

Agenda Item No. 4

Section 73A planning application to develop land in relation to Unit 2 (part of the original application site) without complying with condition 8 (restricting storage to inside the building only) of planning permission F/2019/02/CW (Proposed Erection of Two Industrial Buildings for the Granulation and Bailing of Waste Plastics for Recycling).

AT: Data Shredders Limited, Eastwood Industrial Estate, Eastwood End, Wimblington, PE15 0QH.

APPLICANT: Datashredders Limited

LPA REF: F/2004/16/CW

To: **Planning Committee**

Date: **16 February 2017**

From: **Head of Growth & Economy**

Electoral division(s): **Forty Foot**

Purpose: **To consider the above planning application**

Recommendation: **It is recommended that planning permission be granted subject to the conditions set out in paragraph 12.1.**

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1.0 BACKGROUND

- 1.1 Units 1 and 2 at Eastwood End Industrial Estate were granted permission in 2002 for the erection of two buildings for the recycling of waste plastics (reference: F/2019/02/CW). The two units are currently operated separately by different owners, with Recyplas operating from Unit 1 and Datashredders operating from Unit 2. Neither Unit 1 nor Unit 2 has permission to store material outside of the buildings, restricted by condition 8, yet both operators have been storing material outside the buildings and are therefore both currently operating in breach of this condition. The relevant planning and enforcement history are detailed in sections 4.0 and 5.0 in this report. Following visits by officers to Unit 2 the applicant and agent were given detailed advice in April 2015, in which they were advised to make a Section 73A application to amend condition 8. As part of this advice the agent was encouraged to seek the agreement of both Unit 1 and Unit 2 operators to allow one application to be made.
- 1.2 The original site area (which will hereafter be referred to as 'original planning unit' in this report to avoid confusion with the application areas for Units 1 and 2) includes both Unit 1 and Unit 2 Eastwood End Industrial Estate, which is why the red line matches the original F/2019/02/CW permission area. However, the applicants and operators of Unit 1 and Unit 2 have both submitted separate applications, rather than submitting one joint application, specifying their own half of the application area as the site within their control. Following legal advice it has been concluded that the best way to deal with these applications is to consider the two applications separately with separate recommendations, to allow each to be considered on its own merits. However, should permission be granted for both applications, this would cumulate in the issue of one decision notice for the whole red line area with two sets of conditions, referring to each unit separately.
- 1.3 The operators of Unit 2, Datashredders Ltd, also control another unit on Eastwood End Industrial Estate, to the west of the application site, which is permitted for general industrial use and therefore controlled through a planning permission issued by Fenland District Council. This is discussed in more detail in the planning history section of this report (see paragraph 4.5 -4.6).

2.0 THE SITE AND SURROUNDINGS

- 2.1 The original planning unit, comprising Unit 1 and Unit 2 Eastwood End Industrial Estate, is approximately 1.3 hectares (ha) located 130 metres to the east of the A141 and around 2 kilometres (km) south of March. It is located to the north-east of the main village of Wimblington (on the other side of the A141), and is to the north of a cluster of houses known as Eastwood End.
- 2.2 To the east of the original planning unit is Fengrain grain storage and marketing facility. To the north and west are more industrial units and directly to the south is agricultural land with the houses of Eastwood End beyond. The closest dwellings are a single residence (Eastwood End Farm) 15 metres to the west across a private road and houses off Eastwood End (road) approximately 40 metres to the south.

- 2.3 Unit 1 (Recyplas) consists of a 1 ha site with two buildings, the larger of which is the main building, 867 square metres (sqm), and the other being a raw material store building which has been on site since before the 2002 permission was granted. There is also a formal car park for staff and visitors with access from Hook Lane on the eastern side of the site. Commercial vehicles also enter from this entrance on the south-eastern boundary, deposit or pick up material to the north-east of the building and leave via the private road on the western side of the site without having to turn around. The main building is located in the middle of the Unit 1 site, with the entrance and car park on the south-eastern boundary. To the north-west of the main Unit 1 building is a piece of equipment known as a mobile cooler; this is not a fixed item of equipment, but is in place to help maintain the temperature of the granulating processes within the main building on the site. The south-western quarter of the site is grass, and is required to be left as such by condition owing to archaeological finds in this location. This section is divided from the main site by a 2.4 metre high metal palisade security fence, which also borders the rest of the compound. The grass section is otherwise defined to the south by hedgerow and trees along the boundary with Eastwood End (road).
- 2.4 Unit 2 (Datashredders) consists of a 0.31 ha site with a single building of 464 sqm. Access to the Unit 2 site is from a private road on the western boundary of the site. The site is bordered, and divided from Unit 1, by a 2.4 metre high metal palisade security fence. Unit 2 is arranged with the building to the eastern side of the site, leaving the western side of the site available for vehicles to enter the site, turn, and leave the site in forward gear, in accordance with the requirements of the conditions 21 and 23 of the original application (reference: F/2019/02/CW). Two mobile diesel generators are located to the south of the Unit 2 building to provide the necessary power to the operations on site. A new baling machine has also been brought onto the Unit 2 site recently (09/11/2016) and placed behind the Unit 2 building to the east of the site to provide additional baling capacity and to help reduce the amount of material being stored outside. Whilst this new baling machine is not fixed and can be moved from the site at any time, officers have raised concerns over the need for planning permission and the implications this may have on displacing outside storage on the site. Whilst the additional baling structure is not directly linked to either of the current planning applications submitted in relation to the original planning unit, the implications it could have will be considered later on within this report.
- 2.5 The original planning unit is designated as an existing waste site within the Minerals & Waste Site Specific Proposals Development Plan Document (MWSSP) adopted in February 2012 and within the Waste Consultation Area (W8AC). This area of Wimblington also used to be allocated in the local plan for industrial use, although Site Specific Allocations were removed from the most recent Fenland Local Plan and the district council are not proposing a new Site Specific Proposals document. This area is now considered to be an industrial area, and as such it is no longer allocated for industrial use. The site is within Floodzone 1, with Floodzones 2 and 3 located 300 metres to the south-east at the closest point. There is also a drain to the east of the site, which falls within the March East Internal Drainage Board (IDB) area, but is not designated

