

PLANNING COMMITTEE



Date: Thursday, 13 December 2018

Democratic and Members' Services

Fiona McMillan

Monitoring Officer

10:00hr

Shire Hall

Castle Hill

Cambridge

CB3 0AP

Council Chamber

Shire Hall, Castle Hill, Cambridge, CB3 0AP

AGENDA

Open to Public and Press

- 1 **Apologies for absence and declarations of interest**

Guidance on declaring interests is available at

<http://tinyurl.com/ccs-conduct-code>

- 2 **Election of Vice-Chair for the Meeting**

- 3 **Minutes - 1st November 2018**

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PLANNING APPLICATIONS

- 4 **H-5002-18-CW Warboys Landfill Site PE28 2TX**

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- 5 **F-2005-18-CW - Woodacre Developments Ltd, Whittlesey, PE7 2HD**

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- 6 **F-2006-18-CW - Woodacre Developments Ltd, Whittlesey, PE7 2HD**

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ITEMS FOR INFORMATION

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The Planning Committee comprises the following members:

Councillor David Connor (Chairman) Councillor Ian Gardener (Vice-Chairman)

Councillor Anna Bradnam Councillor Lynda Harford Councillor Peter Hudson Councillor Bill Hunt Councillor Sebastian Kindersley and Councillor Joan Whitehead

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact

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PLANNING COMMITTEE: MINUTES

Date: Thursday 1st November 2018

Time: 10.00am – 11.30am

Place: Kreis Viersen, Shire Hall, Cambridge

Present: Councillors A Bradnam, D Connor (Chairman), I Gardener (Vice-Chairman), L Harford, P Hudson, B Hunt, S Kindersley and J Whitehead.

Officers: David Atkinson – Development Management Officer (Strategic and Specialist Applications), Hannah Edwards – LGSS Law, Emma Fitch – Joint Interim Assistant Director, Environment and Commercial, Deborah Jeakins – Principal Enforcement and Monitoring Officer, and Daniel Snowdon – Democratic Services Officer.

63. APOLOGIES AND DECLARATIONS OF INTEREST

No apologies for absence were received

The Chairman reminded the Committee that the last time an application for the site was presented to the Committee he did not take part in the application because at the time he was attending meetings and working closely with a nearby resident, Mrs Johnson in respect of her objection to a nearby Anaerobic Digestion plant. The Chairman informed the Committee that those meetings were no longer taking place and therefore he did not consider there was now the same risk of perception of bias. The Chairman knew Mrs Johnson in the same context as his other constituents and confirmed that he came to the meeting with an open mind and would listen to all the information presented before reaching a decision.

In addition it was noted that a late submission had been received via email from Mrs Angela Johnson, a nearby resident, by some members of the Committee. The Chairman exercised his discretion to allow the late representation to be considered and called a short recess in which Members could read the statement which is attached at Appendix B to these minutes.

Meeting adjourned at 10:05

Meeting reconvened at 10:10

64. MINUTES – 17TH SEPTEMBER 2018

The minutes of the Planning Committee meeting held on 17th September 2018 were agreed as a correct record and signed by the Chairman.

65. MINUTES – 4TH OCTOBER 2018

The minutes of the Planning Committee meeting held on 4th October 2018 were agreed as a correct record and signed by the Chairman.

66. SECTION 73A PLANNING APPLICATION TO DEVELOP LAND IN RELATION TO UNIT 1 WITHOUT COMPLYING WITH CONDITION 7 (HOURS OF OPERATION FOR UNIT 1) OF PLANNING PERMISSION REFERENCE F/2004/16/CW and F/2010/16/CW, WHICH ARE PURSUANT TO PLANNING PERMISSION F/2019/02/CW (PROPOSED ERECTION OF TWO INDUSTRIAL BUILDINGS FOR THE GRANULATION AND BALING OF WASTE PLASTICS FOR RECYCLING).

AT: UNIT 1 AND 2, EASTWOOD END INDUSTRIAL ESTATE, WIMBLINGTON, CAMBRIDGESHIRE PE15 0QN

APPLICANT: RECYPLAS LIMITED

APPLICATION NO: F/2003/18/CW

The Committee considered an application submitted by Recyplas Limited under Section 73A of the Town and Country Planning Act 1990 that sought approval to extend the working hours within the confines of the existing industrial building known as Unit 1 which was used for the separation and compounding of waste plastic and the filling of one tonne bags with the finished product in the form of plastic granules suitable for re-use in new products.

In introducing the planning application, the presenting officer highlighted the location of the site on a map and drew attention to its relationship to the A141 and the access point to the industrial area located at Wimblington. Residential developments that were located to the south of the site were also highlighted.

Members noted that the route for vehicles entering the site differed for staff cars and vehicles delivering material to the site. This difference was attributable to allowing vehicles access to the weighbridge prior to entering the site. There was a one way system for Heavy Commercial Vehicles (HCVs) accessing the site and they did not pass residential developments. The one-way system for HCVs operating at the site was explained to Members.

The presenting officer showed photographs of the site entrance from Hook Lane together with photographs of the material storage area that showed clean rolls of surplus plastic from industry that were ready for processing. The process through which material was processed at the site was explained to Members together with photographs of the machinery in operation. Members noted that there was a second piece of machinery that used plastic carrier bags as feedstock and it was the two machines that the applicant was requesting to operate continuously, 24 hours a day, 7 days a week.

Members were informed that the machines located at the site relied on cooling equipment that was located outside of the main building and had been the source of elevated noise levels in the past. Members were shown a photograph of a brand new chiller unit which replaced a much larger and older version located on the side of the building facing the open yard. A further photograph of the northern end of the building was shown where the original unit that was much larger and was used for a different machine was located. The presenting officer informed Members that the site operator had indicated that the older chiller unit would also be replaced when it could be afforded.

Photographs were shown that provided a view of the site exit onto a private road. A further photograph taken down Hook Lane was shown and the faintly visible roof profile of a nearby residential property was highlighted. Members were informed that the two principal nearby residential properties that had registered objections to the planning application were located to the south of the site and these were demonstrated on an aerial photograph.

The Committee was informed that the application area was larger than the Recyplas site boundary owing to the fact that the previous operator had divided the site in two when they sold it.

The applicant had been explicit in its assurance that the doors to Unit 1 would remain closed during night-time activities and all traffic movement levels with the exception of staff cars at shift change would remain the same. The presenting officer explained that HCV movements at the site were limited by the operating hours of the nearby weighbridge used by the company which was open Monday-Friday 7am-5pm. The applicant had also advised that there would not be additional HCV movements as one HCV could carry more than the site could produce in a day.

Members were informed that noise emissions from the site had arisen from the operation of machinery. In support of the application, the applicant had submitted an independent noise monitoring survey which included three separate noise assessments, the details of which were contained at paragraphs 3.11 – 3.15 of the officer report. The results of the initial assessment resulted in concerns regarding the acceptability of the application being raised by Fenland District Council. A further addendum report was provided by the noise consultant, following the installation of the replacement chiller and modifications to machine 2 within the building concluded that on the basis of the additional work undertaken there was no breach of noise levels at nearby residences and recommended that noise levels should continue to be focussed on through measures set out in paragraph 3.18 of the officer report.

Attention was drawn to the planning history of the site contained within section 4 of the officer report and enforcement issues that had arisen at the site in recent years. Members noted that following monitoring by planning enforcement, breaches of working hours conditions had been noted but had not been consistent.

Section 6 of the officer report was highlighted to Members in particular, paragraph 6.1 regarding Fenland District Council's concerns regarding noise having been alleviated having considered the noise consultant's noise assessment addendum report and mitigations that had been undertaken.

Members noted that the site operated under an exemption certificate through the Environment Agency and that whether the operator could require a full environmental permit would be a matter for the Environment Agency to consider.

The presenting officer drew attention to the 5 representations that had been received and summarised the concerns set out in the officer report.

Planning considerations were highlighted to the Committee including the existing use of the land for the purposes set out in the application. The Council supported the principle of recycling materials however it was important the activities were not carried out in detriment to amenity and highway activity.

Local residents had expressed concerns regarding the potential for disturbance arising from the site and considered that past breaches of planning condition would continue if the application was granted. However, the applicant had acted upon the advice of the noise consultant. Concerns regarding HCV movements did not hold weight when assessed against the conditions at the site, in particular the weighbridge operating hours.

Occasional odours from hot plastics had been raised by local residents and the presenting officer had detected a very slight odour at the last site visit however, the odour was not detectable from Hook Lane. The Committee was informed that the Fenland District Council Environmental Health Officer, in conjunction with local residents, was investigating the issue which would be most effectively addressed through the Environment Agency.

In recognising the concern locally and the importance of protecting local amenity the imposition of strict night time noise limits, together with an ongoing noise monitoring scheme was recommended. Attention was drawn to the amendment made to planning condition 11 which recommended white noise reversing beepers be fitted to the forklift truck.

In response to Member Questions officers:

- Explained why the site continued to operate under an Environment Agency exemption certificate and if there had been breaches of the exemption at the site it was a matter for the Environment Agency to investigate and take action where necessary and it was unclear as to whether complaints had been made to the Environment Agency regarding operations at the site. It was noted that a Liaison Forum would address the links between the different agencies and address issues if and when they occurred.
- Noted that when the doors to the buildings were closed there was a low frequency hum and that staff were not required to wear ear protection. The chiller units were the main source of noise as they were located outside. Through a planning condition it was required that a noise monitoring scheme should be submitted which could recommend further mitigation and recommend the type.
- Noted that the machinery located inside the building had not been changed since the original application to their knowledge. Members commented that the machinery was designed to run continuously and the original planning application could have never complied with the planning conditions placed upon it.
- Noted that it was likely that without the facility, the 2 waste streams processed at the site would either be sent to landfill or incineration.
- Noted times that the Principal Enforcement and Monitoring Officer had undertaken monitoring visits at the site and her personal opinion was that there was no reason why the level of noise measured at the site should disturb the sleep of nearby residents. However, it was noted that the effect of noise was

subjective and if it was alleged that breaches of planning conditions were taking place then they would be investigated thoroughly.

- Explained that there was no specific timescale for the second chiller unit to be replaced other than it was the site operator's intention to do so. Officers emphasised that the noise monitoring had established that noise levels were low enough to be acceptable even if the chiller was not replaced.

During debate Members:

- Expressed concern regarding the performance of the Environment Agency in monitoring the site and expressed frustration regarding what can be taken into account when determining applications, however, could see no material planning reason why planning permission should not be granted.
- Commented that the Council had been somewhat misled during the original planning application and had 24/7 running requirements of the equipment used at the site been specified then a different outcome may have been reached.
- Noted that officers would seek to add an informative to the decision notice through a review of condition 31 requiring the applicant put forward any additional noise mitigation measures that would be appropriate.
- Noted that officers would add condition 32 to the application for the applicant to submit a scheme for a liaison forum that echoed recent similar schemes sought for applications such as for Barrington Quarry regarding a liaison forum and remove the informative.

It was proposed by Councillor Kindersley and seconded by Councillor Harford that the recommendation be put to the vote. On being put to the vote it was resolved unanimously to grant planning permission subject to the amended conditions attached at Appendix A to these minutes.

Following the resolution, the Joint Interim Assistant Director, Environment and Commercial informed Members that David Atkinson, Development Management Officer (Strategic and Specialist Applications) was retiring a year after returning to the Council following his earlier retirement to assist the Planning Team during a difficult period where a number of vacancies had arisen.

Members thanked David for all his work and noted that he had taken on some of the most difficult cases and had been a tremendous support and great assistance to the team.

The Joint Interim Assistant Director, Environment and Commercial also informed Members of her new role and clarified that she would remain the lead planning officer for both Planning Committee and the Joint Development Control Committee.

67. SUMMARY OF DECISIONS MADE UNDER DELEGATED POWERS

It was resolved to note the decision made under delegated powers.

Chairman

Unit 1

1. Implementation

This permission comes into effect on the date of this decision notice.

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 1

This set of conditions for Unit 1 shall only relate to the land edged green and hatched green on the Site / Location Plan, drwg no. 5744/01,1: 500 Scale, dated Sept 2017 received on 15/05/2018.

Reason: *To define the site and to define the conditions of this permission to the Unit 1 site.*

3. Approved Plans

The development hereby permitted shall be carried out in accordance with the application form dated 21/05/2018 and the following information and plans (received 15 May 2018 unless otherwise stated):

- Planning Statement and Flood Risk Assessment B by Peter Humphrey Associates Ltd (received 27 June 2018);
- RECYplas Fire Policy (received: 19 August 2016);
- Fire Prevention Plan by Peter Humphrey Associates Ltd (received 23 January 2017);
- Site / Location Plan, drwg no. 5744/01, dated Sept 2017;
- Existing Layouts, drwg no. 4482/EX01, dated November 2009 (received 02 December 2009) [relating to approved landscaping scheme];
- Noise Impact Assessment by MAS Environmental dated 18th April 2018;
- Addendum Report, Noise survey 14th-15th June 2018 by MAS Environmental dated 27th June 2018 (received 27 June 2018).

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

New fire hydrants have been provided to serve the development and therefore this condition is no longer required.

5. Construction Materials

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order then in force, the building labelled Unit 1 on 'Site / Location Plan, drwg no. 5744/01, dated Sept 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

The area shown as 'Grass' on 'Site / Location Plan, drwg no. 5744/01, dated Sept 2017' shall remain free from development. It shall also not be disturbed by any heavy machinery or vehicles, development or storage.

Reason: *To ensure that the development avoids an area of the site known to contain archaeological remains in accordance with policy CS34 of Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP18 of Fenland Local Plan (May 2014).*

7. Hours of Operation for Unit 1

No working in the external yard and the Raw Material Store building shall be undertaken outside the hours of 07.30 to 18.00 hrs Monday to Friday and 07:30 to 13:00 hrs on Saturdays. There shall be no working in the external yard and other buildings on Sundays or Bank and Public Holidays.

All goods vehicle movements associated with the delivery of waste materials for recycling, delivery of plant and equipment and the collection of finished product or disposal of any waste residues shall only enter and leave the site

during the hours of 07.30 to 18.00 hrs Monday to Friday and 07:30 to 13:00 hrs on Saturdays. There shall be no unloading or loading of vehicles undertaken on Sundays or bank holidays.

Waste processing within the confines of Unit 1 can be carried out 24 hrs 7 days per week (including bank holidays and Sundays), and the arrival and departure of personal staff vehicles to accommodate such operations shall also be permitted.

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 take place outside of the building labelled Unit 1 on Site / Location Plan], drwg no. 5744/01, dated Sept 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 1 on 'Site / Location Plan, drwg no. 5744/01, dated Sept 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 1 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 1 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

Within one month of the date of this decision notice all forklift trucks working on the site shall be fitted with White Noise reversing beepers. The reversing equipment shall thereafter be used and maintained in working order in accordance with the manufacturer's instructions.

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

12. Dust

Dust shall be suppressed at the Unit 1 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 / Location Plan, drwg no. 5744/01, dated Sept 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

Except within the hours of 1800 to 0730 Mondays to Saturdays and 1300 hours on Saturdays and 0730 on Mondays the building labelled Unit 1 on 'Site / Location Plan, drwg no. 5744/01, dated Sept 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

The 2.4 metre palisade fence as shown on 'Site / Location Plan, drwg no. 5744/01, dated Sept 2017' which borders the site and separates it from Unit 2 shall be retained on site for the duration of the development and maintained 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 'Existing Layouts, drwg no. 4482/EX01, dated November 2009 (received 02 December 2009)' approved by letter dated 3 December 2009 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

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

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 / Location Plan, drwg no. 5744/01, dated Sept 2017' and the space 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

The permanent space to be reserved on the Site for:

- turning
- parking
- loading and unloading

of HCVs as shown on 'Site / Location Plan, drwg no. 5744/01, dated Sept 2017' and the space shall be retained on site and thereafter 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).*

23. Onsite Parking Unit 2

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

24. Storage of Material outside Unit 1

a) The area shown as 'Raw material (Bail form)' on 'Site / Location Plan, drwg no. 5744/01, dated Sept 2017' is the only area outside of Unit 1 where raw material is permitted to be stored and the material shall only be in bale form.

b) The permitted raw plastic waste material shall be baled in a 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.

c) Wooden pallets shall only be stored in the area referred to as 'Pallet Store' on 'Site / Location Plan, drwg no. 5744/01, dated Sept 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 RECYplas Limited dated 19.01.17 (received: 23 January 2017)' 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 Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).*

26. Permitted waste streams for Unit 1

Nothing other than waste plastics shall be brought on to the site or treated within Unit 1.

Reason: *To enable the Waste Planning Authority to retain control over the waste streams being processed in Unit 1 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 1

The waste throughput for the permitted waste plastic stream for Unit 1 identified in condition 26 shall not exceed the limits as follows:

- 5,200 tonnes per calendar year (or 100 tonnes per week) for heat treatment of relevant plastic wastes;
- 15,600 tonnes per calendar year (or 300 tonnes over any 7-day period) for cleaning, washing, spraying, or coating treatment of relevant plastic wastes;
- 3,000 tonnes indoors over any 7-day period for baling, sorting, or shredding of relevant plastic wastes.

The waste storage limit for the Unit 1 site shall not exceed 500 tonnes over a 12-month period. Records showing waste plastic 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 1 in accordance with policy CS29; to ensure that the vehicle movements that have been considered for Unit 1 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 1

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 1'. 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 1' 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.*

Noise Limits

29. Between the hours of 0700 and 2000 noise emissions from the site, including any corrections for acoustic characteristics, shall be no more than 5dB above the prevailing background noise level at the nearest residential property lying to the south of the site. Between the hours of 2000 and 0700 noise levels from the site, including any corrections for acoustic characteristics, shall not exceed 36 dB LAeq, 15 minute, as measured under free field conditions, at the nearest residential property lying to the south of the site.

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

30. Between the hours of 2000 and 0700 low frequency noise levels from the site, including any corrections for acoustic characteristics, shall not exceed 60 dB(C), LAeq, 15 minute at the nearest residential property lying to the south of the site and shall comply with the linear spectral noise levels set out below:

Externally Modified Criteria

Hz	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
dB	92	89	86	77	69	61	54	50	50	48	48	46	44

Reason: *To protect the amenity of surrounding and local residents in accordance with policy CS34 of the Cambridgeshire and Peterborough*

Minerals and Waste Core Strategy (July 2011) and Policy LP16 of the Fenland Local Plan (May 2014).

Noise Monitoring and Management Scheme

- 31.** A noise monitoring scheme shall be submitted to the Waste Planning Authority within one month of the date of this decision notice for approval. The submitted scheme shall include, but not be limited to:
- a periodic programme of sound monitoring to demonstrate compliance with Conditions 29 and 30 of this approval which shall address any seasonal variation to the local environment and nearby noise sources, daytime and night time monitoring and any seasonal variations in workloads that the business operation experiences;
 - the frequency of noise monitoring, shall be sufficient to demonstrate compliance with the day time and night time noise emission levels from the site;
 - consideration of the implementation of all practical measures to minimize noise emissions from the site
 - that a record to be kept of the operational hours of use of the Unit 1 building together with a register of any noise complaints received together with a record of all operational and mitigation measures taken to prevent an breach of the noise condition;
 - the timescale and details of the provision of CCTV coverage of the operation of the main access doors to the building to enable monitoring of the closure of these doors during nighttime operation.
 - That should the noise monitoring result in exceedances in the noise limits set out in Conditions 29 and 30 then further mitigation measures will be designed and introduced within a timescale to be submitted to and approved in writing by the Waste Planning Authority to address the exceedances with a further period of monitoring to confirm compliance with Conditions 29 and 30.

