.0. That the Executive Director of Community and Environmental Services be authorised to:

#### I. **Refuse planning permission for the reason outlined below.**

1. **The development would have the potential to result in unacceptable environmental, and amenity impacts contrary to policies DM8, DM12, CS6, CS7 and CS14 of the NMWDF Core Strategy and Breckland Local Plan Policy COM03, owing to the likely use of plant in an elevated position. These adverse impacts could not be satisfactorily overcome by the mitigation proposed and/or the imposition of conditions which would be contrary to Health and Safety Executive best practice guidance.**

### 12. **Background Papers**

12.0. Planning Application reference: FUL/2023/0019 available here:

<https://eplanning.norfolk.gov.uk/Planning/Display/FUL/2023/0019#undefined>

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (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>

Breckland Council Local Plan (2019) <https://www.breckland.gov.uk/adopted-local-plan>

The National Planning Policy Framework (NPPF) (2023)  
<https://www.gov.uk/government/publications/national-planning-policy-framework-2>

Planning Practice Guidance (2014)  
<https://www.gov.uk/government/collections/planning-practice-guidance>

National Planning Policy for Waste (NPPW) (2014)  
<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Waste Management Plan for England (WMPE) (2021)  
<https://www.gov.uk/government/publications/waste-management-plan-for-england>

Norfolk Minerals and Waste Local Plan: Publication (2022)  
<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>

HSE - Safe operation and use of mobile jaw crushers  
<https://www.hse.gov.uk/quarries/crushing.htm>

## Officer Contact

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

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