as an IDB drain, although the drain ultimately runs into the IDB drainage network.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 This application (F/2004/16/CW) is for non-compliance with condition 8 of planning permission F/2019/02/CW in relation to Unit 2, under Section 73A of the Town and Country Planning Act 1990 which deals with planning permission for development already carried out. The operators of Unit 1 and Unit 2 have both applied for permission not to comply with condition 8 and are now both at the point of being considered. Condition 8 of permission F/2019/02/CW reads as follows:

8. Environmental Protection

No processing or storage of waste including plastic materials whether in raw or processed form shall be permitted at the Site unless within the confines of the approved buildings shown as Unit 1 and Unit 2 on the approved Site Layout Plan Drawing Ref 2610/03 A.

Reason: To ensure that noisy activities are confined to the building, to avoid problems of wind blown litter, to protect the character and appearance of the locality and to ensure that no stored material could pose an external fire risk to the buildings.

- 3.2 This application proposes not to comply with condition 8 in order to remove the restriction on storage of material outside of the buildings. Baled material is currently being stored outside the building in the areas shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)'. The applicant has indicated that they would only store baled material at a maximum of 3 bales high. Each bale is 76 centimetres (cm) and would therefore be a maximum height of 2.28 metres. On Unit 2 the baled material would be stored in the north-western part of the site, and to the east behind the Unit 2 building as indicated on the above Site Plan. Loose material is proposed to be stored to the south of the building confined by the 2.4 metre high palisade fence of the boundary to the south and east and a 2.4 metre solid fence on the west side, in order for the area to be enclosed on three sides. As part of the consideration of the application, a 2.4 metre litter catch fence is also now proposed on the inside of the 2.4 metre high palisade boundary fence to help ensure that any windblown litter is caught before escaping through the existing fence.

4.0 PLANNING HISTORY

- 4.1 Planning permission F/2019/02/CW was granted in November 2002 and permitted the use of Units 1 and 2 for the granulation and bailing of waste plastics for recycling. This permission included no restrictions on the types or quantities of waste that could be accepted and processed at the site. Restrictions in terms of on-site waste material only comprised of a condition restricting the storage and processing of all raw and processed material to inside the building (condition 8). Previous to the extant planning permission, the

site was in commercial office and industrial use, permitted by Fenland District Council.

- 4.2 Following planning permission F/2019/02/CW being granted in 2002 as one original planning unit, the two units were split into separate ownership and were operated separately.
- 4.3 In 2006 permission was granted for a variation of condition 7 of the original permission (F/2019/02/CW) to amend the operating hours in respect of Unit 1 only. No other amendments have been granted to the original waste planning permission.
- 4.4 The following are the relevant planning permissions for the original planning unit (which includes both Unit 1 and Unit 2), excluding the two applications currently being considered:

Application Ref	Description	Decision
F/2015/05/CW	Variation of condition 7 of planning application F/2019/02/CW to extend hours of use.	Granted 25 July 2006
F/2019/02/CW	Proposed erection of two industrial buildings for the granulation and bailing of waste plastics for recycling.	Granted 20 Nov 2002
F/97/1067/F	Erection of workshop, stores, offices and associated facilities; formation of parking areas, including the formation of a new vehicular access to Hook Lane and change of use of existing building to spray shop	Granted 18 May 1998
F/95/0536/F	Erection of workshop, stores, offices and associated facilities and the formation of parking areas, including the formation of a new vehicular access to Hook Lane	Granted 10 Nov 1995
F/94/0710/F	Erection of workshop, stores, offices and associated facilities and the formation of parking areas, including the formation of a new vehicular access to Hook Lane	Withdrawn 24 Aug 1995
F/93/0232/F	Erection of stores and workshop with offices and paint shop (for B1 uses) including installation of a sewage treatment plant	Granted 04 Oct 1993
F/1309/89/RM	Erection of stores and workshop with offices and paint shop (for B1 uses) including installation of a sewage treatment plant	Granted 21 Feb 1990
F/0778/88/O	Plots for industrial use with 2 new access points onto Bridge Lane, construction of private roadway and landscaped area (the existing	Granted 21 July 1988

	bungalow to be used in conjunction with adjacent industrial plot)	
F/0960/87/O	Erection of an agrochemical store for distribution of agrochemicals and base for spraying contractor, yard for storage of fertiliser and erection of an office	Granted 06 Jan 1988

4.5 Datashredders, the operators of Unit 2, are also in control of a site to the west of the application site, adjacent to the A141, which has permission for general industrial use (F/YR01/0236/F). This site is therefore regulated through the planning process by Fenland District Council.