- The results of the noise monitoring and mitigation actions taken shall be provided to the Waste Planning Authority and Site Liaison Forum on a periodic basis in accordance with the permitted scheme.

The approved scheme shall be implemented in accordance with the approved details.

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

Site Liaison Committee

32.

Within one month of the date of this planning permission a scheme for the inauguration, implementation and regular convening of a Site Liaison Committee shall be submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented thereafter.

Reason: *To provide a forum in which the operator and representatives of the local community and regulatory bodies can share information relating to the site in accordance with the Cambridgeshire statement of Community Involvement (adopted March 2014).*

Informatives

1. 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>

The applicant is advised to contact the Environment Agency to review the registered exemptions for this site and ensure that the site is operating in accordance with the correct registered exemptions.

Compliance with paragraph 38 of the National Planning Policy Framework (July 2018)

The Waste Planning Authority has worked proactively with the applicant to ensure that the proposed development is acceptable in planning terms. All land use planning matters have been given full consideration relating to the proposed extension to working hours within Unit 01. Consultation took place with statutory consultees and other consultees, including local residents, which have been taken into account in the decision making process.

Important Note:

Whilst of no direct relevance to the determination of this Section 73A planning application, should it be resolved to grant planning permission for this development, then the decision notice to be issued must take due account of the extant planning conditions relating to Unit 2.

Mrs A E Johnson
13-15
Eastwood End
Wimblington
Cambridgeshire
PEIS OQJ

30th October 2018

Proposal: Section 73A planning application to develop land in relation to Unit 1 (part of the original application site) without complying with Condition 7 (Hours of operation for Unit 1) of planning permission reference F/2004/16/CW and F/2010/16/CW, which are pursuant to planning permission F/2019/02/CW (Proposed Erection of Two Industrial Buildings for the Granulation and Baling of Waste Plastics for Recycling). Location: Unit 1 and 2, Eastwood Industrial Estate, Eastwood End, Wimblington, PEIS OQN

Application No: F/2003/18/CW

Dear Councillor

Due to the fact that I am out of the country on the 1st November 2018 I am unable to personally attend the Planning Committee meeting where the above application will be discussed.

Because of this fact I am writing to you individually to implore you to REFUSE the application F/2003/18/CW.

Eastwood Industrial Estate consists of a number of businesses, the large majority of which involve daily regular movement of "heavy vehicles", noise from machinery, bright external lighting (especially in the winter months), and strong odours.

The applicant is already ignoring parameters set in conditions from previous applications. They have received numerous complaints, over an extremely long period of time, regarding noise, odour and out of hours working, these have been excused and ignored. They have taken no action or reacted with consideration towards their neighbours and local community.

"IF" you grant permission for the applicant to work 24/7/365 business hours then you will be setting a precedent which will open the flood gates for all the other businesses on the Industrial Estate.

"IF" you grant permission for the applicant to work 24/7/365 business hours this will increase their business hours by 65%. It is obvious that the increase will result in an increase in heavy vehicle movement, in and out of the premises, during the regular working day. Also they must surely then contravene their 'Waste Exemption' certificate?

"IF" you grant permission for the applicant to work 24/7/365 business hours neighbours and local residents will be subjected to 'out of hours' unsociable noise, pungent odour, external lighting'. The applicant has already, on more than one occasion, ignored set planning conditions in order to profit as a business. They have previously put in 'Retrospective Planning Applications' because they have blatantly ignored the planning applications. It is a total disgrace that they believe they are allowed to disregard what is set in planning applications in order to protect the environment and the local community. DOES THE PROCESS OF RECYCLING PLASTICS HAVE ANY EFFECT ON THE ENVIRONMENT OR THE LOCAL COMMUNITY??

Please, please consider this application favourably towards the local community, the applicants neighbours and the environment rather than the industry that has set up here within our small village.

This application goes against local Planning Policies:

Introduction – 1.1.3

LP1 – 3.1 Any adverse impacts

- 3.3.3

- 3.3.4

LP2 – HIA

LP6 – There are no job opportunities

LP13 – Infrastructure (increase in heavy traffic)

LP14 – 5.3.4

LP15 – Improve and better manage the wider road infrastructure to benefit local communities included rural roads.

LP16 - (e) (f) (l)

NPPF – 3 – Supporting a prosperous rural community – planning policies should support economic growth in rural areas in order to create jobs and prosperity

- 123 – planning policies should aim to:

- 150 – Plan Making

Please refuse this application, thank you

Regards

**CONSTRUCTION OF A HEAT AND POWER PLANT COMPRISING
BIOMASS ENERGY FROM WASTE (FLUIDISED BED COMBUSTION)
FACILITY AND TREATMENT OF WASTE WATER BY EVAPORATION
TREATMENT PLANT AND ASSOCIATED INFRASTRUCTURE
COMPRISING TANK FARM, COMBUSTER WITH 25 METRE HIGH
CHIMNEY, PROCESS BUILDING, STORE BUILDING, OFFICE BUILDING,
WALKING FLOOR CANOPY, CAR PARK, FUEL STORAGE BAYS, FIRE
WATER TANK, CONVEYOR, PIPE GANTRY, DIESEL TANK, CONTROL
ROOM, AUXILIARY PLANT SKID, HIGH VOLTAGE TRANSFORMERS**

**AT: Warboys Landfill Site, Puddock Hill, Warboys, PE28 2TX
LPA REF: H/5002/18/CW
FOR: Sycamore Planning Ltd**

**To: Planning Committee
Date: 13 December 2018
From: Joint Interim Assistant Director Environment &
Commercial
Electoral division(s): Warboys and the Stukeleys
Purpose: To consider the above planning application**

Recommendation: *That the decision taken on 6 September
2018 to grant planning permission
subject to the completion of a s.106
agreement and the imposition of
conditions be upheld.*

<i>Officer contact:</i>	
Name:	Helen Wass
Post:	Development Management Officer (Strategic & Specialist Applications)
Email:	Helen.wass@cambridgeshire.gov.uk
Tel:	01223 715522

1.0 Introduction

- 1.1 At the meeting on 6 September 2018 Members resolved to grant planning permission subject to the applicant entering into a S106 planning obligation to secure off site mitigation and the conditions set out in paragraph 10.1 of the 6 September 2018 report.
- 1.2 Since the meeting on 6 September 2018 the County Council has received a number of pieces of correspondence relating to the determination of this planning application. This correspondence is summarised in paragraphs 2 to 5 below.

2.0 Secretary of State

- 2.1 On 26 September 2018 the County Council was advised by the Planning Casework Unit (PCU) that they had received a request to call in this planning application. The County Council was not informed on what basis the call-in request was made. On 2 October 2018 we received a letter stating that the Secretary of State for Housing, Communities & Local Government is content that the application should be determined by the local planning authority. That letter is Appendix 1 of this report and has been provided for information only.

3.0 Professor Brian Lake

- 3.1 On 8 October 2018 Professor Lake wrote to the Chairman of the Planning Committee, Councillor Connor, and the Council's Chief Executive, Gillian Beasley, about the minutes of the Planning Committee meeting on 6 September 2018. Professor Lake's email and the County Council's response are Appendices 2A and 2B of this report and have been provided for information only.

4.0 Mr and Mrs A Dunkling

- 4.1 On 23 October 2018 Mr and Mrs Dunkling made a complaint about the Planning Committee's decision of 6 September 2018 to grant planning permission. A copy of their email and the County Council's response are Appendices 3A and 3B of this report and have been provided for information only.

5.0 Warboys Parish Council and Warboys Landfill Action Group

- 5.1 On 25 September 2018 Warboys Parish Council (WPC) and Warboys Landfill Action Group (WLAG) wrote to the County Council's Chief Executive, Gillian Beasley, asserting a number of errors in the way the County Council has considered the planning application. This letter (Appendix 4A of this report) asserted that a potential judicial review challenge may be issued on the number of grounds alleged. We have taken legal advice on this matter and the County Council's response was provided by LGSS Law Ltd (Appendix 4B of this report). It concludes by saying that while there is no foundation to the challenge, there are two matters which we wish to bring back before the

committee for consideration so that the committee is fully aware of the relevant issues in this case. These two matters are:

- (a) the potential noise experienced by the occupants of the caravans situated at the western end of Fenside Road; and
- (b) the effects of water vapour released from the proposed waste water treatment plant chimney on local atmospheric conditions.

5.2 It is on these matters alone that this application is being brought back to the committee. Consultees, objectors and the applicant have been advised that any presentations they make at the meeting should relate to these matters only and that if they attempt to introduce other matters the Chairman will ask them to stop speaking.

6.0 Caravan site

6.1 It has been alleged that the County Council has not considered, from an expert's points of view, the noise impact on the caravans. In order to address this and provide clarity on the situation we have sought further advice from Huntingdonshire District Council's Environmental Health Officer (EHO) in respect of the impact of noise on the occupants of the caravans. This matter was raised by WPC in their consultation response letter of 8 February 2018 which was Appendix B1 of the officer report to Planning Committee on 6 September 2018. Parish Councillor Geoff Willis also referred to the caravans in his presentation to Planning Committee. Local County Councillor Terry Rogers referred to the caravan site in his presentation to Planning Committee.

6.2 The EHO has considered the matter of noise in relation to the caravan site. He has assessed the situation and confirmed that he was satisfied that the applicant's acoustic consultant had chosen the most relevant noise sensitive receivers based on their close proximity to the proposed development. His correspondence dated 11 and 24 October 2018 is part of the response to WPC and WLAG in Appendix 4B.

6.3 For completeness we asked the EHOs to consider whether knowledge of caravans would have changed the advice they gave us on air quality. They advised that *"From the information received it is considered the proposals will not lead to a breach in national objectives or an unacceptable risk from air pollution. The reports are supported with maps indicating the concentration isopleths which demonstrate the predicted levels in relation to the geographical area. I can therefore confirm that the presence of caravans in the area you specified would not have affected the advice we gave the County Council on this planning application."*

6.4 The presence of the caravans would not have changed the EHOs' advice to us. We concluded in the 6 September 2018 report (paragraph 8.83) that *"Taking into account the advice of the environmental health officer and provided the mitigation measures are secured by planning condition it is considered that the proposed*

development would comply with the NPPF and MWCS policy CS34 in respect of noise.” The presence of the caravans has no impact on the planning officers’ assessment and does not affect the planning balance.

7.0 Water vapour

7.1 It has been alleged that the issue of potential effects arising from water vapour has not been considered. In order to address this and provide clarity on the situation we have sought further advice from the Environment Agency in respect of effects from water vapour. This matter was raised by WPC in their consultation response letter of 8 February 2018 which was Appendix B1 of the officer report to Planning Committee on 6 September 2018. Miss Serena Allery referred to the particular atmospheric conditions of the fens in her presentation to Planning Committee which was later explored by a member of the Committee.

7.2 The Environment Agency has confirmed to officers that water vapour can be assessed as part of the permit application so they would be able to consider that impact. Permitting guidance makes reference to the need to consider visible plumes in their risk assessment. This has also been confirmed by the applicant who during their pre-application advice had confirmation from the Environment Agency that this matter will be dealt with as part of the permit application.

7.3 In the 6 September 2018 report (paragraph 8.46) we quoted the National Planning Policy Framework (July 2018) which at paragraph 183 states that:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”

7.4 It remains the opinion of planning officers that the NPPF advice should be heeded and water vapour would correctly be assessed as part of the environmental permit therefore the planning balance is not affected.

Planning Balance

7.5 The waste hierarchy was considered in detail as part of the Officer’s Report for the 6 September 2018 committee at paragraphs 8.4 – 8.26. As two issues have been looked at again it is right that the waste hierarchy and planning balance are considered again in light of these two matters. It is acknowledged that the waste hierarchy needs to be balanced against the achievement of other sustainable objectives in this case such as the more proximate management of waste which

would reduce the impact from the transportation over long distances to other facilities and having the waste drawn from a 30 mile catchment area would limit the environmental costs of haulage and achieve a sustainable objective.

- 7.6 Policy CS 18 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy DPD (July 2011) says that:
“Proposals for waste management development outside allocated areas will be considered favourably where:-
- *this is consistent with the spatial strategy for waste management, and*
 - *it can be demonstrated that they will contribute towards sustainable waste management, moving waste up the waste hierarchy”.*
- 7.7 In the report to Planning Committee on 6 September 2018 it was acknowledged that using grade B waste wood in the proposed plant that would otherwise have been sent for recycling would be moving it down the waste hierarchy. Using grade C waste wood in the proposed plant that would otherwise be sent to waste disposal facilities without energy recovery would move it up the waste hierarchy. Using grade C waste wood that would otherwise go to another energy recovery facility would be neutral in terms of the waste hierarchy. On balance Officers considered that the reduction in the environmental impact from transportation over long distances to other facilities outweighed the loss of opportunity to move some of the feedstock up the waste hierarchy. It was considered that these factors would outweigh any disadvantage, if it occurred, of waste which would have been dealt with higher up the hierarchy being dealt with lower down the hierarchy, by energy recovery.
- 7.8 The planning balance applied to the waste hierarchy has not changed as a result of the information provided in respect of the two matters set out in paragraph 5.1.
- 7.9 For the reasons set out in paragraphs 7.5 to 7.7 above it is therefore still considered that this development will contribute towards sustainable waste management and as such would comply with policy CS18.
- 8.0 Conclusion**
- 8.1 In light of the experts' assessments described in paragraphs 6.2, 6.3 and 7.2 above, the County Council has considered the application in relation to the planning balance. These assessments have reassured us that the presence of the caravans would not have affected our recommendation in respect of noise or air quality and that the plume of water vapour would be assessed by the Environment Agency as part of the environmental permit. Therefore, nothing has changed in the planning balance.

- 8.2 It is therefore recommended that members uphold the decision of 6 September 2018 and grant planning permission on the basis that none of the further matters considered have changed the assessment of planning officers and there are no justifiable grounds for refusing planning permission. Such planning permission will be subject to the completion of a S106 agreement and the conditions as set out in the officer's report of 6 September 2018.

Source Documents	Location
Report to Planning Committee 6 September 2018: https://cmis.cambridgeshire.gov.uk/ccclive/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/889/Committee/8/Default.aspx	
Minutes of Planning Committee 6 September 2018: https://cmis.cambridgeshire.gov.uk/ccclive/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/890/Committee/8/Default.aspx	



Ministry of Housing,
Communities &
Local Government

Ms Helen Wass
Development Management Officer
Cambridgeshire County Council

Sent via e-mail to:
Helen.wass@cambridgeshire.gov.uk

Please ask for: Maria Bowen
Tel: 0303 44 48041
Email: Maria.bowen@communities.gov.uk

Your ref: H/5002/18/CW
Our ref: PCU/RTI/E0535/3212509

Date: 2 October 2018

Dear Ms Wass

Town and Country Planning Act 1990

Construction of a heat and power plant comprising biomass energy from waste (fluidised bed combustion) facility and treatment of waste water by evaporation treatment plant and associated infrastructure comprising tank farm, combustor with 25 metre high chimney, process building, store building, office building, walking floor canopy, car park, fuel storage bays, fire water tank, conveyor, pipe gantry, diesel tank, control room, auxiliary plant skid, high voltage transformers

Application Number: H/5002/18/CW

I refer to the above application which has been the subject of third party requests to call in for determination by the Secretary of State for Housing, Communities and Local Government.

The Secretary of State has carefully considered this case against call-in policy, as set out in the Written Ministerial Statement by Nick Boles on 26 October 2012. The policy makes it clear that the power to call in a case will only be used very selectively.

The Government is committed to give more power to councils and communities to make their own decisions on planning issues, and believes planning decisions should be made at the local level wherever possible.

In deciding whether to call in this application, the Secretary of State has considered his policy on calling in planning applications. This policy gives examples of the types of issues which may lead him to conclude, in his opinion that the application should be called in. The Secretary of State has decided, having had regard to this policy, not to call in this application. He is content that it should be determined by the local planning authority.

Planning Casework Unit
Ministry of Housing, Communities and Local Government
5 St Philips Place
Colmore Row
Birmingham B3 2PW

Tel: 0303 44 48050
pcu@communities.gov.uk

In considering whether to exercise the discretion to call in this application, the Secretary of State has not considered the matter of whether this application is EIA Development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The local planning authority responsible for determining this application remains the relevant authority responsible for considering whether these Regulations apply to this proposed development and, if so, for ensuring that the requirements of the Regulations are complied with.

Yours sincerely

Maria Bowen

Maria Bowen
Higher Planning Officer

Wass Helen

From: Cave Dawn
Sent: 08 October 2018 11:55
To: Fitch Emma; Wass Helen; Edwards Hannah
Subject: FW: Minutes of planning committee 6th September

For info

From: Brian Lake [mailto:brianlake99r@yahoo.co.uk]
Sent: 08 October 2018 11:51
To: Democratic Services <democraticservices@cambridgeshire.gov.uk>
Subject: Minutes of planning committee 6th September

For the Attention of Gillian Beasley CEO CCC

The attached letter is self explanatory. The minutes need to be changed. The letter has also been sent to David Connor, the chairman of the committee and to Emma Fitch.

Re 6th September minutes of planning committee meeting for Warboys CHP and waste water evaporators H/5002/18/CW.

I have just seen the minutes of the meeting and I hope that they were not signed as a correct record, because there is a potential libel issue and a number of inaccuracies and untruths which will have had the effect of misleading the planning committee..

Firstly in regard to the potential libel, it was the operator, not the applicant who is in financial difficulty. I have documentary evidence to this effect (Companies House accounts for Silvertree, the operator). The minutes state I said:-

The applicant was using untried and untested technologies; moreover, the company appeared to be in financial difficulties.

The statement regarding financial difficulty of the applicant is, according to my legal advisor, potentially libellous and I must insist that this is corrected. Your failure to do so in the event of a libel case will result in the blame resting on Cambridgeshire County Council.

My statement to the committee was as follows: –

*The applicants have chosen instead an **untried untested** system, to be run by a company with no experience and **which appears to be in financial difficulties**.*

Secondly, in relation to Paul McLaughlin's statement, which was recorded as:-

Daventry had received an environmental permit ... and Meriden had received a draft permit.

The minutes may be correct but these statements are false. No permit has been issued and the EA never issues a draft permit. The false statement also appears on p18 of the minutes:-.

It was confirmed that the applicants had said they had a permit for a similar development in Daventry.

The EA has confirmed to me in a letter from Carolyn Fowler, Customers & Engagement Officer of the West Midlands Area, that no permit has been issued for the Daventry site, and that draft permits are not issued.