4.6 For completeness, the following table lists the planning history at the additional Datashredders site:

Application Ref	Description	Decision
F/YR14/0024/F	Erection of an extension to rear and side of existing building	Granted 10 Mar 2014
F/YR01/0236/F	Change of use of building from the sales and servicing of agricultural and horticultural machinery to Class B1 (Business), B2 (General Industrial) and B8 (Storage or Distribution)	Granted 02 May 2001
F/99/0600/A	Erection of 3 no. flagpoles with advertisement flags	Granted 19 Nov 1999
F/90/0016/F	Erection of a building for the sales and servicing of agricultural and horticultural machinery, spares and equipment; in conjunction with existing premises on site	Granted 20 Jun 1990
F/0852/88/F	Erection of building for the sales & servicing of agricultural & horticultural machinery, spares & associated equipment	Granted 16 Nov 1988
F/0778/88/O	Plots for industrial use with 2 new access points onto Bridge Lane, construction of private roadway and landscaped area (the existing bungalow to be used in conjunction with adjacent industrial plot)	Granted 21 Jul 1988

5.0 ENFORCEMENT HISTORY

5.1 Outside storage, in breach of condition 8 of planning permission F/2019/02/CW can be evidenced from correspondence on our planning files at various points in time, and with different operators historically, across the original planning unit which incorporates both Unit 1 and Unit 2. An overview of the situation, including action taken, has been provided to elected members of the Planning Committee (formerly Development Control Committee) as part of the

Enforcement Update Reports over recent years. However, for the purpose of considering this proposal the following paragraphs set out a summary of the enforcement action taken in relation to condition 8 across the whole original planning unit.

- 5.2 Historically, letters were sent to the occupants of Unit 1 (Plasgran) and Unit 2 (Maxton Trading) to raise concerns about outside storage and recommend pre-application advice be sought to address the situation to avoid a breach of condition notice being served on both parties. In July 2006, Plasgran sought pre-application advice for a new site that they had found that would allow them to expand and move away from Unit 1. Plasgran applied for planning permission to move some of their storage to their new site in 2006 (F/2007/06/CW) with permission sought to move all of their operations to the new site in 2008 (F/02005/08/CW). However, as Unit 1 remained in breach early in 2008, a Breach of Condition Notice was issued to Plasgran (Unit 1 operator) on 12 February 2008. Once Plasgran moved to their new site, Eco-Aegis Services took over operating Unit 1.
- 5.3 On the basis that Maxton Trading continued to struggle with outside storage in relation to Unit 2, a Breach of Condition Notice was issued to them as the appropriate operators on 16 February 2010. However, it was noted that Maxton Trading went into liquidation, as acknowledged by the Waste Planning Authority's letter dated 6 September 2010.
- 5.4 In June 2011, the new Unit 2 operators (Datashredders) were advised of the serving of the Breach of Condition Notice in 2010 and that outside storage should not take place. Whilst it was acknowledged that Breach of Condition Notices do not run with the land and must be served on each operator in control of the land, the principle of outside storage breaching planning permission requirements was clearly evident. In June 2012 Datashredders were given guidance on how to apply to formalise the outside storage by the Council's Development Control Officer. In February 2015 a Breach of Condition Notice was served to Datashredders requiring compliance with condition 8.
- 5.5 Correspondence was sent to Recyplas in relation to Unit 1 in April 2013, following a site visit by officers. The correspondence drew the operator's attention to condition 8 and the breach of condition by storing any raw waste material outside of the building.
- 5.6 In April 2015 pre-application advice was provided by officers to the current planning agent in relation to a request for pre-application advice following a site visit by officers to Unit 2. This letter indicated that the Waste Planning Authority (WPA) would be receptive to a planning application to regularise the permission at the site, highlighting the relevant planning policy and the key planning considerations. No recommendation on whether such an application would be supported was given at that time, although it was recommended that the operators consider submitting a joint application. Recyplas were also written to by officers in April 2015 to recommend they submit a joint application with Unit 2 to ensure that the guidance was joined up by the same planning agent.

6.0 PUBLICITY

- 6.1 As a proposal for a waste site this application represents major development and was therefore publicised as such in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015. This application (F/2004/16/CW) was advertised by two site notices at the site, a newspaper advert in the Fenland Citizen inserted 25/05/2016, consultation letters to statutory consultees and notification letters to the adjacent properties.

7.0 CONSULTATION RESPONSES

- 7.1 The following is a summary of responses received from consultees:
- 7.2 Fenland District Council: no objection to a temporary permission for the storage of bales up to 3 high, which should be secured by conditions. No processing should take place outside the building.
- 7.3 Fenland District Council Environmental Health: is not happy with the content of the noise report. However, as operating hours are not increasing does not believe that noise will be an issue. Recommends approval, with a condition requiring a litter management plan. Considered the plan acceptable upon submission.
- 7.4 Wimblington Parish Council: Commented that there did not appear to be sufficient space for additional buildings to still allow for the turning of vehicles on site and that operating hours should not increase. Consider that the removal of condition 8 regarding outside storage was inappropriate given the history of enforcement concerns and felt that outside material should be kept under a cover with a roof and sides at a minimum.
- 7.5 Upon clarification from officers that the application only constitutes a proposal to permit outside storage at the site, the parish council clarified that the comments were for general consideration and did not constitute a formal objection.
- 7.6 CCC Highways Development Management: Confirmed the proposed outside storage areas for Unit 2 (F/2004/16/CW – Datashredders SUBDOC7 plan) allows sufficient space for a HGV to turn within the site. The site is access via a private access road approximately 90m away from the public highway (Eastwood End). The private access should form part of the red edge up to the public highway.
- 7.7 CCC Flood & Water: no comments to make as the conditions in question do not refer to surface water drainage proposals.
- 7.8 Environment Agency: no objection to the proposal provided that the company ensures that the conditions of the EA's registered T4 exemption continue to be met. Recommends that further consideration is given to the potential

environmental impact of a fire at the site and the Fire Prevention Plan (FPP) guidance to raise awareness of the issues that should be considered.

- 7.9 Cambridgeshire Fire & Rescue Service: recommends a condition to secure adequate provision for fire hydrants.

8.0 REPRESENTATIONS

- 8.1 Comments were received from 11 individuals. The objections are summarised as follows:

- material is already being stored at a level higher than the fence allowing waste to blow off the site into surrounding land;
- waste material is found in surrounding gardens and road verges;
- does not consider that storing material outside will result in a fire risk;
- consider that the existing 23 safeguarding conditions should remain in place;
- concern over the appearance of the industrial estate; and
- disputes applicant claim that there is no evidence of complaints of wind-blown litter.

- 8.2 Comments were also received that do not relate to the material planning considerations of this application, but are summarised below for completeness:

- operator has consistently not complied with other conditions from the original application including operating hours and reversing alarms;
- confusion as to the exact nature of the proposal;
- concern about additional noise coming from the site;
- concern that the surrounding roads cannot cope with traffic from the industrial estate.

9.0 PLANNING POLICY AND GUIDANCE

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The relevant development plan policies are set out in paragraphs 9.7 to 9.9 below.

National Planning Policy Framework (March 2012) (NPPF)

- 9.2 The NPPF has at its core, a presumption in favour of sustainable development, including the idea that development that accords with the local development plan should be approved “unless other material considerations indicate otherwise” (para 12).

National Planning Policy for Waste (October 2014) (NPPW)

- 9.3 A key component of the NPPW is the principle of moving waste “up the ‘waste hierarchy’ of prevention, preparing for reuse, recycling, other recovery, and disposing only as a last resort” (paragraph 008).

9.4 Paragraph 007 of the NPPW states that when determining planning applications waste planning authorities should “concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced”.

Waste Management Plan for England (December 2013) (WMPE)

9.5 The WMPE also highlights the priority for minimising the use of resources and moving waste up the waste hierarchy (page 11), and emphasises that the Environment Agency is the main regulator of waste management in England (page 15).

Planning Practice Guidance (PPG)

9.6 The following sections of the PPG are relevant to this application:

- Discharging and modifying conditions once planning permission is granted (paragraphs 30 – 31, reference 21a-030 to 21a-031);
- Amending the conditions attached to a permission including seeking minor material amendments (application under Section 73 TCPA 1990), (paragraph 13, reference 17a-013); and
- Retrospective planning applications (paragraphs 1 – 14, reference 17b-001 to 17b013).

Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (adopted July 2011) (MWCS)

9.7 The following policies are of relevance:

CS29 The Need for Waste Management Development and the Movement of Waste
CS30 Waste Consultation Areas
CS32 Traffic and Highways
CS33 Protection of Landscape Character
CS34 Protecting Surrounding Uses
CS39 Water Resources and Water Pollution Prevention

Cambridgeshire and Peterborough Minerals and Waste Development Plan Site Specific Proposals Development Plan Document (adopted February 2012) (MWSSP)

9.8 The site falls within the following designations in the Site Specific Proposals document:

Existing Site designation
W8AC – Hook Lane, Wimblington - Waste Consultation Area

Fenland Local Plan (adopted May 2014) (LP)

9.9 The following policies of the Fenland Local Plan are of relevance:

- LP1 A Presumption in Favour of Sustainable Development
- LP2 Facilitating Health and Wellbeing of Fenland Residents
- LP14 Responding to Climate Change and Managing the Risk of Flooding in Fenland
- LP16 Delivering and Protecting High Quality Environments Across the District

10.0 PLANNING CONSIDERATIONS

Principle of Section 73A application

- 10.1 This application (F/2004/16/CW) takes the form of a Section 73A application to grant permission for development that has already been carried out without complying with a condition of the original permission. In this case therefore, to grant permission where the development has already been carried out without complying with condition 8, which restricts the processing and storage of material to inside the buildings. In practice therefore, this application is to permit storage of material outside of the building. The original planning unit, which includes both Unit 1 and Unit 2 Eastwood End Industrial Estate, remains the same as the original permission, F/2019/02/CW. However, this report will only consider and make a recommendation for the proposal on the Unit 2 (Datashredders) element of the original planning unit
- 10.2 The submission of the applications by the two operators has allowed the Waste Planning Authority to consider the storage of material outside the building on planning merits, and to secure additional measures and conditions to minimise and mitigate any potential impact of storing material outside the buildings.
- 10.3 It should be noted that seeking to regularise the outside storage at the site by the submission of this application, gives the Waste Planning Authority (WPA) the ability to assess the proposal on its own planning merits, rather than in the context of the breach of an existing condition. The submission of this application will therefore allow the WPA to secure additional measures and conditions to minimise and mitigate any potential impact of the outside storage at the site going forward.

Justification

- 10.4 The applicant has stated that storage is required outside of the building because of the lack of space within the building. They have also stated that storage of material in the same building as the processing operation is a cause of concern for risk of fire, and that storage of material away from the processing operation reduces the risk of material catching fire (see paragraphs 10.17 – 10.19 for discussion for fire risk).
- 10.5 The previous permission granted by the Waste Planning Authority establishes the principle of the recycling use at this site, along with the established Waste Consultation Area, W8AC, the purpose of which is to protect these areas from development which would prejudice existing or future waste management uses. Waste Consultation Areas are established in policy CS30 “Waste Consultation Areas” of the MWCS. The principle of moving waste up the hierarchy is supported by policy CS29 “The Need for Waste Management Development and the Movement of Waste.” Movement of waste up the waste hierarchy, in this

case recycling, is also supported by national policy, in paragraph 008 of the NPPW. The site and operations in this location are therefore supported in principle, subject to the consideration of other planning policies and material planning considerations.