With regards to your question “Does the EA ever issue a draft permit to allow a process to begin before the actual permit is issued?” the answer is, under normal circumstances “No”.

However in the case of Pedigree Power and Henley Biomass Limited, both of whom intend to operate plants at a site on Browns Road in Daventry, due to the delay in assessing their permit applications by the Environment Agency, a local enforcement position was granted at their request to both these operators allowing them to commence hot commissioning (see attached documents) before final permit issue.

The committee was not told the truth and thus was misled to thinking the EA had approved the process and all would be safe in Warboys.

Thirdly The committee were misled by the officer presenting the report. It was stated that there would be 1200 litres per hour evaporated (a figure in the application) but this refers only to one evaporator. There are six evaporators, meaning that there would be 7200 litres per hour, a sixfold increase on what was stated resulting in a 600% potential increase in pollution.

See 4.16 of the officer’s report on p21 of the Agenda Item No 3

Fourthly There are other inaccuracies, in particular concerning my presentation where the minutes are not correct. For example the source of the statement on waste water from the food and plastics industry is on the website of EW Cap, the financial backers of the project, and has never been on the applicant’s website. The minutes state I said that :-

The amount of leachate produced within a 30 mile radius did not meet the volumes required, which suggested other waste water e.g. from the foods and plastic industries, as suggested on the applicant’s website, could be processed at the site.

My statement said :-

Compost leachate has been mentioned, but their backers, EW Cap announce they will be taking waste water from the food and plastics industries, something else the applicants failed to mention.

These are some of the errors which I have found, which need to be corrected before the minutes can be regarded as a correct record.

I await your response.

Sincerely

Professor Brian Lake

8 Padgetts Close, Warboys, PE28 2SZ

My ref: H/5002/18/CW
Your ref:

Date: 07 November 2018

Contact: Emma Fitch
Telephone: 01223 715531
E Mail: Emma.fitch@cambridgeshire.gov.uk



**Place and Economy
Environment and Commercial**

Professor Brian Lake
8 Padgetts Close,
Warboys,
PE28 2SZ

Box No SH1315
Shire Hall
Castle Hill
Cambridge
CB3 0AP

by e-mail only to
brianlake99r@yahoo.co.uk

Dear Professor Lake

As per my original holding response e-mail of 8 October 2018 and my further updated response of 25 October 2018 (both attached for ease of reference), I can confirm that we have considered all your concerns set out in your original e-mail dated 8 October 2018. Furthermore, I can confirm that these points have also been considered alongside those of the Parish Council and Warboys Landfill Action Group (WLAG) in relation to their pre-action judicial review concerns.

Whilst we can acknowledge the concerns you have raised in your e-mail dated 8 October 2018, it is important to note that the Planning Committee minutes are not intended to be verbatim or a transcript of the meeting. Furthermore, these have already been signed off by members of the Planning Committee as they were considered representative of the meeting that took place. What we have done as officers therefore has been to look at whether any of your points strike to the heart of the decision making process and whether there is a need to update the minutes as a result.

Taking each of your points in turn, I have set out the view of officers (planning officers and democratic services officers) to provide an audit trail of our consideration of your concerns:

(1) You believe that the minutes as currently approved suggest there would be a risk of libel, as you consider the reference to the 'company' within the published minutes to mean the 'applicant'. Having read this back, we consider the intention of the record is for the 'company' to not mean the 'applicant', otherwise we would have stated the applicant again within our text. As such, we do not consider a change is required, but duly note your concerns on this matter.

(2) As the minutes are not intended to be verbatim or a transcript, we consider the text as written was an interpretation of what was said by the applicant and what Members took to understand from the applicant. Nonetheless the matter is

a moot point, as members of the Planning Committee were clear that the Environment Agency's permit application is a separate regulatory regime that has no bearing on the land use planning matters and therefore had no influence on their decision. As such, whilst your points are noted, they are considered irrelevant to the decision and no changes are recommended to the approved minutes on that basis.

(3) The point made about the presenting officer misleading the Planning Committee is not accepted. Having checked the minutes of the meeting the presenting officer at no point made reference to the amount of 1,200 litres per hour. It is agreed that this reference is in the officer's report and this figure is based on the amount per evaporator. However, the air modelling has taken account of the full processing capacity of 6 x 1,200 litres per hour and whether this emits from one chimney or six, the total being considered remains the same. Furthermore the officer's report was clear where land use planning matters had been considered for air quality, and the environmental concerns that fall to the EA permit to consider - which we consider to be the case here.

(4) The other inaccuracy raised about whose website held details of the waste water from the food and plastics industry is also noted. Officers have taken a similar perspective to your point (1) in that it is not precisely what you said. However, once again, when you take the important point about the type and source of waste water, we consider that this key information is portrayed and shows that this was considered by members of the Planning Committee. As such, like point (1) above, whilst we do not consider that this poses a fundamental issue that requires a change to be made, we have duly noted your concerns on this matter.

For the reasons set out above, we do not consider it necessary to change the approved minutes of the meeting. Nor do we consider that the approved minutes (which are neither verbatim nor a transcript of the meeting) are not representative of the main points and considerations that took place. However, in light of correspondence we have had with Warboys Parish Council and WLAG we are looking to refer this matter back to committee on two specific points, namely (i) that relating to potential noise experienced by caravan occupants; and (ii) the effects of water vapour releases on local atmospheric conditions. The points raised in your complaint will not be dealt with at committee as it is the Council's view that these matters have properly been dealt with. However, a copy of your complaint and this response will be made available to members as part of the officer's report and therefore members will be made aware of the concerns you have raised. This further consideration will not involve a full rehearsing of the entire application scheme but only a consideration by the Council as to whether, in the light of that additional information there should be any change to the decision they have made. This additional information will be reported to committee at the next committee on Thursday 13 December and a short report dealing with the two points set out above will then be considered; this report will be made available in the usual way on the Planning Committee website pages. The agenda and the planning officer's report will be published 6 working days ahead of the meeting.

I hope that this clarifies the situation and will satisfy your concerns raised.

Yours sincerely

A handwritten signature in black ink that reads "EC Fitch". The letters are cursive and slightly slanted.

Emma Fitch (Miss)
Joint Interim Assistant Director, Environment and Commercial

Enc. E-mail correspondence from 8 and 25 October 2018.

Wass Helen

From: lesley dunkling <lsdunkling@hotmail.co.uk>
Sent: 23 October 2018 17:26
To: Wass Helen
Subject: Application no.H/5002/18/CW

Dear Helen Wass,

We wish to register a complaint over the Cambridgeshire County Council's planning committee decision to grant permission for an untested and experimental waste disposal unit at Warboys Landfill Site, Puddock Hill, Warboys. Our complaint is that the decision at the Cambridgeshire County Council's Planning Committee of 6th September 2018 on proposed development is against the guidelines and spirit of the Huntingdonshire Local Plan and therefore unlawful.

The Huntingdonshire Local Plan states specifically that such development should not be within 100 metres of a dwelling. Our house is within 100 metres of the proposed waste disposal unit.

We are also complaining because a proposed site at Fordham was refused because the suggested plant was too near to a dwelling and that a facility at Waterbeach was turned down because of a similar situation. This shows that the council is breaking the terms of its own local plan and its decision to allow the proposed plant at Warboys is inconsistent with decisions taken in other parts of the county.

We would like the county council to rescind its decision and place any waste facility in a location well away from houses.

Paragraph 8.6 of the Huntingdonshire Local Plan recognises that planning has a role in controlling the risk of pollution arising from contamination and possible impact on human health, property and the wider environment. This has plainly been disregarded and we now live in fear of noise and pollution from a plant which would use untried and tested methods of waste disposal anywhere in the UK.

We are also complaining because our submissions and that of our county councillor was ignored by the planning committee. It is not only ourselves that are affected by this proposed development. Other nearby dwellings are affected and the village will be subjected to pollution from lorries grinding through the unsuitable roads to service this plant.

We ask you to advise the chief planning officer and chief executive of the council to this complaint and look forward to your agreement to rescind this decision within 10 days. In the event of your refusal we shall be referring the matter to the relevant ombudsman.

Yours sincerely,

Anthony Dunkling

Lesley Dunkling

Woodview Puddock Road Warboys Huntingdon PE28 2UA

My ref: H/5002/18/CW
Your ref:

Date: 07 November 2018

Contact: Emma Fitch
Telephone: 01223 715531
E Mail: Emma.fitch@cambridgeshire.gov.uk



**Place and Economy
Environment and Commercial**

Mr and Mrs A Dunkling
Woodview
Puddock Road,
Warboys,
PE28 2UA

Box No SH1315
Shire Hall
Castle Hill
Cambridge
CB3 0AP

by e-mail only to
lsdunkling@hotmail.co.uk

Dear Mr and Mrs Dunkling

As per my holding response e-mail of 24 October 2018 (attached for ease of reference), I can confirm that we have considered all your concerns set out in your e-mail dated 23 October 2018. Furthermore, I can confirm that your points have also been considered alongside those of the Parish Council and Warboys Landfill Action Group (WLAG) in relation to their pre-action judicial review concerns already raised with the Council.

Taking each of your points in turn, I have set out the view of officers (planning officers and democratic services officers (where appropriate)) to provide an audit trail of our consideration of your concerns:

- (1) You believe that the decision made at the Planning Committee of 6 September 2018 in relation to the Warboys planning application (H/5002/18/CW) was made against the guidelines and spirit of the Huntingdonshire Local Plan and is therefore unlawful. In particular you draw attention to the fact that *"The Huntingdonshire Local Plan states specifically that such development should not be within 100 metres of a dwelling"* before noting that your house *"is within 100 metres of the proposed disposal unit"*.

From a review of the officer report and also the approved minutes of the meeting, it is clear that both the adopted Development Plan (which includes the adopted policy guidance for Huntingdonshire District Council) and the emerging Huntingdonshire Local Plan were considered by both officers and members of the Planning Committee. In relation to the emerging Local Plan document, this is specifically considered in paragraph 7.7 of the officer report. Furthermore, it is noted within the planning minutes that Mr Dunkling spoke directly to Members and it is recorded that **"Anthony Dunkling commented that the application was against the spirit of the written guidelines in the Hunts Local Plan, that stated that such a site should not be within 100m of homes."** As such, I consider that full consideration was given to both adopted and emerging local plan policy.

Although it has never been specifically stated where the reference to the 100 metre distance exists within the emerging Huntingdonshire Local Plan that you refer to, from an electronic review of this document online, the only 100 metre reference that I can find that would fit this assessment is in relation to emerging policy LP 38 for air quality. This effectively requires the submission of an Air Quality Assessment for a number of triggers, where at point (e) it relates to where *“any part of the site is located within 100m of a monitoring site where the annual mean level of nitrogen dioxide exceeds 35µg/m3.”* On the basis that the applicant submitted an Air Quality Assessment and that this was considered by a number of specialists, including the Environmental Health Officer at Huntingdonshire District Council, I cannot agree that the decision was made against the guidelines and spirit of the emerging Huntingdonshire Local Plan, and is therefore not unlawful. Indeed, had this have been the case, the District Council as a statutory consultee would have responded as such and made a formal objection, which they did not. Furthermore, while the interpretation of policy is a matter of law, the application of policy and weight afforded to those policies is a matter for the decision-maker, which has been acknowledged in recent legal case law.

- (2) In addition to the above concerns, you state that you are *“complaining because a proposed site at Fordham was refused because the suggested plant was too near to a dwelling and that a facility at Waterbeach was turned down because of a similar situation. This shows that the council is breaking the terms of its own local plan and its decision to allow the proposed plant at Warboys is inconsistent with decisions taken in other part of the county. We would like the county council to rescind its decision and place any waste facility in a location well away from houses.”*

In order to address your complaint raised in relation to the Fordham site I have researched the background history and I consider that there has been some confusion and misunderstanding in relation to the Fordham site. Planning permission was granted in 2010 for the construction of a materials recovery facility on this site. However, this planning permission was never implemented and so it has lapsed. The site at Fordham is allocated in our Minerals and Waste Site Specific Proposals Plan (adopted February 2012) for waste recycling and recovery uses. The site profile notes that it is close to sensitive receptors and that noise and dust attenuation measures would be needed to protect residential amenity which would be usual in these circumstances.

In the applicant's assessment of alternatives for the Warboys site, they refer to the Fordham site in their Environmental Statement section on site selection (from page 27) and do a direct comparison of the two sites. Under Air Quality and Noise (table on pages 28 and 29) they state that the closest property to the Warboys site is over 100m and at Fordham is circa 20m. In the officer's report at paragraph 3.4 we make clear that Woodview (your property) is 30 metres from the site access and 110 metres from the

proposed waste management area (the walking floor which stores the wood waste before it is used in the biomass plant).

The most important point to note here is that it was the applicant who ruled out the Fordham site, and it was not the County Council as the Waste Planning Authority that refused it. The reasons given by the applicant for ruling out the Fordham site on page 29 of their Environmental Statement were: *“construction issues (being next to an active railway), fuel supply concerns, grid connection costs being over £15 million and having significant environmental impacts”*. Therefore there is no error in the County Council’s handling of this matter with regards to this point.

Moving onto the next point within this section of your complaint, I have assumed for the purposes of this response that your reference to ‘*a facility at Waterbeach was turned down because of a similar situation*’ is made in connection with the Energy from Waste planning application at Waterbeach Waste Management Park (S/3372/17/CW). However, please do let us know if you are referring to a different application. The reasons for refusal set out on the S/3372/17/CW decision notice are as follows:

1. *“Landscape: The scale and massing of the proposed development, in relation to the landscape (being local character and visual impact) and harm to the visual amenity of local residents (particularly those living nearest the development), are considered to have significant adverse effects which cannot be resolved through the proposed mitigation and consequently the development is contrary to Policies CS33 (Protection of Landscape Character) and CS34 (Protecting Surrounding Uses) of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (2011); and Policies DP/2 (Design of New Development), DP/3 (Development Criteria) and NE/4 (Landscape Character Areas) of the South Cambridgeshire Development Control Policies DPD (2007).*
2. *Heritage: Given the scale and massing of the proposed development, and the significant adverse impact on the local landscape, the harm to the setting of the Denny Abbey Complex heritage asset (comprising the Scheduled Monument; the Grade I Listed Denny Abbey including the remains of the 12th century Benedictine abbey church; the Grade I Listed 14th century Franciscan nunnery; the Grade II Listed 17th century barn to the north of Denny Abbey (The Farmland Museum stone building); and the Grade II listed gate piers at the entrance of the A10) is not outweighed by the benefits of the proposal. Therefore the proposal is contrary to Policy CS36 (Archaeology and the Historic Environment) of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (2011), Policy CH/4 (Development Within the Curtilage or Setting of a Listed Building) of the South Cambridgeshire Development Control Policies DPD (2007) and Paragraph 196 of the National Planning Policy Framework (2018)”*.

Whilst the “*local residents (particularly those living nearest the development)*” are referred to within the first reason for refusal, this is in relation to a building structure that is 141 metres long, between 55 and 91 metres wide, and up to 41.7 metres in height; and for a chimney stack that is 4.5 metres in diameter and 80 metres in height; which relates to the landscape character and visual impact on the area. As such, it is not appropriate to suggest that this was refused purely on the proximity of the residential properties as that is simply not the case.

Having assessed both officer reports written for the Warboys proposal (H/5002/18/CW) and the Waterbeach proposal (S/3372/17/CW) there is no justification to say that neither the officers nor the members of the Planning Committee did not assess the adopted Development Plan policies correctly; and as stated above the planning application at Fordham was also approved, albeit never implemented so that was also considered acceptable in relation to planning policy and the distance from sensitive receptors.

Finally, for the avoidance of doubt, as a decision notice has not yet been issued for the Warboys proposal (H/5002/18/CW), on the basis that the Section 106 legal agreement is still being prepared, the Council is not in the position to be able to revoke its decision.

- (3) In your e-mail dated 23 October 2018 you specifically refer to paragraph 8.6 of the Huntingdonshire Local Plan and stated that it “*recognises that planning has a role in controlling the risk of pollution arising from contamination and possible impact on human health, property and the wider environment [which you consider] has plainly been disregarded and we now live in fear of noise and pollution from a plant which would use untried and untested methods of waste disposal anywhere in the UK.*”

As paragraph 8.6 of the emerging Huntingdonshire Local Plan refers to the positive approach given to renewable energy, I consider you may actually have meant paragraph 8.7 that does appear to refer to “*Planning has a role in controlling the risk of pollution arising from contamination and possible impacts on human health, property and the wider environment. ‘Air Quality’ and ‘Ground Contamination and Groundwater Pollution’ set out the Council’s approach.*”

This is once again relevant to emerging policy LP 38 of the Huntingdonshire Local Plan that is covered in point 1 above. Such an approach seeks to protect air quality and ensures that an Air Quality Assessment is undertaken and submitted as part of the planning application to allow this to be assessed. For the reasons set out in point (1) above this requirement was not only met by the applicant, but also assessed by experts to allow the planning officer to comment on such matters in her report. Therefore we agree that planning does have this role and this has been undertaken as required. Finally, in relation to your concerns about the technology methods being ‘*untried and untested*’ this is specifically covered in paragraph 8.50 of the officer report and was also raised by a number of speakers during the

Planning Committee meeting as noted in the approved minutes. Therefore this matter has been duly considered.

- (4) Furthermore, in your e-mail dated 23 October 2018 you state that you are also complaining because *“our submissions and that of our county councillor was ignored by the planning committee. It is not only ourselves that are affected by this proposed development. Other nearby dwellings are affected and the village will be subjected to pollution from lorries grinding through the unsuitable roads to service this plant.”*

Having attended the Planning Committee held on 6 September 2018 I cannot agree with you on this point. I consider that neither officers nor members of the Planning Committee ignored the public submissions and those of the local county councillor. All matters were given full consideration within the officer report and a thorough officer presentation was given at the Planning Committee meeting to ensure that following the site visit, members were given a full briefing of the proposal ahead of listening to public speakers for and against the proposal, including the comments made by the local member (Cllr Terry Rogers). It is my professional opinion that all submissions were carefully considered by members of the Planning Committee and all material planning considerations taken into account before a decision was reached.

Furthermore, in relation to *‘lorries grinding through the unsuitable roads to service this plant’* the issue of traffic and the routes to be taken were also discussed within the officer report. Members noted the imposition of a planning condition to cover the routing arrangements for the proposal (recommended condition 24) and that no objection was received from the Highway Authority. Indeed the Highway Authority was represented at the Planning Committee meeting and members sought guidance from them in relation to the concerns about traffic being raised. As such, I consider that this concern was also given full consideration ahead of a decision being reached.

- (5) Finally you asked us to advise the chief planning officer and chief executive of the council of this complaint to seek their agreement to rescind this decision within 10 days. In the event that this request was refused you stated that *“we shall be referring the matter to the relevant ombudsman.”*

As set out in my holding response dated 24 October 2018, I confirmed that a copy of your complaint was forwarded to both our Chief Executive (Gillian Beasley) and also the Executive Director for Place and Economy (Graham Hughes) as requested. Furthermore, I provided you with a link to our complaints procedure which sets out the stages of complaint ahead of going to the Ombudsman.