Litter and Visual Impact

- 10.6 The applicant has provided a site plan which indicates the areas for outside storage of material and has confirmed that this reflects the current situation on site i.e. areas for outside storage, and outside storage being conducted unlawfully. Therefore, the proposal does not propose further development than the current situation at the site, aside from any additional mitigation measures that will be secured by condition (i.e. installation of an additional fire hydrant, and proposed litter catch fence - see paragraph 12.1, conditions 4, and 17).
- 10.7 In terms of the visual impact of storing material outside of the building, the applicant has confirmed that they intend to only store material outside in bales, up to a maximum of 3 bales high. Each bale is 76 cm and therefore 3 bales high would be 2.28 metres high. Fenland District Council has indicated that 3 bales high at Unit 2 (Datashredders) would be an acceptable level. It is considered appropriate to adjust this to 2.3 metres or a maximum of 3 bales high, whichever is lower (see paragraph 12.1, condition 24).
- 10.8 It is not considered that the bales themselves would represent a significant visual impact from the site and on the surroundings, because Unit 2 is located within the middle of the Eastwood End Industrial Estate and is not readily visible from the public highway, as it is located 'behind' Unit 1 in this context. The bales would be located against the 2.4 metre high palisade fence on the northern and western boundaries and stored within black plastic. Storing the material in bales will be secured by condition, to reduce wind-blown litter and maintain a tidy appearance.
- 10.9 Unit 2 additionally has an area designated for storage of loose material owing to operational needs. Following discussions with applicant, it has been agreed that an additional section of fence will be installed to the west of this pile in order to encompass the loose material on three sides, and reduce the likelihood of material escaping. The height of the stored material will also be secured by condition (see paragraph 12.1, condition 24).
- 10.10 An area to the east of the Unit 2 building is also identified as "Processed Bale Store (waiting collection)" on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' which currently has a baling machine on it as noted in paragraph 2.4 of this report and evidenced on site by members of the Planning Committee during their site visit in December. The applicant's agent has confirmed that this new baling machine was installed on 9 November 2016 to help reduce the levels of outside storage on the site and its use will not displace the waste proposed to be stored in this area as there is still sufficient space on the proposed "Processed Bale Store (waiting collection)" footprint.
- 10.11 As stated in paragraph 2.4, whilst this new baling machine is not fixed and can be removed from the site at any time, officers have raised concerns over the need for planning permission, even if it is unlikely to displace any waste across

the site. Although the additional baling structure is not directly linked to this Section 73A planning application, and cannot be addressed as part of this application, the applicant has confirmed he is content to submit a planning application to address this if it is found to need planning permission. Furthermore, he believes that the use of this piece of machinery has improved the amount of waste needing to be stored on site. At present this piece of machinery is screened by the Unit 2 building from the entrance to the site and by the Unit 1 building from the public highway.

- 10.12 In terms of visual impact on the existing local area and landscape from outside storage, it is considered that the proposed non-compliance with condition 8 would not be harmful to the local landscape character and therefore the proposal is in accordance with CS33 "Protection of Landscape Character" (MWCS) as the applicant has demonstrated that the proposed storage can assimilate into the surroundings. In addition it is considered that the requirements of CS34 "Protecting Surrounding Uses" have been met in that there has been no significant visual intrusion as a result of the outside storage, when considering the bales of material on site only, and therefore the proposed non-compliance with condition 8 in this regard.
- 10.13 Concerns have been raised by neighbours and through individual representations that litter is already a cause for concern around Eastwood End, and that permitting the storage of material outside the buildings will only exacerbate the problem.
- 10.14 The existing palisade fencing is 2.4 metres, and would therefore only be 10 to 12 cm higher than the stacked bales. Therefore, the height of the bales when compared to the fence could be cause for concern when taking into account the possibility of wind-blown litter that could come loose from bales. The Environmental Health Officer has requested that a Litter Management Plan be secured by condition (see paragraph 12.1, condition 25) in order to formalise the requirement to collect any litter which may have been blown off site.
- 10.15 To reduce the need for litter picking, it is also considered necessary to implement a condition to secure the installation of a litter catch fence as shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)', in order to protect further from the possibility of wind-blown litter leaving the site (see paragraph 12.1, condition 17).
- 10.16 With the addition of the above mitigation conditions, it is considered that the proposal is in accordance with CS34 "Protecting Surrounding Uses" (MWCS), and LP2 "Facilitating Health and Wellbeing of Fenland Residents" and LP16 "Delivering and Protecting High Quality Environments across the District" (FLP) in that mitigation measures will be secured to reduce the impact and ensure that there would be no significant harm to the environment, neighbouring land uses or residential amenity.

Fire Risk

- 10.17 The applicants engaged in pre-application discussions with Cambridgeshire Fire & Rescue Service, and included their comments in their application submission, which indicated that it was considered that storage of this type of

material posed a lower risk to firefighting operations than material stored inside the buildings. Formal consultation took place with Cambridgeshire Fire & Rescue during the consultation phase, with no objections or comments except a recommendation to secure provision for fire hydrants by way of a planning condition. The applicant has provided the details of the location of the proposed hydrants, the provision of which will be secured by condition (see paragraph 12.1, condition 4).

- 10.18 Neighbours have raised concerns that material being stored outside the building is of a greater fire risk than if the material was being stored inside the building. However, it has been stated that the greatest risk of material catching fire comes from close proximity to the recycling machinery within the building. Unit 2 has a 3 metre buffer zone around the building as shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' to avoid any outside storage in this area. The applicants have also submitted their company's fire policy to explain their internal procedures.
- 10.19 Given the lack of objection from the Environment Agency as the appropriate regulatory body in such an incident, and the Cambridgeshire Fire & Rescue Service who would need to deal with a fire if one occurred on site, it can be concluded that fire risk is no greater when the material is stored outside rather than inside the building. The EA has included an Informative regarding Fire Prevention Plans (FPP) in their consultation response, which even though the Agent has followed this advice and has prepared a FPP voluntarily to cover this site, will be included should permission be granted to act as a reminder (see paragraph 12.2). The reduction in risk of fire, particularly with the requirement for an additional fire hydrant under condition 4, also ensures that the proposal is in accordance with CS34 "Protecting Surrounding Uses" in that it will help to reduce the potential for significant impacts to the environment by reducing the environmental impact of a fire at the site.

Parking and Turning on Site

- 10.20 As part of this proposal, the applicant has provided diagrams to show the location of the waste storage on site, and therefore demonstrated that vehicles can turnaround and exit in forward gear, which has been confirmed by the Highway Authority. This is the same provision for movements on site that was set out in plans provided as part of the original application. The condition to keep this area free and available for safe vehicle movements on site remains necessary and will be replicated as a condition of this permission (see paragraph 12.1, conditions 21 and 23).
- 10.21 It is therefore considered that the requirements of policy CS32 "Traffic and Highways" (MWCS) continue to be met in that the access and highway network serving the site continue to be suitable and the outside storage proposed will not jeopardise this. Although changes are not being sought to the amount of traffic or waste being brought to Unit 2 as part of this application, it has been acknowledged the extant permission offers no control on the volume controlled at the site. As such, as an additional measure and to address some of the concerns raised by local residents planning conditions related to the amount and types of waste are proposed to be added (see paragraph 12.1, conditions 26 and 27). In line with policy CS29 we are also proposing to add a waste

catchment restriction (see paragraph 12.1, condition 28) which will help to monitor the area from which the waste is travelling into the site, whilst also noting the national market that it serves and the local employment that it provides.

Drainage

- 10.22 The amount of hardstanding at the site is not proposed to increase as part of this application. Therefore, there will be no greater surface water run-off into the adjacent drain to the east of the site, and the wider Internal Drainage Board (IDB) drainage network, than when the development was first permitted at the site in 2002 (reference: F/02019/02/CW.) A drainage scheme was agreed and approved as part of that application in 2002, which allowed run-off into the adjacent drain and not into soakaways.
- 10.23 The applicant is seeking permission to store waste paper / cardboard and associated plastic material in bales wrapped in black plastic outside of the building. Neither the Environment Agency nor Lead Local Flood Authority (CCC Flood & Water Team) has expressed concerns regarding surface water run-off or any potential contamination of the water as a result of the outside storage.
- 10.24 The EA has acknowledged that this site operates under a T4 exemption. As the regulatory authority for pollution, the EA is responsible for controlling the processes involved with pollution control (paragraph 007, NPPW) and therefore any concern about pollution from surface water or as the result of fire will be controlled by the EA.
- 10.25 It is therefore considered that the continued use of the existing drainage system is acceptable at the site, and that outside storage does not pose a concern in terms of quantity or quality of surface water run-off.

Other conditions where details have been approved or updated to take account of concerns raised either by statutory consultees or local residents

- 10.26 Section 73A applications require that all relevant conditions are reimposed as part of the issue of a new decision notice. As this application includes retrospective development, should permission be granted the Decision Notice would set out the implementation of the proposed conditions with immediate effect.
- 10.27 The original permission (F/2019/02/CW) has been implemented and therefore condition 1 has been updated to reflect the immediate implementation of the permission should it be granted, and to ensure clarity as to the permission that the applicants are working under. Other conditions have been updated to reflect standardised wording for permissions issued by the Waste Planning Authority and to clarify where details have been submitted to approve details reserved by that condition.
- 10.28 Condition 4 has been updated to reflect the latest recommended condition from Cambridgeshire Fire and Rescue for the installation of an additional fire hydrant. This also addresses the concerns raised by local residents about greater fire risk as a result of outside storage.

10.29 To address the concerns regarding windblown litter affecting the site and surroundings the requirement for a litter catch fence (condition 17) litter management plan (condition 25) and height and baling of material (condition 24) have been secured by condition. Furthermore, to control the type and amount of waste being processed and stored on site at any one time, conditions 26 (permitted waste streams) and 27 (Annual Throughput) have also been added following discussions with the Environment Agency, and the area from which waste will be sourced will be monitored through condition 28 (Waste Catchment Restriction for Unit 2). In this way, we have recommended the imposition of planning conditions to impose mitigation measures to positively address the concerns raised by local residents, which will therefore better manage and control the situation at the site to help limit the impact on the surroundings from windblown litter, in addition to addressing the concerns regarding other material considerations such as fire risk.

11.0 CONCLUSION

11.1 In conclusion, it is considered that with the addition of appropriate conditions as outlined in paragraphs 10.26 to 10.29 the proposal to store material outside of the Unit 2 building is acceptable.