Whilst I did not refer to your request to *‘rescind this decision with 10 days’* as part of my holding response, for the reason given in point (2) above, we have not yet issued the decision notice for this planning application (as the

Section 106 legal agreement is still being prepared) and as such cannot revoke our decision before it is made.

For the reasons set out above, we do not consider that the decision made by our Planning Committee on 6 September 2018 was unlawful, or that officers or members of that Planning Committee failed to take account of all the necessary considerations ahead of reaching their final decision. However, in light of correspondence we have had with Warboys Parish Council and WLAG we are looking to refer this matter back to committee on two specific points, namely (i) that relating to potential noise experienced by caravan occupants, and (ii) the effects of water vapour releases on local atmospheric conditions. The points raised in your complaint will not be dealt with at committee as it is the Council's view that these matters have properly been dealt with. However, a copy of your complaint and this response will be made available to members as part of the officer's report and therefore members will be made aware of the concerns you have raised. This further consideration will not involve a full rehearsing of the entire application scheme but only a consideration by the Council as to whether, in the light of that additional information, there should be any change to the decision they have made. This additional information will be reported to committee at the next committee on Thursday 13 December and a short report dealing with the two points set out above will then be considered; this report will be made available in the usual way on the Planning Committee website pages. The agenda and the planning officer's report will be published 6 working days ahead of the meeting.

I hope that this clarifies the situation.

Yours sincerely



Emma Fitch (Miss)
Joint Interim Assistant Director, Environment and Commercial

Enc. E-mail correspondence from 24 October 2018.

Ms G Beasley,
Chief Executive,
Cambridgeshire County Council,
Shire Hall,
Castle Hill,
Cambridge.
CB3 0AP

25th September 2018

Dear Ms Beasley,

REQUEST FOR REVIEW OF PLANNING DECISION H/5002/18/CW

We are writing to you with regard to the following planning application -

Application no. H/5002/18/CW Warboys Landfill Site, Puddock Hill, Warboys, Cambridgeshire - Construction of a heat and power plant comprising biomass energy from waste (fluidised bed combustion) facility and treatment of waste water by evaporation treatment plant and associated infrastructure comprising tank farm, combuster with 25 metre high chimney, process building, store building, office building, walking floor canopy, car park, fuel storage bays, fire water tank, conveyor, pipe gantry, diesel tank, control room, auxiliary plant skid, high voltage transformers.

This application was approved at a meeting of the Planning Committee held on 6th September 2018 but we understand that planning permission has yet to be granted pending completion of a section 106 agreement with the applicants, Sycamore Planning Ltd.

This application is extremely controversial, principally because of the nature of the processes proposed but also due to the history of Warboys Landfill Site and past failures by the County Council and the Environment Agency to require planning permission for hazardous landfill and to effectively monitor activities on site respectively. The current application attracted representations from 470 local residents, all but one of whom objected. Objections were submitted by Shailesh Vara MP, the Campaign to Protect Rural England (CPRE), the parish councils of Warboys, Wistow and Pidley-cum-Fenton, the town councils of Ramsey and Chatteris, the British Horse Society, Warboys Community Primary School and Warboys Landfill Action Group. An on-line petition objecting to the proposal has attracted over 2,100 signatures.

Warboys Parish Council is considering applying for judicial review of the County Council's decision but you will appreciate that this will incur public expenditure on the part of the both the County and Parish Councils at a time when resources are limited.

Therefore we would ask that you review the way in which this decision was reached as we believe there were flaws in the process which will not stand up to scrutiny. The County Council has the power to revoke planning permission under section 97 of the Town and Country Planning Act 1990. While a claim for compensation can be made for loss and expenditure incurred in such circumstances under section 107 of the Act, the earlier such a decision is taken, the lower the amount of compensation that can be claimed.

The reasons for our request for you to review the Planning Committee's decision are:

Conflict with National Policies

The proposal to dispose of waste water by evaporation is understood to be untested in the United Kingdom. The applicants have built two similar plants at Meriden and Daventry but neither have yet been granted an environmental permit by the Environment Agency.

Moreover the application conflicts with national policies on important matters such as the need to limit climate change impacts and the need to manage waste in accordance with the waste hierarchy as set out in –

The National Planning Policy Framework (NPPF)
The National Planning Policy for Waste (NPPFW)
The Waste Management Plan for England
The 25-year Plan for the Environment
DEFRA draft Clean Air Strategy 2018

Paragraph 7 of the NPPFW is very clear in instructing waste planning authorities what they can take into account when determining applications. As this site is not allocated for incineration or waste water evaporation, we contend that paragraphs 3 and 4 of the NPPFW in terms of site selection for inclusion in waste management plans are also relevant.

In this case, there has been –

- no assessment of need for additional waste management capacity
- no evidence that the proposal will drive waste up the waste hierarchy
- a failure to adequately assess the impact on neighbouring land uses

- a failure to assess the cumulative impact of existing and proposed waste disposal facilities on site on the well-being of the local community, including the significant adverse impact which it will have on environmental quality.

A Leap into the Unknown

It is acknowledged that the processes proposed will emit emissions to air containing toxic chemicals. The Air Quality Impact Assessments predict from the modelling carried out that the emissions will have minor adverse cumulative effects, although annual mean exposure to hexavalent Chromium and Arsenic is predicted to exceed the Environmental Assessment Levels based on the Environment Agency's initial screening method.

The site is located adjacent to grade one agricultural land farmed intensively for the growing of foodstuffs and the rearing of livestock.

There is a growing body of evidence about the impact of air pollution on human health but the cumulative impact of depositions on the soil and entering the food chain is not understood.

The following studies are particularly apposite –

A report by the Committee on the Medical Effects of Air Pollutants (COMEAP) on the effects of particulate air pollution on mortality in the UK which can be found here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/304641/COMEAP_mortality_effects_of_long_term_exposure.pdf

A report by the Committee on the Medical Effects of Air Pollutants (COMEAP) on long term exposure to air pollution: effect on mortality which can be found here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/304667/COMEAP_long_term_exposure_to_air_pollution.pdf

Every breath we take: the lifelong impact of air pollution published by the Royal College of Physicians which can be found here [file:///C:/Users/User/Downloads/Air_pollution_main%20report_WEB_1_0_0%20\(1\).pdf](file:///C:/Users/User/Downloads/Air_pollution_main%20report_WEB_1_0_0%20(1).pdf)

We are only just starting to appreciate the effect of plastic wastes on our environment. As explained below, it is intended to evaporate waste water from the plastics industry at this site. The emissions will fall to ground and may over time have a similarly devastating effect on farmland as those now being recognised in our oceans. We believe the impacts of this development are misunderstood and may

have been greatly understated.

Local Planning Policies

We further believe that there were serious flaws in the way in which this application was presented to the Planning Committee. The application is contrary to policies contained in the County Council's own adopted Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy. These were insufficiently highlighted or ignored in the report to the members of the Planning Committee and at the Committee meeting.

Policy CS33 of the adopted Minerals and Waste Plan states that 'Mineral and waste management development will only be permitted where it can be demonstrated that it can be assimilated into its surroundings and local landscape character area'. The plans submitted show a schematic redolent of the petro-chemical industry wholly at variance with the rural fen landscape. There is also no mention in the report of the visual appearance of the plume that will be emitted from the stack which will be conspicuous for many miles distant.

Policy CS34 of the adopted Minerals and Waste Plan states that 'Mineral and waste management development will only be permitted where it can be demonstrated that there would be no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss to residential or other amenities. Mitigation measures will be required, including where appropriate a **buffer zone** between the proposed development and neighbouring existing or proposed sensitive land uses.'

Paragraph 7.39 of the Plan goes on to state that 'Offensive odours from waste water treatment works can adversely impact on residential amenity potentially at some distance beyond the site boundary. In order to protect local amenity a **stand-off of normally 400 metres** from properties normally occupied by people will be required.'

The proposal is clearly contrary to the County Council's own policies as there are three dwellings within 150 metres from the site of the proposed plant.

Moreover neither the application itself nor the accompanying consultants' reports mention that land some 150 metres from the application site has the benefit of planning permission for a touring caravan park or that applications have been submitted for it to be used on a continuous basis for A14 workers. The site is now occupied by some 30 caravans. There is no reference to this in the planning case officer's report, although a fleeting reference to a caravan site nearby was made in the officer's verbal presentation. The consultants' reports have therefore seriously underestimated the volume of sensitive

receptors nearby and must be regarded as being flawed. The failure to bring this to the attention of the Planning Committee is a major omission.

This site (site reference W1V – Puddock Hill, Warboys (W8AS)) is allocated in the Minerals and Waste Plan for waste recycling and recovery for

- In Vessel Composting
- Materials Recovery Facility
- Inert Waste Recycling
- New Waste Technologies.

Significantly, it is not allocated for waste incineration and waste water evaporation.

The allocation states that the following (inter alia) will need to be addressed within a planning application:

- Noise and dust mitigation will be required
- Measures are required to address potential amenity issues for nearby residential properties and other sensitive receptors
- This site is adjacent to Warboys Clay Pit SSSI, notified (sic) for its geological features. It will be necessary to demonstrate at planning application stage that no adverse impacts to the special features of this site that might occur, for example, through airborne pollutants, particulates or litter.
- The site is also within 0.4 km of Warboys and Wistow Wood SSSI. It will be necessary to demonstrate at planning application stage that no adverse impacts to the special features of this site that might occur, for example, through airborne pollutants, particulates or litter.
- Where the proposal is likely to result in significant environmental effects, such as impacts on a SSSI, information to inform an Environmental Impact Assessment (EIA) will be required at the application stage.

Notwithstanding the need expressed above to address the amenity of nearby residential properties and the adverse impact of airborne pollutants and particulates, the members of the Planning Committee were advised on several occasions by their officers at the Planning Committee meeting that they were unable to take these into account as they are the responsibility of the Environment Agency and could only be addressed in the environmental permit required to operate the proposed processes.

Appendix B to the NPPFW lists air emissions, including dust as being a material planning consideration when determining an application. It goes on to state that this will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles. In advising the Planning Committee that they could not take such matters into account, the planning officers have seriously misled members into the belief that they could not refuse the application on such grounds.

Moreover the planning officer's report proposed no less than four conditions be attached to the planning permission recommended relating to noise and others relating to dust and odour. This is not consistent with advising members that they could not take such matters into consideration.

Finally, the screening opinion issued by the County Council (which had to be reviewed when it was pointed out to them that there was a mandatory requirement for an Environmental Impact Assessment) required the submission of –

Air Quality Impact Assessments for the incineration plant and waste water treatment plant
Noise Assessment
Odour Management Plan
Dust Management Plan

Yet members of the Planning Committee were told that these were not material planning considerations and were matters for the Environment Agency.

Waste Water

The Supporting Planning Statement accompanying the application states the waste water will be 'primarily landfill leachate' with a mention of compost run-off.

However Earthworm Capital who are attracting investment in this proposal describe the waste water on their website as including 'landfill leachate and waste water from the food and plastics industries'.

No mention is made of this in the various consultants' reports, the planning case officer's report nor was this drawn to the attention of the Planning Committee members. This calls into question the veracity of the consultants' reports, particularly in terms of air quality and odour. The air quality impact assessment supplied by the applicants is based on modelling to predict the impact on air pollution but without knowledge of the waste water sources, the results predicted cannot be accurate and should be challenged. In addition the statutory consultees will have based their assessment of the

application on the consultants' reports and will have been misled in drafting their responses to the planning authority.

There has been great attention drawn recently to the implications of waste plastics and their impact on the environment. It is proposed that this plant will evaporate waste water from the plastics industry. The land surrounding this site is grade one farmland used intensively for the growing of food crops and livestock rearing. There has been no examination of the impact of the deposition of particulates on ground contamination and the potential for this to enter the food chain, especially if this includes waste plastics.

This is a major omission from the application and should be the subject of the most rigorous testing.

It cannot be demonstrated that the processes proposed will not endanger human health or harm the environment and it is therefore contrary to the National Planning Policy for Waste.

Paragraph 5.30 of the planning officers' report recommends that the planning authority should consult the 'Food Standards Agency where there is the potential for deposition on land used for the growing of food crops or animal rearing'. However the report states that no comments were received from the Food Standards Agency. If the Planning Committee were unaware of the views of the statutory consultee, it calls into question their ability to form a judgement of the impact on air pollution and human health.

The Environment Agency's Guidance on the Treatment of Landfill Leachate states 'Although unlikely to be a significant issue at the majority of leachate treatment plants, the operator should consider the need to minimise water vapour. In order to address local visual amenity issues which in severe cases can include loss of light, fogging, icing of roads etc. and which can also adversely affect plume dispersion. Ideally, therefore, the exhaust should be discharged at conditions of temperature and moisture content that avoid saturation under a wide range of meteorological conditions'.

There is no mention in any of the reports submitted by the applicants of the potential effects of the water vapour and plume emitted from the plant on local atmospheric conditions. The site lies on the edge of the fens which because of its low-lying and damp conditions can result in heavy fogs. Moreover the guidance suggests that discharges should be regulated to avoid certain meteorological conditions – it is proposed that this plant will operate continuously.

Sustainability

The application proposes that the plants will incinerate 48,000 tonnes of waste wood and evaporate 65,000 tonnes of waste water per annum. 33% of the waste wood will be sourced from an adjacent materials recycling plant (MRF) with the remainder imported from a 30 mile radius. Approximately

1% of the waste water will be sourced from the adjacent landfill site with the remainder imported from a 30 mile radius.

The planning case officer's report contends (paragraph 8.11) that this would lead to a far more proximate management of waste, which in turn brings benefits such as significantly reduced transport and goes towards meeting other sustainability objectives. Yet the precise opposite is the case. Using the sources predicted, only 16,884 tonnes of waste water and leachate generated by the adjacent MRF and landfill site will be treated on site compared with the importation to site of 96,116 tonnes of waste from elsewhere.

It is contended in the application that waste wood and waste water will be sourced from within a 30 mile radius of the site but there is no evidence to support the viability or accuracy of this contention.

It is clear that the proposed development is not sustainable and therefore does not comply with the National Planning Policy for Waste.

Waste Hierarchy

It is proposed that the waste incinerator will burn grades B and C wood. The Planning Committee were informed that the applicants had been unable to provide information on what proportion of the waste wood would be grade B and what would be grade C waste. Appendix A to the report defines the categories of waste wood and paragraph 8.12 does mention that grade B can be recycled. The applicant has stated that grade B and grade C waste would be delivered in mixed loads.

The Environment Agency's Briefing on Regulation of Wood which can be found here https://consult.environment-agency.gov.uk/psc/st21-6ju-mr-robert-ainsworth-mrs-anne-ainsworth/supporting_documents/4.%20Briefing%20on%20Regulation%20of%20Wood.pdf defines Grade B as 'may contain Grade A wood together with other waste wood sourced from construction and demolition activities, transfer stations, civic amenity sites and the manufacture of furniture from solid wood. Grade B waste wood should be regarded as treated waste wood and can mainly be used in panel board manufacture.' It goes on to define Grade C waste wood as 'treated waste wood and should be used as biomass fuel at Waste Incineration Directive (WID) compliant facilities'. It seems clear that the intention is for Grade B wood to be recycled and for Grade C wood to be used as a biomass fuel.

As the applicants cannot demonstrate how much of the waste wood will be category B or C, there every possibility that unspecified quantities on grade B wood will be incinerated rather than recycled. This would have the directly opposite effect of that anticipated of moving waste down the waste hierarchy instead of it being recycled. This is contrary to national policies.

Need

Policy CS29 of the adopted Minerals and Waste Plan requires new waste management proposals to demonstrate that they meet a need in Cambridgeshire and Peterborough to ensure that excessive provision is not made in the Plan area and result in the unacceptable importation of waste.

The NPPFW states that waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

As this site is not consistent with the Local Plan, the applicants should have demonstrated need which they have failed to do. This should have been drawn to the attention of the Planning Committee.

There is increasing concern that the growth in incineration plants in the United Kingdom in the last 15 years is approaching over-capacity to the detriment of the achievement of recycling targets. The United Kingdom Without Incineration Network (UKWIN) has published persuasive arguments in favour of a critical analysis of the waste incineration industry before approval is given to any further incineration plants.

Impact on Nearby Residents

The Environmental Statement accompanying the application states that the search for suitable sites was narrowed to Warboys and Fordham in Cambridgeshire. Fordham was finally discounted because the assessment showed in terms of air quality that 'Closest property circa. 20 metres from the site. Proposed development may result in unacceptable deposition levels at dwellings'. In terms of noise, 'Closest property circa. 20 metres from the site, consequently likely to result in significant adverse noise impact'. For Warboys the report states for air quality 'Closest property over 100 metres. Initial predictions indicate acceptable deposition levels at residential properties'. For noise, it states 'no significant noise impact when properties are over 100 metres.' The nearest property is within 100 metres from the site of the proposed plants at Warboys.

By their own admission, the applicants clearly accept that the plants can give rise to unacceptable deposition levels and create a significant adverse noise impact. To suggest that such implications can dissipate to an acceptable level in the space of 80 metres is stretching the bounds of credulity.

This is not mentioned in the planning officer's report, nor was it drawn to the attention of the members of the Planning Committee.

Weighing the Balance

It was clear from their questions and subsequent discussion that members of the Planning Committee had grave reservations about the implications of the proposal on the local community and environment. They were told by their officers however that those concerns would be addressed by the Environment Agency in an environment permit which we have addressed above. The members were also reminded

on several occasions that none of the statutory consultees had raised any objection to the application. Yet the response from Public Health England was qualified by the need for the planning authority to obtain the views of the Food Standards Agency which they failed to do. Moreover as demonstrated above, the consultants reports may have been based on inaccurate source data with the result that the statutory consultees have not reached informed decisions on the full effects of the proposal.

The members of the Planning Committee were led to believe that it was preferable to grant planning permission subject to stringent conditions rather than risk an appeal against refusal being upheld with an inspector reducing the number of conditions attached to the permission.

However, it was not pointed out to members of the Committee that –

- the applicants could appeal against the conditions imposed by the County Council in any event;
- an inspector could uphold an appeal and add further conditions;
- an appeal against the refusal of planning permission could be dismissed.

In advising the Planning Committee, officers emphasised that it was the role of members to weigh planning policies in coming to a decision. However in recommending approval of the application and their advice to members, officers concentrated almost exclusively on policies and evidence supporting the application and largely ignored any conflicting policies and inconsistencies in the documentation presented by the applicants.

Request for Review of Decision

It is our firm belief that this application raises issues of national significance and that the Planning Committee were misdirected in coming to their decision. As there is no mechanism to appeal that decision other than by the applicants, we ask that you review the evidence and process by which this decision was reached. If you accept, as we suggest, that there were flaws, we ask the County Council to reconsider the matter afresh. If this involves the formal revocation of the previous decision, we urge you to consider adopting this approach.