11.2 Given the nature of the original permission and extent of the original planning unit, should permission be granted for both Unit 1 and Unit 2 applications, it will be necessary to produce one merged decision notice, with both application numbers, and two sets of conditions to refer to each unit separately in order to clarify the requirements for each Unit including the additional mitigation conditions to control the outside storage proposed. Should permission be granted for one Unit and not the other, the original F/2019/02/CW conditions would remain in place for the Unit where permission was refused. This would mean condition 8 would remain in place to not permit outside storage at that unit, and the Waste Planning Authority would not be able to secure the additional mitigation measures recommended by officers included within this report

11.3 In the future, if new development is proposed at Unit 1 or Unit 2 the Council reserves its position to request a new full application, which would allow the site to be formally split for planning purposes.

12.0 RECOMMENDATION

12.1 It is recommended that planning permission be granted, subject to the following conditions:

Unit 2

1. Implementation

This permission comes into effect on the date of this consent, upon which planning permissions F/2019/02/CW and F/2015/05/CW shall cease to have effect.

Reason: In accordance with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004, to set out the implementation of the consent in a given timescale taking account of the retrospective elements approved.

2. Site Area and conditions related to Unit 2

This set of conditions for Unit 2 shall only relate to the land edged green on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)'.

Reason: To define the site and to define the conditions of this permission to the Unit 2 site.

3. Approved Plans for Unit 2

The development hereby permitted for Unit 2 shall be carried out in accordance with the application form dated 07/04/2016 and the following information and plans (received 08/04/2016, unless otherwise stated):

- Supporting Statement by Peter Humphrey Associates Ltd, rev A, (received 26/04/2016);
- Datashredders Company Fire Policy;
- Fire Prevention Plan by Peter Humphrey Associates Ltd (received 23/01/2017);
- Location Plan, drwg no. 5269/02B, dated March 2015 (received: 06/06/2016);
- Site Plan, drwg no. 5269/01E, dated March 2015 (received 23/01/2017).

Reason: To define the site and protect the character and appearance of the locality in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

4. Fire Safety

Within three months of the date of this decision notice the fire hydrants shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be installed and maintained on site thereafter to the satisfaction of the Cambridgeshire Fire & Rescue Service.

Reason: To ensure that adequate fire safety mitigation measures are in place to reduce the fire risk from the approved uses and reduce the impact on the environment in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011).

5. Construction Materials

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order then in force, the building labelled Unit 2 on plan 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall remain on site constructed in metal cladding Goosewing Grey BS10AOS, and trims and guttering in Mint Green BS14C37, unless prior written agreement of the Waste Planning Authority has been provided.

Reason: To ensure that the development does not adversely affect the character and appearance of the locality in accordance with policy CS33 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011).

6. Archaeology

This condition relates to land on the Unit 1 part of the site and is therefore not relevant to Unit 2.

7. Hours of Operation

No operations of machinery, including the vehicular delivery and removal of material, shall take place outside the hours of 0730 to 1800 Mondays to Fridays, and 0730 to 1300 on Saturdays. No operations, including the delivery and removal of materials, shall be undertaken on Sundays or Bank and Public Holidays.

Reason: To protect the amenity of surrounding and local residents in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

8. Environmental Protection

No processing of waste shall be permitted outside of the building labelled Unit 2 on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)'.

Reason: To ensure that noisy activities are confined to the building, to reduce problems of wind blown litter; and to protect the character and appearance of the locality in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

9. Noise Insulation

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order then in force, the building labelled Unit 2 on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall remain on site constructed with 180mm composite insulation board for noise mitigation purposes as approved by the Waste Planning Authority by letter dated 10 November 2003.

Reason: To protect the amenity of the occupiers of nearby properties and avoiding any change to the noise insulation of Unit 2 in accordance with

policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

10. Silencers

All plant and machinery shall operate only in the permitted hours for Unit 2 as set out in condition 7, and shall be silenced at all times and such systems maintained in accordance with the manufacturers' recommendations.

Reason: To minimise disturbance to neighbours and the surrounding area in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

11. Reversing Vehicles

All plant at the site shall be fitted with smart or broadband reversing alarms to the satisfaction of the Waste Planning Authority.

Reason: To minimise the adverse effects of noise from the site on the occupiers of nearby properties in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

12. Dust

Dust shall be suppressed at the Unit 2 site in accordance with the details approved by the Waste Planning Authority by letter dated 10 November 2003, including the installation of the water bowser. The suppression equipment shall be maintained in accordance with the manufacturer's instructions and available for use at all times.

Reason: In the interest of residential and local amenity in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

13. Lighting

No lighting shall be installed at the site except in accordance with 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)'.

Reason: In the interests of visual amenity and the amenity of nearby residents in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

14. Drainage and Pollution Control

Surface water at the site shall be discharged into the adjoining riparian drain and into March East Internal Drainage Board and not soakaways in accordance with the approval from the Waste Planning Authority dated 30 July 2009.

Reason: To ensure the satisfactory drainage of the site, to protect the groundwater and minimise the risk to flooding in accordance with policy CS39 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP14 of Fenland Local Plan (May 2014).

15. Building Ventilation

The building labelled Unit 2 on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be ventilated via the main doors as approved by the Waste Planning Authority by letter dated 10 November 2003.

Reason: To control emissions from the development in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

16. Incineration

No burning of waste shall be undertaken on the Site.

Reason: To safeguard the residential amenity of the area and to avoid a potential fire risk in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

17. Boundary Treatment

a) Within three months of the date of this decision notice a 2.4 metre high litter-catch fence shall be installed in accordance with 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' around the boundary of the site shown in purple. The fence shall be maintained on site thereafter.

b) The 2.4 metre palisade fence as shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' which borders the site and separates it from Unit 1 shall be retained on site for the duration of the development and maintained to the satisfaction of the Waste Planning Authority.

c) Within three months of the date of this decision notice the 2.4 metre solid fence shown to the west of the loose material storage area on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be installed on site and maintained thereafter to the satisfaction of the Waste Planning Authority.

Reason: In the interests of visual amenity and reduction of wind-blown litter in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014) and to help define the boundary between Units 1 and 2.

18. Landscaping

The landscaping shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be maintained on site for the duration of the development.

Reason: In the interests of visual amenity in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

19. Landscaping Implementation

The approved landscaping scheme has been implemented on site for over 5 years and therefore this condition is no longer required.

20. Importation of Waste

This condition relates to land on the Unit 1 part of the site and is therefore not relevant to Unit 2.

21. Onsite Loading-Unloading

The permanent space to be reserved on the Site to be able to:

- enter and leave in forward gear
- park clear of the public highway
- load and unload clear of the public highway

as shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be used for no other purpose.

Reason: In the interests of highway safety in accordance with policy CS32 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011).

22. Onsite Parking Unit 1

This condition relates to land on the Unit 1 part of the site and is therefore not relevant to Unit 2.

23. Onsite Parking Unit 2

The permanent space to be reserved on the Site for:

- turning
- parking
- loading and unloading

as shown on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' shall be used for no other purpose.

Reason: In the interests of highway safety in accordance with policy CS32 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011).

24. Storage of Material outside Unit 2

a) The waste paper / cardboard material and associated plastic materials permitted to be stored outside of Unit 2 shall only be in bale form in the

areas shown as storage areas, referred to as 'Store area for bailed material waiting to be processed' on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)'.

- b) The area shown as 'Processed bail store (waiting collection)' on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)', is the only area outside of Unit 2 that processed material can be stored and the material shall only be in bale form.
- c) The permitted paper / cardboard and associated plastic materials shall be baled in plastic cover at a maximum height of 76 cm per bale. Bales shall only be stored up to a maximum height of 2.3 metres or 3 bales high, whichever is the lower.
- d) Loose paper / cardboard and associated plastic materials shall only be stored in the area referred to as 'Store area for loose material waiting to be processed' on 'Site Plan, drwg no. 5269/01E, dated March 2015, (received: 23/01/2017)' up to a height of 2.3 metres.

Reason: In the interests of visual amenity and to restrict the location of outside storage for fire mitigation and safety reasons in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

25. Litter Management Policy

The 'Litter Management Policy by datashredders dated 09/11/2016 (received 02/12/2016)' shall be adhered to in full and maintained for the duration of the development hereby permitted. Records related to this policy shall be provided to the Waste Planning Authority within 10 days of a written request.

Reason: In the interests of visual amenity in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

Permitted waste streams for Unit 2

26. Nothing other than waste paper / cardboard and associated plastic materials shall be brought on to the site or treated within Unit 2.

Reason: To enable the Waste Planning Authority to retain control over the waste streams being processed in Unit 2 in line with the tonnages in condition 27 and in accordance with policy CS29; and to minimise the risk of pollution in accordance with policies CS34 and CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policies LP14 and LP16 of the Fenland Local Plan (May 2014).

27. Annual Throughput and waste storage limit for Unit 2

The waste throughput for the permitted waste paper / cardboard stream for Unit 2 identified in condition 26 shall not exceed 156,000 tonnes per calendar year (or 3,000 tonnes over any 7-day period). The waste storage limit for the Unit 2 site shall not exceed 15,000 tonnes at any one time.

Records showing the waste paper throughput and storage limits for any specified period shall be kept on site and provided to the Waste Planning Authority within 10 days of a written request.

Reason: To enable the Waste Planning Authority to retain control over the future development of Unit 2 in accordance with policy CS29; to ensure that the vehicle movements that have been considered for Unit 2 are controlled to protect highway safety in accordance with policy CS32; and to protect residential amenity by controlling the amount of waste at the site in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011).

28. Waste Catchment Restriction for Unit 2

Unless otherwise agreed in writing by the Waste Planning Authority, the owner/operator of the development permitted by this planning permission will endeavour to procure not less than 30% of the waste imported to the site from a catchment area which shall comprise a radius of 45 km from the site or within the administrative areas of Cambridgeshire and Peterborough as shown on "Plan CCC1 – Waste Catchment Area of Unit 2". For the purpose of clarity waste being collected from any waste transfer station within the defined catchment area shown on "Plan CCC1 – Waste Catchment Area of Unit 2" shall be regarded as arising from within the catchment area.

Reason: To ensure that the facility is managing a large percentage of local waste arisings, in accordance with Policy CS29 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and that the situation is kept under review to help meet the monitoring requirement of the Plan.

- 12.2 It is recommended that the following informatives be included in the decision notice:

Environment Agency Informative

Although Fire Prevention Plans (FPP) are only a requirement for permitted sites, the applicant may find the FPP guidance helpful to raise awareness of the issues that should be considered. It can be found at: <https://www.gov.uk/government/publications/fire-prevention-plans-environmental-permits/fire-prevention-plans-environmental-permits>

Cambridgeshire Fire and Rescue Service Informative

Following the installation of the fire hydrants required under condition 4 for both Units 1 and 2, the applicants should contact Cambridgeshire Fire and Rescue Service within 1 month to inspect the hydrants; plate; add to their database; ensure that the hydrants are ready for operational use; and meet their requirements.

Source Documents	Location
Casefile: F/2004/16/CW	Shire Hall, Cambridge

Link to Cambridgeshire and Peterborough Minerals and Waste Core Strategy:
http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/7

Link to Fenland Local Plan
<http://www.fenland.gov.uk/CHttpHandler.ashx?id=10010&p=0>