Yours sincerely,

Councillor Dr Sheila Withams,
Chair, Warboys Parish Council

Mrs Betty Ball,
Chair, Warboys Landfill Action Group

Our Ref : ETE019/165
Date : 7 November 2018
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Cllr Dr Sheila Withams, Chair, Warboys Parish
Council and Mrs Betty Ball, Chair, Warboys
Landfill Action Group

By email only to
clerk@warboysparishcouncil.co.uk and
david.ball473@gmail.com

Dear Sirs

Re.: Proposals for a heat and power plant comprising biomass energy from waste and treatment of waste water by evaporation treatment plant and other development at Warboys Landfill Site, Puddock Hill, Warboys, PE28 2TX

Thank you for your letter dated 25 September 2018 asking the Council to review its decision to grant planning permission for the above development.

As a preliminary point, you have noted that the Council has the power to revoke a planning permission under s. 97 of the Town and Country Planning Act 1990 ("the 1990 Act"); this power is inapplicable until the Council has actually granted planning permission which does not occur until the formal notice granting planning permission is issued.

Your letter sets out a series of points which you contend (see pg. 10) leads to the conclusion that the Committee were misdirected in coming to their decision as a result of what was said in the Council's officer's report ("the OR") or at the Committee meeting held on 6 September 2018 and that, consequently, the decision was legally flawed. I address this contention.

You may be aware that any challenge by way of a judicial review based upon a misdirection to the relevant committee must establish that the officers' advice (given in this case by way of an officer's report) has seriously or significantly misled the Council on a matter bearing on their decision. Additionally, the Court will bear in mind (as per the decision in *R v Mendip District Council ex parte Fabre* (2000) 80 P & C R 500 and *Mansell v Tonbridge Borough Council* [2018] JPL 176) that officers' reports are addressed to a "knowledgeable readership" and considered by members "who, by virtue of that membership, may be expected to have a substantial local and background knowledge". Such an assumption is particularly pertinent here given that a number of members attended a site visit to assess the scheme proposals. Moreover, a Court will bear in mind the purpose of an officers' report which is to summarise the key issues so that members may properly exercise their planning judgment; it is not to pick through and analyse every possible point.

The Council has considered whether any of the complaints which you have set out in your letter would amount to a material misdirection. They clearly would not. Each matter is dealt with in turn.

1. Conflict with National Policies (page 2)

You refer to the National Planning Policy Framework ("NPPF"), the National Planning Policy for Waste ("NPPFW"), the Waste Management Plan for England, the 25-year Plan for the Environment and the DEFRA draft Clean Air Strategy 2018. You do not, however, specify any particular conflict with any particular policy or statement of any document except the NPPFW. You say that the conflict relates to the need to limit climate change impacts and the need to manage waste in accordance with the waste hierarchy.

Before I address your specific complaints on the NPPFW, it is to be noted that the OR specifically addressed the NPPF, the NPPFW and the Waste Management Plan for England. Climate change issues were specifically considered in the report in the context of policy CS22 of the Council's Minerals and Waste Core Strategy Development Plan Document ("the CS") and the Government's objectives both in a policy (see para. 8.2 and 8.18 and 8.22 of the OR) and a statutory context (by reference to the Climate Change Act 2008, para. 8.8 of the OR). The waste hierarchy was also specifically addressed; I deal with your identified complaints on hierarchy further below, but to the extent that unspecified allegations of conflict with the waste hierarchy are alleged, that is wholly unarguable.

I turn to your allegations in respect of the NPPFW. You suggest that paragraphs 3 and 4 of the document are relevant to this application. That contention is wrong. Paragraphs 3 and 4 specifically relate to the identification of sites through the waste planning authority's plan-making functions. They do not purport to deal with the consideration of planning applications.

Paragraph 7 of NPPFW is relevant to the consideration of planning applications. I address the specific claims you make in respect of the NPPFW – each is unarguable:

No assessment of need for additional waste management capacity. This is wrong. Need was specifically considered in the officer's report and in detail at paragraphs 8.4 to 8.26. It was specifically decided that there was a demonstrable need for the facility and that, while it could not be known whether recyclable wood would be burnt, this potential disadvantage was in any event outweighed by the more proximate management of waste and other sustainability objectives, like addressing climate change (see paras. 8.10, 8.26, 8.35, 8.36 and 9.2-9.3).

No evidence that the proposal will drive waste up the waste hierarchy. This is wrong. The OR specifically considered in detail the extent to which waste will be driven up the hierarchy. It is for that reason that the Council recognised the potential for some grade B wood to be processed which would be contrary to the hierarchy. The Committee patently had the relevant material drawn to their attention.

A failure to adequately assess the impact on neighbouring land uses. The OR considered in detail air quality issues (8.39), human health issues (ibid.), visual and heritage issues

(8.56 and 8.86), highways matters (8.60), habitat issues (8.72), noise issues (8.81.), dust issues (8.84) and odour issues (8.85). There is simply no basis for alleging that neighbouring land uses were not adequately assessed.

A failure to assess the cumulative impact of existing and proposed disposal facilities on the site. The Environmental Statement ("the ES") and supporting application documentation provided evidence which informed the Officers' assessment of the proposal. The ES and supporting application documentation considered a range of cumulative issues of relevance to local residents including visual impacts, noise impacts, air quality matters and highways issues. The Officer's judgments on acceptability took into account this evidence when advising members that the proposal was acceptable. Moreover, members were well aware of the area and knew of the proximity of the application site to the local area.

2. "A Leap into the Unknown" (pg. 3)

You allege that the impacts of this development from a human health perspective have been misunderstood and understated; this point is made particularly in the context of the impact of depositions into the soil. These contentions are clearly unarguable. The issues of air quality and the impact on human health were specifically considered in the OR (at 8.39). The Council took into account the fact that the proposal would require licensing from the Environment Agency under the environmental permitting legislative controls and that this would require consideration of the effect of air emissions on human health. This approach is wholly in accordance with the NPPF and the NPPFW. Paragraph 183 of the NPPF states:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 7 of the NPPFW states that waste planning authorities should:

-Consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the location implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies. [it is to be noted that appendix B of the NPPFW does not include human health as an issue to be considered]

...

-Concern themselves with implementing the planning strategy in the Local Plan and not within 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.

Consistent with this advice, the Council has (8.39 of OR et sec) assumed that the environmental permitting system will operate properly, taken into account the advice of the Environment

Agency (which was that there was no objection to the proposal) and Public Health England and avoided undertaking its own detailed assessment of epidemiological and other health studies. Additionally, and in any event, it specifically considered the air quality assessment which considered the potential impacts of the scheme on vegetation (8.49 of the OR) and concluded that they were acceptable.

There is no conceivable error in this approach.

3. Local Planning Policies (pg. 4)

You contend that there were “serious flaws” in the way in which the application was presented to committee by not identifying the contravention of certain CS policies. I deal with each of the points you rely upon.

Policy CS33. You appear to contend that the proposal is contrary to this policy. I remind you that any potential challenge to the legality of the decision must be based on public law grounds. In the context of attacks on Council policy decisions, the Supreme Court has recently reiterated the general principle that, while the interpretation of policy is a matter of law, the application of policy is a matter for the decision-maker (see *Hopkins Homes v Secretary of State for Communities and Local Government* [2017] UKSC 17). Accordingly, the OR concluded, having assessed the potential impact of the proposal by reference to appropriate viewpoints and their context, that the scheme would comply with policy CS33 (8.59); your suggested challenge is against the application of the policy and not the Council’s understanding of its meaning.

Policy CS34. The OR specifically considered this policy in the context of dust, odour and noise issues (see 8.82-8.85). It appears that your complaint is that the Council should have reached the conclusion that the policy was contravened because the scheme fell within a “buffer zone” which, you contend, is identified at paragraph 7.39 of the CS as 400 metres from the development. As a starting point, there is no specific requirement in any policy of the CS that a buffer zone must be applied to the instant development. The Council considered the evidence of potential effects on the nearest properties to the site and reached the conclusion that they were acceptable; this alone discounts the necessity for a buffer zone - there could not have been any justification for the imposition of a generic zone. In any event, paragraph 7.39 of the CS which you rely upon is irrelevant to the consideration of this proposal. This paragraph relates to sewage water treatment works and is not relevant to the present proposal – we note that you do not suggest that policy CS17, to which paragraph 7.39 refers, did fall to be considered in this case. You will note that policy CS17 was not applied to this scheme by officers. Again, I remind you that the application of policy is a matter for the authority not for the courts in the absence of irrationality.

As part of your complaint under this policy, you contend that the Council has failed to take into account the effects on a touring caravan park in, it appears, the context of noise impacts. This is wrong. The Council has considered the nearest residential properties which are themselves closer than the caravan park. As a result, there could be no conceivable error in not dealing with the existence of this receptor. In any event, as you are aware, members were notified at the meeting of the existence of the caravan park and the members who attended the site visit saw

it. It is inconceivable that members had not considered this issue and reached the conclusion that the development was acceptable in noise terms.

Nevertheless, in order to provide further information on this point, the Council has asked the environmental health officer ("the EHO") whether his view of the application would be any different if the caravan park was assessed as a specific receptor. We have had the attached response from the EHO. This response makes quite clear that he takes no different position on the application when taking the caravans into account. I refer to this additional information further below.

Allocation W1V. You contend that this proposal is subject to allocation W1V and so is subject to the criteria contained in the allocation framework. This is wrong. As a matter of fact, the application site lies adjacent to the allocation not within it and so the policy guide in allocation W1V does not apply.

Misdirection that members were told not to take into account air quality issues. For the reasons given above, this point is unsustainable. Members were not told to ignore air quality issues. They were told that the matter would be adequately dealt with through the environmental permitting process and that in the context of air and water borne contaminants the evidence was that the proposal would be acceptable (8.49). As a result, the proposal was considered to comply with policy.

Failure to consider dust, odour and noise. You say that members were told that they could not take such matters into account. This is wrong. Noise issues were specifically considered in the OR (at 8.81 – 8.83) and found to be acceptable and in compliance with policy CS34. The same conclusion, following analysis, was arrived at in respect of dust (8.84). While it was concluded, correctly, that dust would be controlled by the Environment Agency (8.84), this was an additional factor and did not affect the prior conclusion that policy CS34 was complied with. For the sake of completeness, however, even if this point had been taken into account as part of the assessment of policy CS34, it was relevant. Odour was also considered under policy CS34 and the Environment Agency's role assessed in the same manner.

4. Waste Water (pg. 6)

The contention under this heading appears to be that the Council took into account an immaterial consideration or made an error of fact in assessing the waste water treatment proposals on the basis that it would comprise "primarily landfill leachate" when Earthworm Capital who are attracting investment describe the proposed waste water on their website as including "landfill leachate and waste water from the food and plastics industries". You contend that the consultants' reports were therefore assessed on an incorrect basis.

First, there is no actual inconsistency with the statement even if correct; a statement that the treatment will be in respect of "primarily landfill leachate" and a statement that it will include waste water from other sources are not inconsistent positions; the application does not state that all the water treated will be landfill leachate. Second, you have not established that there has, in fact, been any error in the assessment process by any consultant. Third, in any event, this suggested error is a repetition of the contention that health issues have not been properly taken

into account. In accordance with the Council's correct approach of deferring on such matters to the Environment Agency, any such issues will be considered at that stage in the process. You suggest that the consequence is that it cannot be demonstrated that the human health or the environment will not be endangered. The Council disagrees. The air quality analyses coupled with the protective assessment of the Environment Agency does enable the Council to conclude that there will not be an unacceptable effect on the area.

You include under this heading (pg. 7) the lack of a reference to a response from the Food Standards Agency ("FSA") although the Council had recommended (5.30, OR) that the authority should consult that body. This recommendation is in fact derived from Public Health England, not the Council (5.27, OR). The FSA was consulted but no reply was received (5.31, OR). Having received your letter, the Council has made enquiries of the FSA. The FSA did respond on 12 March 2018 but used the wrong email address and so its email was not received by the case officer. I have attached a copy of this email. The email establishes that the FSA had no objection to the scheme subject to monitoring. Monitoring will not occur until commissioning and will be undertaken through the environmental permitting process. Had this email been taken into account by the Council or members at the time of the decision, it is inconceivable that there would have been any difference to the decision.

You assert that there has been no assessment of the effects of water vapour and plume emissions on local atmospheric conditions. Air emission analyses will, as appropriate, be considered by the Agency. There is nothing to indicate that they will not consider this issue (indeed, the advice you refer to in your letter - which is part of the guidance applicable to the environmental permitting process - indicates that it will). In these circumstances, it is unarguable to suggest that this issue could lead to any different conclusion on the part of this Council.

Nevertheless, in order to provide further information on this point, the Council has asked the EA to indicate whether it would consider the consequences of water vapour on local atmospheric conditions as part of the environmental permitting process. They have confirmed orally that they will do so. I refer to this additional confirmation further below.

5. Sustainability (pg. 7)

Your contention is that the Council has wrongly concluded that the proposed development is sustainable. There is no legal error identified in this assertion. Whether the proposal is sustainable is a matter of judgment. The Courts have continually deprecated legal challenges which seek to attack matters of planning judgment. The OR considered over some 9 paragraphs the degree to which the scheme would be sustainable in waste transportation terms (8.27 – 8.35) and the conclusion was reached that, with a relevant condition imposed, the project's aims would be achieved. Condition 25 was accordingly recommended; it is a valid condition.

6. Waste Hierarchy (pg. 8)

It is not clear what error you allege under this heading. However, it appears that you are suggesting that the Council failed to take into account the potential for the scheme to process material which is currently recycled and therefore not drive that material up the waste hierarchy. However, that potential was specifically taken into account in the OR (8.26). Having considered

this potential, the Council also assessed other sustainability objectives (8.27) including compliance with the proximity principle and the contribution of the development to avoiding climate change. Having considered the totality of the application's merits, the Council concluded that this factor did not lead to the conclusion that development was either contrary to the development plan or national policy nor that material considerations should lead to a refusal of permission. There is no legal error in this analysis.

7. Need (pg. 8)

You argue that the applicants should have demonstrated the need for this scheme which they have failed to do. The pertinent question is whether the Council was required to consider the question of need and reached a conclusion on that question. As has been indicated above, this matter was considered within the context of policy CS29 and it was concluded that there was a demonstrable need for the facility; this conclusion then took into account the potential uncertainty of some recyclable wood going to the plant. This uncertainty was plainly material and was properly taken into account by the Council.

8. Impact on Nearby Residents (pg. 9)

This section is a repetition of an earlier part of the letter, namely, the failure to properly take into account the potential for impacts on nearby residents. As I have stated above, the relevant issues were assessed.

9. Weighing the Balance (pg. 9)

Two issues are raised under this heading. First, it is suggested that conflicting policies and inconsistencies in the documentation were ignored in the OR. This is wrong. The relevant issues were taken into account and the Council's assessment dealt with them proportionately and appropriately. There is no conceivable error based upon this unparticularised allegation. The second point is that members were told that it was preferable to grant planning permission subject to stringent conditions rather than risk an appeal and that members were not told that the applicant could appeal against conditions, an Inspector could add further conditions or an appeal could be dismissed. I remind you of the need to take into account members' knowledge; members were plainly aware of the potential powers available to an Inspector on appeal and of an applicant's ability to appeal the imposition of conditions.

Additionally, there was no error in the guidance which was given. If the suggestion under this part of the letter is that members were told that permission should be granted because the Inspectorate could reduce the number of conditions and that this was an error of law, that is patently unsustainable. A statement to that effect would, in fact, be correct. However, the pertinent issue for the purposes of any legal challenge is what members' decision was based upon. There is nothing to indicate that the decision was reached on any different basis than as it was contained in the OR, namely, that approval should be given for the scheme because of the lack of harm occasioned by it and the number of benefits associated with it.

For all of the above reasons, there is no basis for challenging this decision.

As I have indicated above, there are two additional items of information included in this letter which relate to two specific complaints made by you, namely, (a) that relating to potential noise experienced by caravan occupants and (b) the effects of water vapour releases on local atmospheric conditions. Neither of these items of information was before the Committee and so the Council proposes to provide this information to Committee as well as the two particular complaints made by you in order that the Committee can decide whether their decision should be any different. This further consideration will not involve a full rehearsing of the entire application scheme but only a consideration by the Council as to whether, in the light of that additional information and your specific complaints, there should be any change to the decision they have made. This additional information will be reported committee at the next committee on Thursday 13 December and a short report dealing with this point will then be considered; this report will be made available in the usual way on the Planning Committee website pages. The agenda and the planning officer's report will be published 6 working days ahead of the meeting.

I hope the above is of assistance.

Yours faithfully

LGSS Law

LGSS Law Ltd

Enc. Food Standards Agency response
Emails from Huntingdonshire District Council EHO, dated 11 October 2018 and 24 October 2018

Wass Helen

From: Morley, Aaron (Env. Health) <Aaron.Morley@huntingdonshire.gov.uk>
Sent: 24 October 2018 10:34
To: Wass Helen
Cc: Braybrook, Claire (Env. Health)
Subject: RE: Noise Sensitive Recievers

Hi Helen

Just to confirm, we were satisfied that the consultant considered the closest houses (R1, R2 and R3) to the proposed plant as the most noise sensitive receivers. Any dwelling at a greater distance would benefit from distance attenuation. There are no permanent dwellings on the land between R2 and R3 but if caravans are situated there, they would be slightly further away from the proposed plant and would also be temporary; unlikely to be there by the time the plant has developed.

Best regards,

Aaron

Aaron Morley
Environmental Protection Officer
Huntingdonshire District Council



From: Morley, Aaron (Env. Health)
Sent: 11 October 2018 12:52
To: 'Wass Helen'
Subject: Noise Sensitive Recievers

Hi Helen

CCC Planning Ref: H/5002/18/CW
HDC Planning Ref: 18/05002/CCM
HDC Env Health Ref: 119313

Construction of a heat and power plant comprising biomass energy from waste (fluidised bed combustion) facility and treatment of waste water by evaporation treatment plant and associated infrastructure comprising tank farm, combustor with 25 metre high chimney, process building, store building, office building, walking floor canopy, car park, fuel storage bays, fire water tank, conveyor, pipe gantry, diesel tank, control room, auxiliary plant skid, high voltage transformers
Land North Of Warboys Landfill Site, Puddock Hill, Warboys

I have drawn up a map to show the location of the noise sensitive receivers (see below). The receivers R1 to R3 (as identified in the noise report) are coloured green and the site application boundary is outlined in red.

We were satisfied that the acoustic consultant had chosen the most relevant noise sensitive receivers based on their close proximity to the proposed development.



Best regards,

Aaron Morley BSc(Hons) MSc(EngGeol) MSc(EnvHealth) PGDip(Acoust) FGS GradCIEH

Environmental Protection Officer
Environmental Health - Community

Huntingdonshire District Council

Pathfinder House

St. Mary's Street

Huntingdon

PE29 3TN

Tel: 01480 388360



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Wass Helen

From: Olu Adetokunbo <Olujuwon.Adetokunbo@food.gov.uk>
Sent: 15 October 2018 11:02
To: Wass Helen
Subject: FW: Waste management development - environmental impact assessment

Dear Ms Wass,

Thank you for your email.

The Agency responded with comments on the 12 March 2018.

Olu Adetokunbo | Corporate Support unit | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | T: 020-7276 8534 | GTN: 3533 8534 | E: olujuwon.adetokunbo@food.gov.uk

From: Ian Smith <Ian.Smith@food.gov.uk>
Date: 12 Mar 2018 09:38
Subject: Waste management development - environmental impact assessment
To: Wass.Helen@cambridgeshire.gov.uk
Cc: Mark Willis <Mark.Willis@food.gov.uk>

Dear Helen,

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 – Regulation 15 request for a scoping opinion
Planning application no. H/5002/18/CW – Proposed biomass energy from waste and waste water evaporation plants

Thank you for sending the above application seeking full planning permission for the construction of a Biomass CHP and Waste Water Treatment Plant which was submitted to Cambridge County Council (CCC) in January 2018.

The Food Standards Agency has considered the application in terms of estimated deposition rates from air emissions on surrounding farmland. As long as the estimated deposition rates can be verified by monitoring, the impact on surrounding farmland should be negligible.

Best regards
Ian

Ian Smith
Chemical Contaminants and Residues
Food Policy
Food Standards Agency
Ian.smith@food.gov.uk
07773 644330

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Section 73 application to develop land without complying with condition 2 (cessation of development) of planning permission F/2008/16/CW for a wood waste recycling facility

AT: Unit 1, 35 Benwick Road Industrial Estate, Whittlesey, PE7 2HD

APPLICANT: Woodacre Developments Ltd

LPA NO: F/2005/18/CW

To: **Planning Committee**

Date: **13 December 2018**

From: **Joint Interim Assistant Director – Environment and Commercial**

Electoral division(s): **Whittlesey South**

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

Recommendation: **That planning permission is granted subject to the conditions set out in paragraph 10.1**

<i>Officer contact:</i>	
Name:	Helen Wass
Post:	Development Management Officer
Email:	Helen.Wass@cambridgeshire.gov.uk
Tel:	01223 715522

1.0 INTRODUCTION

- 1.1 This waste management facility for recycling wood waste was developed in two stages. Planning permission for the larger part of the site was granted in June 2013 (reference F/02001/13/CW) for a period of 5 years (shown in pink on Figure 1 below). In 2016 planning permission was granted for the variation of conditions 3, 5, 6 and 7 of F/02001/13/CW (reference F/2008/16/CW) and for an extension to the site area (shown in yellow on Figure 1 below) and the erection of a workshop (reference F/2009/16/CW). Both of those permissions were granted for a temporary period expiring on 30 June 2018.

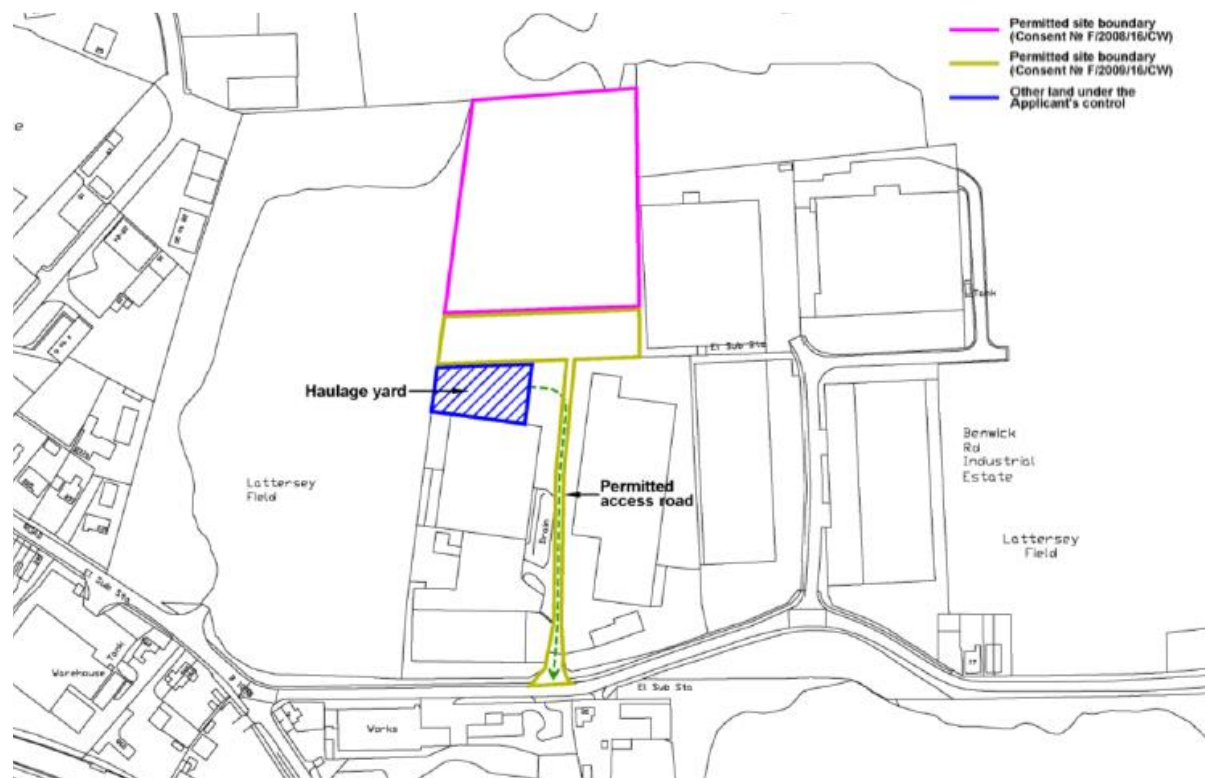


Figure 1

- 1.2 This report relates to one of two applications submitted at the same time (on 23 May 2018) which seek permission to extend the duration of the development for a further five years until 30 June 2023. The waste planning history of the site is set out in paragraphs 6.1 to 6.4 below.
- 1.3 The second planning application (reference F/2006/18/CW) has been submitted to extend the duration of the development in the extension area. This is the subject of a separate report to this committee (agenda item 6).
- 1.4 Condition 2 of F/2008/16/CW specified that the permission for wood waste recycling was limited to a period expiring on 30 June 2018 at which time all unprocessed wood waste, processed wood product, the site office/mess room and weighbridge office shall be removed and the site restored to its pre-development condition.

- 1.5 The County Council as the waste planning authority has received complaints about the operation of the site which resulted in formal enforcement action being taken against the operators. A summary of the enforcement action which has been taken is provided at paragraphs 6.5 to 6.8 below for completeness and an explanation of the weight that should be placed on it in determining this planning application is set out in paragraph 9.1 below.

2.0 THE SITE AND SURROUNDINGS

- 2.1 The recycling site is located near the centre of a primarily industrial area, to the south of Whittlesey Station. The industrial area extends from the Ely to Peterborough railway line to the north, to the Whittlesey Dike to the west, and water-filled former mineral workings to the south. The land to the east is in agricultural use. The recycling site is part of Benwick Road Industrial Estate. Its immediate neighbours are a waste transfer station and land used for HGV trailer parking to the west, industrial buildings to the east and south, and an area of woodland and open water (Railway Lakes County Wildlife Site) to the north.
- 2.2 The access to the recycling site from the B1083 Benwick Road also serves the neighbouring industrial units. The closest residential property is 32 Benwick Road, which is approximately 180 metres (196.9 yards) to the south of the site, and to the south of Benwick Road. There are a small number of houses within 230 metres (251.5 yards) of the site to the south west, which are near the junction of Benwick Road with Station Road and Turningtree Road and to the south east on Benwick Road.
- 2.3 Railway Lakes County Wildlife Site (CWS) adjoins part of the recycling site's northern boundary. Lattersey Local Nature Reserve CWS is immediately to the north of the railway line.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 The application which is the subject of this report is to carry out the development (wood waste recycling) without complying with condition 2 of planning permission F/2008/16/CW for a period expiring on 30 June 2023, at which time all unprocessed wood waste, processed wood product, the site office/mess room and weighbridge office shall be removed and the site restored to its pre-development condition.

4.0 PUBLICITY

- 4.1 The application was advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 by means of a notice in the Fenland Citizen on 27 June 2018 and a notice erected at the site access. The occupants of the houses and businesses closest to the site were notified by letter.

5.0 CONSULTATIONS

- 5.1 Fenland District Council (Planning) – Raises no objections to the proposal but recommended that advice is sought from Fenland District Council's Environmental Protection Team as to the potential amenity impacts of the development.
- 5.2 Fenland District Council (Environmental Protection) - Advised that based on the records they hold, there has been one complaint of dust in the last two years from a neighbour which was referred to the Environment Agency. On this basis, it is not considered that the site will have a significant adverse impact on the surrounding areas. Consequently, they have no objection to the application, in so far as they have an adequate and sustained dust suppression system in place prior to the application being determined. Historically, noise has not been an issue; there hasn't been a complaint regarding noise in the past.
- 5.3 Whittlesey Town Council – Support the need for an increase in commercial businesses in Whittlesey but have concerns that the applicant ignores planning conditions and appears to carry on regardless and disregards these rules.
- 5.4 Environment Agency – Has no objection in principle to the proposed development and offered the following informative:
- East Anglian Resources Ltd (EARL) currently hold an environmental permit, issued by the Environment Agency in March 2016, which authorises them to operate a wood recycling operation on their site at Benwick Road, Whittlesey. This permit has no expiry date. It remains in place until such time as EARL decide to surrender it or the Environment Agency choose to revoke it.
- The permit allows EARL to accept and process up to 30,000 tonnes of wood waste per year.
- 5.5 Highway Development Management – No objection.
- 5.6 Fire and Rescue Service – No comments received.
- 5.7 The Wildlife Trust – No comments received.
- 5.8 Individual representations – Have been received from a business whose premises adjoin the wood recycling premises. They report having to constantly endure wood dust blowing into their yard and workshops which causes problems with precision engineering equipment and workpieces. They have concerns over staff constantly breathing in wood dust of unknown origins and the implications of this to health. The dust ingresses into vehicles which their families are exposed to. They have contacted the Environment Agency about their worries and have also in the past monitored the dust blowing into their yard. This was in the winter when the heaps of wood were smaller and the wood was damp because of the weather. Photographs have been provided showing dust generated by the wood recycling operations.

- 5.9 They consider that the size of the three wood heaps is a huge fire risk. They have witnessed several small fires over the years and one fire that destroyed the adjoining factory unit.
- 5.10 This application relates to the larger part of the wood waste recycling site. The representations received about the application which relates to the extension area (F/2006/18/CM) are summarised in paragraphs 5.8 to 5.11 of agenda item 6.

6.0 PLANNING HISTORY

- 6.1 Planning permission F/02001/13/CW was granted in 2013 for a wood waste recycling facility for a temporary period expiring on 30 June 2018. The development comprised:
- the reception and open storage of waste wood;
 - the use of a mechanical digger/handler to sort wood;
 - the use of mobile plant to shred wood to create a product suitable for use in panel board manufacture or as biomass fuel;
 - Portakabin-type buildings for use as an office, canteen and toilets;
 - a weighbridge;
 - car parking spaces; and
 - a pond for collecting surface water which is used for dust suppression.
- 6.2 A section 73 planning application reference F/2008/16/CW was granted on 20 December 2016. It varied condition 3 (approved plans), condition 5 (annual throughput) and condition 6 (operating hours) of planning permission F/02001/13/CW. Planning permission F/2008/16/CW was granted for a temporary period expiring on 30 June 2018.
- 6.3 Planning permission F/2009/16/CW for the extension of the wood recycling site and the erection of a workshop (retrospective) was granted on 20 December 2016 for a period expiring on 30 June 2018.
- 6.4 The current applications to extend the life of the development were submitted on 23 May 2018 before the expiry of F/2008/16/CW and F/2009/16/CW.

Enforcement history

- 6.5 In October 2015 a Breach of Condition Notice (BCN) was served on the operators for failure to comply with condition 6 of F/02001/13/CW relating to working hours at the site. When the planning permission for the site was varied in 2016 (F/2008/16/CW), a new planning permission and conditions were issued and consequently the October 2015 BCN no longer applied.
- 6.6 On 7 November 2017 and 4 May 2018 two Enforcement Notices for breaches of condition 6 of F/2008/16/CW and condition 5 of F/2009/16/CW were served on EARL. One notice related to the main site area and one to the site extension area. Both notices related to

breaches of the conditions that restricted hours of operation at the site, specifically to the overnight movement of HGVs to and from the site which were affecting residential amenity.

- 6.7 The service of the notices were appealed to the Planning Inspectorate (PINS) who scheduled a public inquiry for 10 July 2018. PINS subsequently cancelled the inquiry and proceeded to a written decision. On 28 August 2018 PINS issued the written decision in which they declined to determine the appeals because from 30 June 2018 when the relevant permissions and conditions expired, the enforcement notices would no longer have any effect. At the same time the Inspector rejected a costs application from EARL and in the costs decision notice he stated '*...it appears to me that the issue of the enforcement notices was a logical and expedient course of action for the Council to take.*'
- 6.8 The Enforcement team continues to receive complaints about overnight HGV movements associated with the site, along with complaints about general working hours, dust and the heights of stockpiles but the site currently operates without a live planning permission and therefore there are no planning conditions to enforce against.

7.0 PLANNING POLICY AND RELEVANT GUIDANCE

- 7.1 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 policies from the development plan are set out in paragraphs 7.3 and 7.4 below.
- 7.2 The National Planning Policy Framework (July 2018) (NPPF), the National Planning Policy for Waste (October 2014) (NPPW), the Waste Management Plan for England (December 2013) and Planning Practice Guidance (PPG) are also material planning considerations.
- 7.3 Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (adopted July 2011) (the M&WCS)
- CS2 – Strategic Vision and Objectives for Sustainable Waste Management Development
CS32 – Traffic and Highways
CS34 – Protecting Surrounding Uses
- 7.4 Fenland Local Plan (adopted May 2014) (the FLP)
- 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

LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland
LP16 – Delivering and Protecting High Quality Environments across the District

7.5 Supplementary Planning Documents

- The Location and Design of Waste Management Facilities (Adopted July 2011)
- The Cambridgeshire Flood & Water Supplementary Planning Document (adopted 14 July 2016)

7.6 Cambridgeshire County Council and Peterborough City Councils have started a review of the Minerals and Waste Development Plan which will be known as the Minerals and Waste Local Plan. It is currently at the first consultation stage in the form of the Minerals and Waste Local Plan Preliminary Plan (May 2018) so currently carries very little weight, if any. The M&WCS and the Minerals and Waste Site Specific Proposals Development Plan Document (adopted February 2012) remain in force until the new Local Plan replaces them.

8.0 PLANNING CONSIDERATIONS

8.1 The NPPF sets out the Government's planning policies and how these are expected to be applied. At its heart is a presumption in favour of sustainable development (paragraph 11). It states that for decision-taking this means:

- *approving development proposals that accord with an up to date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most relevant for determining the application are out of date, granting permission unless:*
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.*

8.2 The NPPW refers to the Waste Management Plan for England. The NPPW sets out the national planning policies for waste development and is to be read in conjunction with the NPPF. It sets out the Government's continuing ambition to work towards a more sustainable and efficient approach to resource use and management including by driving waste up the hierarchy and minimising waste. This includes helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment and recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal. Paragraph 7 of the NPPW sets out specific considerations to be taken into account in

determining planning applications, which are set out further in paragraph 8.4 below. These include only expecting applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan; and ensuring that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.

- 8.3 The National Planning Policy for Waste (NPPW) refers to the Waste Management Plan for England (WMPE) and promotes driving waste management up the waste hierarchy
- 8.4 The NPPW provides guidance on the determination of waste planning applications. Local authorities should, in addition to the points noted in paragraph 8.2 above and specific to this planning application:
- consider the likely impact on the local environment and on amenity and the locational implications of any advice on health from the relevant health bodies;
 - ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located; and
 - 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.
- 8.5 The permitted use, shredding waste wood to create a useable product, drives waste up the waste hierarchy so in this respect is in accordance with national policy and M&WCS policy CS2 and FLP policy LP1.

Dust

- 8.6 The County Council and the District Council's Environmental Protection Officer have received complaints about the dust generated from the site. The Environment Agency has also recorded non-compliance with the environmental permit Dust and Particulate Management Plan.
- 8.7 When F/02001/13/CW, the original planning permission establishing the principle of development, was granted the site was being operated under an exemption from environmental permitting regime. Condition 9 of planning permission F/2008/16/CW required that the site be operated in accordance with an approved dust mitigation scheme. The principal dust control techniques in the approved scheme required the operator to:
- monitor weather conditions;
 - cease wood shredding until fugitive dust has been controlled;

- use a water bowser to dampen surfaces;
- protect activities from wind; and
- cover loaded vehicles.

8.8 An environmental permit was issued on 2 March 2016 and has a Dust and Particulate Management Plan. In addition to the measures set out in paragraph 8.7 water cannons are used to spray the processing area with a mist of water and modifications have been made to the processing plant to reduce the drop height from the conveyors.

8.9 The NPPF at paragraph 183 states that:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”

8.10 There is a similar message in the National Planning Policy for Waste which is set out in the third bullet point of paragraph 8.4 above.

8.11 The control of processes and emissions including dust would be regulated subject to approval under a pollution control regime i.e. the environmental permit. In accordance with Government advice (see paragraphs 8.4, 8.9 and 8.10 above) it is considered that because the site is subject to an environmental permit, the Environment Agency should take the lead in monitoring and enforcing dust control measures. With the controls described in paragraphs 8.7 and 8.8 in place it is considered that the development would comply with M&WCS policy CS34 and FLP policy LP16.

Fire risk

8.12 Condition 4 restricts the height of stockpiles to a maximum of 4 metres (13.1 feet) in order to protect the visual amenity of the area. One measure to minimise the spread of fire is for there to be an appropriate separation distance between stockpiles. This is a matter for the Environment Agency to regulate in the Fire Action Plan which is in place as part of the environmental permit.

8.13 Condition 14 of F/2008/16/CW required that a supply of water for fire-fighting be provided. A 40,000 litre tank has been installed which meets the Fire Service's standards.

Noise and HGV movements

8.14 Condition 12 of F/2006/16/CW states that noise from the permitted activities shall not exceed 55dB (A) Leq, 1 hour or be more than 10 dB (A) above the background level at any noise sensitive property.

Condition 6 of F/2008/16/CW limits the hours of operation to between 0700 and 1900 hours Mondays to Fridays and 0700 and 1300 on Saturdays. The condition also states that no HGVs shall enter or leave the site outside those hours.

- 8.15 Complaints have been received from local residents that HGVs have been entering and leaving the site outside the permitted hours and are causing disturbance affecting the ability to sleep and quality of life. Such complaints include activities late at night and into the early hours of the morning.
- 8.16 The site for which planning permission was first granted in 2013, the main site area, includes the access route through the industrial estate to the public highway. The planning permission for the extension area (F/2009/16/CW) also includes the access route to the public highway. Extending the site area effectively brought the working area and site entrance gate approximately 25 metres (approximately 27.3 yards) closer to the highway. These areas are shown on Figure 1 above. The planning permissions include the access route between the operational area and the public highway so the conditions apply to the access route.
- 8.17 There is an area of land between the southern boundary of the extension area and Unit 2, Benwick Road Industrial Estate (shown hatched blue on Figure 1 above). When the current applications were originally submitted, the applicant referred to it as a “haulage yard” and stated that it may be used *“for vehicles that may exit or arrive outside of the permitted operational hours”* or *“where the Company’s HGVs are parked overnight”*. The “haulage yard” does not have planning permission for waste management use and the applicant was invited to either submit an application for such permission or confirm that the HGVs entering, exiting and parking within the “haulage yard” area are separate to and not connected with the use of the wood recycling site. They chose the latter and withdrew the relevant sentences from the planning application.
- 8.18 The applicant then proposed amending the current planning applications to include the “haulage yard”. They have been advised that the current applications have been made under S73 of the Town and Country Planning Act 1990 to vary a condition of existing permissions and that the areas to which they relate (the “red lines”) may not be extended beyond the land to which the original permissions related. The applicant has been invited to submit a new application for an extension to the site. No such application has been submitted or any indication given if or when it would be. We are therefore proceeding to determine the current applications on the basis that the “haulage yard” is not part of the wood recycling site.
- 8.19 Paragraph 206 of the NPPF provides that planning conditions should only be imposed where they are:
- Necessary;
 - Relevant to planning and;

- To the development to be permitted;
- Enforceable;
- Precise and;
- Reasonable in all other respects

- 8.20 Furthermore, the PPG at paragraph 21a-031-2018 provides: “...*In granting permission under s.73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which would have been imposed on the earlier permission*”.
- 8.21 The applicant has stated that the “haulage yard” is not being used in connection with the use of the wood recycling site and therefore it is considered that a permanent physical barrier should be erected to clearly define and separate the two planning uses. This could be secured by condition (see recommended condition 14 below). If the applicant or any other party wants to use the adjacent land as a “haulage yard”, it is their responsibility to ensure that the relevant planning permission from Fenland District Council is in place.
- 8.22 It is also considered appropriate to add a condition that would help the operator to demonstrate, and the waste planning authority to monitor, compliance with condition 6 that restricts times during which HGV movements may take place (see recommended condition 15 below).
- 8.23 It is considered that the proposed new conditions would meet the 6 tests set out in paragraph 8.19 above and would not materially alter the development that was subject to the original permission.

9.0 CONCLUSION

- 9.1 There is clearly concern within the local community from both businesses and residents situated close to the recycling site about the failure of the operating company to comply with conditions of the 2016 permissions. Members are aware that planning permission benefits the land, not the applicant or a specific operator. Past performance of an operator is not a material planning consideration and the current applications can only be determined on the basis of land use planning considerations and planning policy. The planning authority must make its decision on the basis that any conditions that have been imposed to make the development acceptable in land use planning terms will be complied with and that the pollution control authority i.e. the Environment Agency will apply and enforce the relevant pollution control regime i.e. the environmental permit.
- 9.2 The principle of the development was established in 2013 and reaffirmed in 2016. The relevant planning policy has not changed since then and section 8 of this report sets out why the proposed development would comply with these policies. The wood waste recycling site is capable of being operated in a way which would not significantly adversely affect the environment or amenity of local

residents and businesses if the planning conditions and conditions of the environmental permit are complied with.

10.0 RECOMMENDATION

10.1 It is recommended that planning permission be granted subject to the following conditions.

1. This permission shall be limited to a period expiring on 30 June 2023 at which time all unprocessed wood waste, processed wood product, metal storage containers, the site office/mess room and weighbridge office shall be removed and the site restored to its pre-development condition.

Reason: Permission was sought and granted for a temporary period in the interests of visual and residential amenity in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014).

2. This planning permission shall only relate to the area edged red on Location Plan - Plan Ref: EARL1 hereafter referred to as “the site”. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following plans:

Location Plan – Plan Ref: EARL 1;
Site Plan – Plan Ref: EARL 16/2 Rev B; and
Plan Ref: EARL3 (office/mess room and weighbridge office).

Reason: To define the site and enable the development to be monitored and enforced in the interests of visual and residential amenity in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014).

3. Nothing other than non-hazardous wood shall be stored or treated at the site.

Reason: To minimise the risk of pollution in accordance with policies CS34 & CS39 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

4. The throughput of the site shall not exceed 29,999 tonnes per calendar year.

Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP15 of the Fenland Local Plan (May 2014) and the management of the risk of fire and fugitive dust in accordance with policy CS34 of the Cambridgeshire and Peterborough

Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

5. No operations associated with the development on the site shall take place outside the hours of 0700 to 1900 Mondays to Fridays and 0700 to 1300 on Saturdays. There shall be no such activities on Sundays or Bank or Public Holidays.

No HGVs shall enter or leave the site outside the hours of 0700 to 1900 Mondays to Fridays and 0700 to 1300 on Saturdays. No HGVs shall enter or leave the site on Sundays or Bank or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

6. Stockpiles shall not exceed 4 metres in height when measured from the adjacent ground level.

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

7. No external lighting shall be installed at the site except in accordance with details that have been submitted to and approved in writing by the waste planning authority. No external lights other than security lights shall be illuminated before 0630 hours and after 1930 hours Monday to Friday and before 0630 hours and after 1330 hours on Saturdays. No external lights other than security lights shall be illuminated on Sundays or Bank or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

8. The dust mitigation scheme comprising pages 3 and 4 of the document *Woodacre Developments Ltd Scheme to discharge planning conditions 8, 9, 11, 13 and 14 of Consent No F/02001/13/CW* dated July 2013 shall be implemented in full.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

9. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times and shall be fitted with and use effective silencers. Mobile plant shall use broadband reversing alarms.

Reason: To minimise disturbance to the occupiers of nearby properties

in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

10. The noise monitoring scheme comprising pages 5 and 6 of the document *Woodacre Developments Ltd Scheme to discharge planning conditions 8, 9, 11, 13 and 14 of Consent No F/02001/13/CW* dated July 2013 shall be implemented in full.

Reason: To enable the developer to comply with the noise limit set in condition 11 to minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

11. Noise from the activities hereby permitted shall not exceed 55dB(A) Leq, 1h (free field) or be more than 10dB(A) above the background level at the boundary of any noise sensitive property.

Reason: To minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

12. The surface water disposal scheme comprising page 7 of the document *Woodacre Developments Ltd Scheme to discharge planning conditions 8, 9, 11, 13 and 14 of Consent No F/02001/13/CW* dated July 2013 as amended and amplified by Gough Planning & Development Ltd letter dated 7 October 2014 (*sic*) (received 8 January 2014) shall be implemented in full.

Reason: To minimise the risk of pollution of the water environment in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policies LP14 and LP16 of Fenland Local Plan (May 2014)

13. The water supply for fire fighting described in the developer's email to the Fire Service (Bobby Tribe to Kevin Laska dated 2 September 2013) shall be maintained on site for the duration of the development.

Reason: To ensure that there is a sufficient and accessible water supply for fire fighting in accordance with policy CS39 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policies LP14 and LP16 of Fenland Local Plan (May 2014)

14. Within 4 weeks of the date of this permission a scheme shall be submitted to the waste planning authority for the erection of a barrier between points X and Y on plan no. CCC1. Once approved in writing by the waste planning authority the barrier shall be erected not later than 4 weeks after the date of written approval and thereafter retained and maintained for the duration of the development hereby permitted.

Reason: To clearly define the boundary of the wood recycling site and separate it from land which does not have planning permission for waste management use and which is a separate planning unit to minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014).

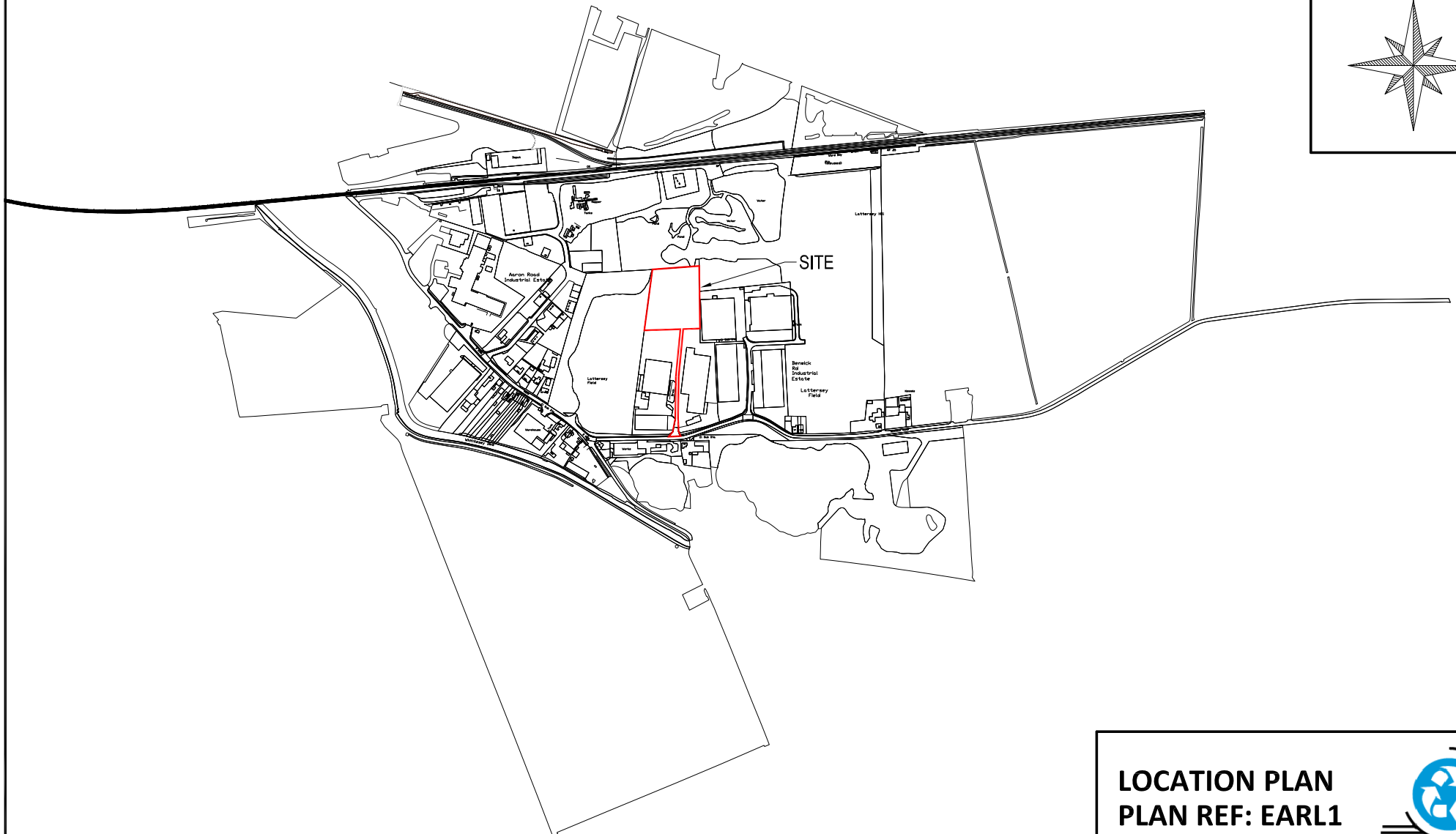
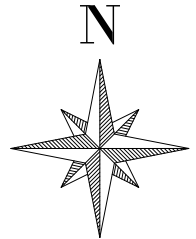
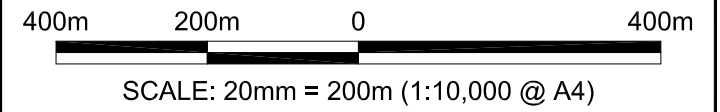
15. A written record shall be maintained at the site office of all movements in and out of the site by HGVs. Such records shall contain the vehicle's registration, company's identity, and the time and date of movement. The records shall be retained for a duration of not less than six months and be made available for inspection by the waste planning authority within 7 days of a written request being made.

Reason: To enable the waste planning authority to monitor the operations and ensure vehicle movements do not exceed that stated in condition 6 and to protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

Compliance with Paragraphs 38 of the National Planning Policy Framework (July 2018)

The waste planning authority has worked proactively with the applicant to ensure that the development is acceptable in planning terms. The development would contribute to the sustainable management of waste.

Source Documents	Location
<p>Link to the National Planning Policy Framework: http://planningguidance.communities.gov.uk/blog/policy/</p> <p>Link to the Waste Management Plan for England: https://www.gov.uk/government/publications/waste-management-plan-for-england</p> <p>Link to the National Planning Policy for Waste: https://www.gov.uk/government/publications/national-planning-policy-for-waste</p> <p>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</p> <p>Link to Fenland Local Plan: http://www.fenland.gov.uk/CHttpHandler.ashx?id=10010&p=0</p>	



LOCATION PLAN
PLAN REF: EARL1



Section 73 application to develop land without complying with condition 1 (cessation of development) of planning permission F/2009/16/CW for the extension of a wood waste recycling facility

AT: Unit 1, 35 Benwick Road Industrial Estate, Whittlesey, PE7 2HD

APPLICANT: Woodacre Developments Ltd

LPA NO: F/2006/18/CW

To: **Planning Committee**

Date: **13 December 2018**

From: **Joint Interim Assistant Director – Environment and Commercial**

Electoral division(s): **Whittlesey South**

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

Recommendation: **That planning permission is granted subject to the conditions set out in paragraph 10.1**

<i>Officer contact:</i>	
Name:	Helen Wass
Post:	Development Management Officer
Email:	Helen.Wass@cambridgeshire.gov.uk
Tel:	01223 715522

1.0 INTRODUCTION

- 1.1 This waste management facility for recycling wood waste was developed in two stages. Planning permission for the larger part of the site (shown in pink on Figure 1 below) was granted in 2013 (reference F/02001/13/CW) for a period of 5 years. In 2016 planning permission was granted for the variation of conditions 3, 5, 6 and 7 of F/02001/13/CW (reference F/2008/16/CW) and for an extension to the site area (shown in yellow on Figure 1 below) and the erection of a workshop (reference F/2009/16/CW). Both of those permission were granted for a temporary period expiring on 30 June 2018.

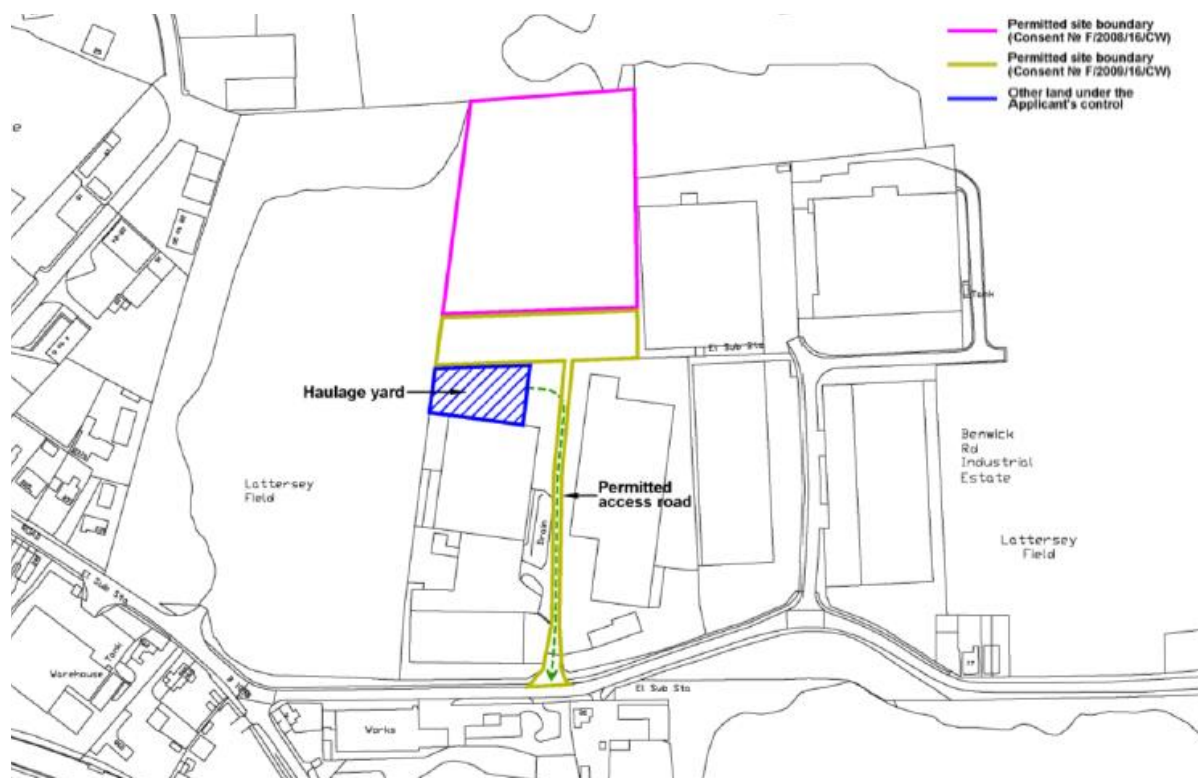


Figure 1

- 1.2 This report relates to one of two applications submitted at the same time (on 23 May 2018) which seek permission to extend the duration of the development for a further five years until 30 June 2023. The waste planning history of the site is set out in paragraphs 6.1 to 6.4 below.
- 1.3 The second planning application (reference F/2005/18/CW) has been submitted to extend the duration of the development in the larger part of the site. This is the subject of a separate report to this committee (agenda item 5).
- 1.4 Condition 1 of F/2009/16/CW specified that the permission for wood waste recycling was limited to a period expiring on 30 June 2018 at which time all waste and processed wood product shall be removed and the site restored to its pre-development condition.
- 1.5 The County Council as the waste planning authority has received complaints about the operation of the site which resulted in formal

enforcement action being taken against the operators. A summary of the enforcement action which has been taken is provided at paragraphs 6.5 to 6.8 below. It has been included for completeness and the weight that should be placed on it in determining this planning application is set out in paragraph 9.1 below.

2.0 THE SITE AND SURROUNDINGS

- 2.1 The recycling site is located near the centre of a primarily industrial area, to the south of Whittlesey Station. The industrial area extends from the Ely to Peterborough railway line to the north, to the Whittlesey Dike to the west, and water-filled former mineral workings to the south. The land to the east is in agricultural use. The recycling site is part of Benwick Road Industrial Estate. Its immediate neighbours are a waste transfer station and land used for HGV trailer parking to the west, industrial buildings to the east and south, and an area of woodland and open water (Railway Lakes County Wildlife Site) to the north.
- 2.2 The access to the recycling site from the B1083 Benwick Road also serves the neighbouring industrial units. The closest residential property is 32 Benwick Road, which is approximately 180 metres (196.9 yards) to the south of the site, and to the south of Benwick Road. There are a small number of houses within 230 metres (251.5 yards) of the site to the south west, which are near the junction of Benwick Road with Station Road and Turningtree Road and to the south east on Benwick Road.
- 2.3 Railway Lakes County Wildlife Site (CWS) adjoins part of the recycling site's northern boundary. Lattersey Local Nature Reserve CWS is immediately to the north of the railway line.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 The application which is the subject of this report is to carry out the development (wood waste recycling) without complying with condition 1 of planning permission F/2009/16/CW for a period expiring on 30 June 2023, at which time waste and processed wood product shall be removed and the site restored to its pre-development condition.

4.0 PUBLICITY

- 4.1 The application was advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 by means of a notice in the Fenland Citizen on 27 June 2018 and a notice erected at the site access. The occupants of the houses and businesses closest to the site were notified by letter.

5.0 CONSULTATIONS

- 5.1 Fenland District Council (Planning) – Raises no objections to the proposal but recommended that advice is sought from Fenland District

Council's Environmental Protection Team as to the potential amenity impacts of the development.

- 5.2 Fenland District Council (Environmental Protection) - Advised [in connection with application no. F/2005/18/CW] that based on the records they hold, there has been one complaint of dust in the last two years from a neighbour which was referred to the Environment Agency. On this basis, it is not considered that the site will have a significant adverse impact on the surrounding areas. Consequently, they have no objection to the application, in so far as they have an adequate and sustained dust suppression system in place prior to the application being determined. Historically, noise has not been an issue; there hasn't been a complaint regarding noise in the past.
- 5.3 Whittlesey Town Council – No comments received.
- 5.4 Environment Agency – Has no objection in principle to the proposed development and offered the following informative:
- East Anglian Resources Ltd (EARL) currently hold an environmental permit, issued by the Environment Agency in March 2016, which authorises them to operate a wood recycling operation on their site at Benwick Road, Whittlesey. This permit has no expiry date. It remains in place until such time as EARL decide to surrender it or the Environment Agency choose to revoke it.
- The permit allows EARL to accept and process up to 30,000 tonnes of wood waste per year.
- 5.5 Highway Development Management – No objection.
- 5.6 Fire and Rescue Service – No comments received.
- 5.7 The Wildlife Trust – No comments received.
- 5.8 Individual representations – Have been received from two businesses whose premises adjoin or are close to the wood recycling premises and one local resident.
- 5.9 The local businesses have raised concerns about the impact of the wood recycling operations on their workforce. They report having to constantly endure wood dust blowing into their yard and workshops which causes problems with precision engineering equipment and workpieces. They have concerns over staff constantly breathing in wood dust of unknown origins and the implications of this to health. The dust ingresses into vehicles which their families are exposed to. They have contacted the Environment Agency about their worries and have also in the past monitored the dust blowing into their yard. This was in the winter when the heaps of wood were smaller and the wood was damp because of the weather. Photographs have been provided showing dust generated by the wood recycling operations.

- 5.10 One company considers that the size of the three wood heaps is a huge fire risk. They have witnessed several small fires over the years and one fire that destroyed the adjoining factory unit.
- 5.11 An individual local resident described living conditions becoming intolerable due to the activities on the wood waste recycling site. They refer to a loud buzzing noise being emitted from machines all day from very early in the morning and a constant covering of dust in their garden depending on wind direction. They suggest that the operations would be better located in the middle of nowhere away from any residential properties.

6.0 PLANNING HISTORY

- 6.1 Planning permission F/02001/13/CW was granted in 2013 for a wood waste recycling facility for a temporary period expiring on 30 June 2018. The development comprised:
- the reception and open storage of waste wood;
 - the use of a mechanical digger/handler to sort wood;
 - the use of mobile plant to shred wood to create a product suitable for use in panel board manufacture or as biomass fuel;
 - Portakabin-type buildings for use as an office, canteen and toilets;
 - a weighbridge;
 - car parking spaces; and
 - a pond for collecting surface water which is used for dust suppression.
- 6.2 A section 73 planning application reference F/2008/16/CW was granted on 20 December 2016. It varied condition 3 (approved plans), condition 5 (annual throughput) and condition 6 (operating hours) of planning permission F/02001/13/CW. Planning permission F/2008/16/CW was granted for a temporary period expiring on 30 June 2018.
- 6.3 Planning permission F/2009/16/CW for the extension of the wood recycling site and the erection of a workshop (retrospective) was granted on 20 December 2016 for a period expiring on 30 June 2018.
- 6.4 The current applications to extend the life of the development were submitted on 23 May 2018 before the expiry of F/2008/16/CW and F/2009/16/CW.

Enforcement history

- 6.5 In October 2015 a Breach of Condition Notice (BCN) was served on the operators for failure to comply with condition 6 of F/02001/13/CW relating to working hours at the site. When the planning permission for the site was varied in 2016 (F/2008/16/CW), a new planning permission and conditions were issued and consequently the October 2015 BCN no longer applied.
- 6.6 On 7 November 2017 and 4 May 2018 two Enforcement Notices for breaches of condition 6 of F/2008/16/CW and condition 5 of

F/2009/16/CW were served on EARL. One notice related to the main site area and one to the site extension area. Both notices related to breaches of the conditions that restricted hours of operation at the site, specifically to the overnight movement of HGVs to and from the site which were affecting residential amenity.

- 6.7 The service of the notices were appealed to the Planning Inspectorate (PINS) who scheduled a public inquiry for 10 July 2018. PINS subsequently cancelled the inquiry and proceeded to a written decision. On 28 August 2018 PINS issued the written decision in which they declined to determine the appeals because from 30 June 2018 when the relevant permissions and conditions expired, the enforcement notices would no longer have any effect. At the same time the Inspector rejected a costs application from EARL and in the costs decision notice he stated '*...it appears to me that the issue of the enforcement notices was a logical and expedient course of action for the Council to take.*'
- 6.8 The Enforcement team continues to receive complaints about overnight HGV movements associated with the site, along with complaints about general working hours, dust and the heights of stockpiles but the site currently operates without a live planning permission and therefore there are no planning conditions to enforce against.

7.0 PLANNING POLICY AND RELEVANT GUIDANCE

- 7.1 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 policies from the development plan are set out in paragraphs 7.3 and 7.4 below.
- 7.2 The National Planning Policy Framework (July 2018) (NPPF), the National Planning Policy for Waste (October 2014) (NPPW), the Waste Management Plan for England (December 2013) and Planning Practice Guidance (PPG) are also material planning considerations.
- 7.3 Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (adopted July 2011) (the M&WCS)
- CS2 – Strategic Vision and Objectives for Sustainable Waste Management Development
CS32 – Traffic and Highways
CS34 – Protecting Surrounding Uses
- 7.4 Fenland Local Plan (adopted May 2014) (the FLP)
- 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
LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland
LP16 – Delivering and Protecting High Quality Environments across the District

7.5 Supplementary Planning Documents

- The Location and Design of Waste Management Facilities (Adopted July 2011)
- The Cambridgeshire Flood & Water Supplementary Planning Document (adopted 14 July 2016)

7.6 Cambridgeshire County Council and Peterborough City Councils have started a review of the Minerals and Waste Development Plan which will be known as the Minerals and Waste Local Plan. It is currently at the first consultation stage in the form of the Minerals and Waste Local Plan Preliminary Plan (May 2018) so currently carries very little weight, if any. The M&WCS and the Minerals and Waste Site Specific Proposals Development Plan Document (adopted February 2012) remain in force until the new Local Plan replaces them.

8.0 **PLANNING CONSIDERATIONS**

8.1 The NPPF sets out the Government's planning policies and how these are expected to be applied. At its heart is a presumption in favour of sustainable development (paragraph 11). It states that for decision-taking this means:

- *approving development proposals that accord with an up to date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most relevant for determining the application are out of date, granting permission unless:*
 - i) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.*

8.2 The NPPW refers to the Waste Management Plan for England. The NPPW sets out the national planning policies for waste development and is to be read in conjunction with the NPPF. It sets out the Government's continuing ambition to work towards a more sustainable and efficient approach to resource use and management including by driving waste up the hierarchy and minimising waste. This includes helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment and recognising the need for a mix of types and scale of facilities, and that

adequate provision must be made for waste disposal. Paragraph 7 of the NPPW sets out specific considerations to be taken into account in determining planning applications, which are set out further in paragraph 8.4 below. These include only expecting applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan; and ensuring that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.

- 8.3 The National Planning Policy for Waste (NPPW) refers to the Waste Management Plan for England (WMPE) and promotes driving waste management up the waste hierarchy
- 8.4 The NPPW provides guidance on the determination of waste planning applications. Local authorities should, in addition to the points noted in paragraph 8.2 above and specific to this planning application:
- consider the likely impact on the local environment and on amenity and the locational implications of any advice on health from the relevant health bodies;
 - ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located; and
 - 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.
- 8.5 The permitted use, shredding waste wood to create a useable product, drives waste up the waste hierarchy so in this respect is in accordance with national policy and M&WCS policy CS2 and FLP policy LP1.

Dust

- 8.6 The County Council and the District Council's Environmental Protection officer have received complaints about the dust generated from the site. The Environment Agency has also recorded non-compliance with the environmental permit Dust and Particulate Management Plan.
- 8.7 When F/02001/13/CW, the original planning permission establishing the principle of development was granted, the site was being operated under an exemption from environmental permitting regime. Condition 9 of planning permission F/2008/16/CW required that the site be operated in accordance with an approved dust mitigation scheme. The principal dust control techniques in the approved scheme required the operator to:
- monitor weather conditions;

- cease wood shredding until fugitive dust has been controlled;
- use a water bowser to dampen surfaces;
- protect activities from wind; and
- cover loaded vehicles.

8.8 An environmental permit was issued on 2 March 2016 and has a Dust and Particulate Management Plan. In addition to the measures set out in paragraph 8.7 water cannons are used to spray the processing area with a mist of water and modifications have been made to the processing plant to reduce the drop height from the conveyors.

8.9 The NPPF at paragraph 183 states that:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”

8.10 There is a similar message in the National Planning Policy for Waste which is set out in the third bullet point of paragraph 8.4 above.

8.11 The control of processes and emissions including dust would be regulated subject to approval under a pollution control regime i.e. the environmental permit. In accordance with Government advice (see paragraphs 8.4, 8.9 and 8.10 above) it is considered that now the site is subject to an environmental permit, the Environment Agency should take the lead in monitoring and enforcing dust control measures. With the controls described in paragraphs 8.7 and 8.8 in place the development would comply with M&WCS policy CS34 and FLP policy LP16.

Fire risk

8.12 Condition 4 restricts the height of stockpiles to a maximum of 4 metres (13.1 feet) in order to protect the visual amenity of the area. One measure to minimise the spread of fire is for there to be an appropriate separation distance between stockpiles. This is a matter for the Environment Agency to regulate in the Fire Action Plan which is in place as part of the environmental permit.

8.13 Condition 14 of F/2008/16/CW required that a supply of water for fire-fighting be provided. A 40,000 litre tank has been installed which meets the Fire Service’s standards.

Noise and HGV movements

- 8.14 Condition 12 of F/2006/16/CW states that noise from the permitted activities shall not exceed 55dB (A) Leq, 1 hour or be more than 10 dB (A) above the background level at any noise sensitive property. Condition 6 of F/2008/16/CW limits the hours of operation to between 0700 and 1900 hours Mondays to Fridays and 0700 and 1300 on Saturdays. The condition also states that no HGVs shall enter or leave the site outside those hours.
- 8.15 Complaints have been received from local residents that HGVs have been entering and leaving the site outside the permitted hours and are causing disturbance affecting the ability to sleep and quality of life. Such complaints include activities late at night and into the early hours of the morning.
- 8.16 The site for which planning permission was first granted in 2013, the main site area, includes the access route through the industrial estate to the public highway. The planning permission for the extension area (F/2009/16/CW) also includes the access route to the public highway. Extending the site area effectively brought the working area and site entrance gate approximately 25 metres (approximately 27.3 yards) closer to the highway. These areas are shown on Figure 1 above. The planning permissions include the access route between the operational area and the public highway so the conditions apply to the access route.
- 8.17 There is an area of land between the southern boundary of the extension area and Unit 2, Benwick Road Industrial Estate (shown on the hatched blue in Figure 1 above). When the current applications were and stated that it may be used *“for vehicles that may exit or arrive outside of the permitted operational hours”* or *“where the Company’s HGVs are parked overnight”*. The “haulage yard” does not have planning permission for waste management use and the applicant was invited to either submit an application for such permission or confirm that the HGVs entering, exiting and parking within the “haulage yard” area are separate to and not connected with the use of the wood recycling site. They chose the latter and withdrew the relevant sentences from the planning application.
- 8.18 The applicant then proposed amending the current planning applications to include the “haulage yard”. They have been advised that the current applications have been made under S73 of the Town and Country Planning Act 1990 to vary a condition of existing permissions and that the areas to which they relate (the “red lines”) may not be extended beyond the land to which the original permissions related. The applicant has been invited to submit a new application for an extension to the site. No such application has been submitted or any indication given if or when it would be. We are therefore proceeding to determine the current applications on the basis that the “haulage yard” is not part of the wood recycling site.
- 8.19 Paragraph 206 of the NPPF provides that planning conditions should only be imposed where they are:

- Necessary;
 - Relevant to planning and;
 - To the development to be permitted;
 - Enforceable;
 - Precise and;
 - Reasonable in all other respects
- 8.20 Furthermore, the PPG at paragraph 21a-031-2018 provides: “...*In granting permission under s.73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which would have been imposed on the earlier permission*”.
- 8.21 The applicant has stated that the “haulage yard” is not being used in connection with the use of the wood recycling site and therefore it is considered that a permanent physical barrier should be erected to clearly define and separate the two planning uses. This could be secured by condition (see recommended condition 13 below). If the applicant or any other party wants to use the adjacent land as a “haulage yard” it is their responsibility to ensure that the relevant planning permission from Fenland District Council is in place.
- 8.22 It is also considered appropriate to add a condition that would help the operator to demonstrate and the waste planning authority to monitor compliance with condition 6 that restricts times during which HGV movements may take place (see recommended condition 14 below).
- 8.23 It is considered that the proposed new conditions would meet the 6 tests set out in paragraph 8.19 above and would not materially alter the development that was subject to the original permission.

9.0 CONCLUSION

- 9.1 There is clearly concern within the local community from both businesses and residents situated close to the recycling site about the failure of the operating company to comply with conditions of the 2016 permissions. Members are aware that planning permission benefits the land, not the applicant or a specific operator. Past performance of an operator is not a material planning consideration and the current applications can only be determined on the basis of land use planning considerations and planning policy. The planning authority must make its decision on the basis that any conditions that have been imposed to make the development acceptable in land use planning terms will be complied with and that the pollution control authority i.e. the Environment Agency will apply and enforce the relevant pollution control regime i.e. the environmental permit.
- 9.2 The principle of the development was established in 2013 and reaffirmed in 2016. The relevant planning policy has not changed since then and section 8 of this report sets out why the proposed development would comply with these policies. The wood waste recycling site is capable of being operated in a way which would not

significantly adversely affect the environment or amenity of local residents and businesses if the planning conditions and conditions of the environmental permit are complied with.

10.0 RECOMMENDATION

10.1 It is recommended that planning permission be granted subject to the following conditions.

1. This permission shall be limited to a period expiring on 30 June 2023 at which time all waste and processed wood product shall be removed and the site restored to its pre-development condition.

Reason: Permission was sought and granted for a temporary period in the interests of visual and residential amenity in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014).

2. This planning permission shall only relate to the area edged red on Location Plan - Plan Ref: EARL 16/1 Rev A hereafter referred to as "the site". The development hereby permitted shall not be carried out except in complete accordance with Site Plan – Plan Ref: EARL 16/2 Rev B.

Reason: To define the site and enable the development to be monitored and enforced in the interests of visual and residential amenity in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014).

3. Nothing other than non-hazardous wood shall be treated at the site.

Reason: 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 policy LP16 of the Fenland Local Plan (May 2014)

4. The throughput of the site shall not exceed 29,999 tonnes per calendar year.

Reason: In the interests of highway safety in accordance with policy CS32 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP15 of the Fenland Local Plan (May 2014) and the management of the risk of fire and fugitive dust in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

5. No operations associated with development on the site shall take place outside the hours of 0700 to 1900 Mondays to Fridays and 0700 to 1300 on Saturdays. There shall be no such activities on Sundays or Bank or Public Holidays.

No HGVs shall enter or leave the site outside the hours of 0700 to 1900 Mondays to Fridays and 0700 to 1300 on Saturdays. No HGVs shall enter or leave the site on Sundays or Bank or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

6. Stockpiles shall not exceed 4 metres in height when measured from the adjacent ground.

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

7. No external lighting shall be installed at the site except in accordance with details that have been submitted to and approved in writing by the waste planning authority. No external lights other than security lights shall be illuminated before 0630 hours and after 1930 hours Monday to Friday and before 0630 hours and after 1330 hours on Saturdays. No external lights other than security lights shall be illuminated on Sundays or on Bank or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

8. The dust mitigation scheme comprising pages 3 and 4 of the document *Woodacre Developments Ltd Scheme to discharge planning conditions 8, 9, 11, 13 and 14 of Consent No F/02001/13/CW* dated July 2013 shall be implemented in full.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

9. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times and shall be fitted with and use effective silencers. Mobile plant shall use broadband reversing alarms.

Reason: To minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

10. The noise monitoring scheme comprising pages 5 and 6 of the

document *Woodacre Developments Ltd Scheme to discharge planning conditions 8, 9, 11, 13 and 14 of Consent No F/02001/13/CW* dated July 2013 shall be implemented in full.

Reason: To enable the developer to comply with the noise limit set in condition 12 to minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

11. Noise from the activities hereby permitted shall not exceed 55dB(A) Leq, 1h (free field) or be more than 10dB(A) above the background level at the boundary of any noise sensitive property.

Reason: To minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of Fenland Local Plan (May 2014)

12. The workshop shown on Site Plan – Plan Ref: EARL 16/2 Rev B and described in paragraph 2.5 of the Supporting Statement dated August 2016 shall be used in connection with the wood waste recycling operation and for no other purpose.

Reason: To ensure that a separate use is not commenced to coexist with the waste processing activities

13. Within 4 weeks of the date of this permission a scheme shall be submitted to the waste planning authority for the erection of a barrier between points X and Y on plan no. CCC1. Once approved in writing by the waste planning authority the barrier shall be erected not later than 4 weeks after the date of written approval and thereafter retained and maintained for the duration of the development hereby permitted.

Reason: To clearly define the boundary of the wood recycling site and separate it from land which does not have planning permission for waste management use and which is a separate planning unit to minimise disturbance to the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and Peterborough Minerals & Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

14. A written record shall be maintained at the site office of all movements in and out of the site by HGVs. Such records shall contain the vehicle's registration, company's identity and the time and date of movement. The records shall be retained for a duration of not less than six months and be made available for inspection by the waste planning authority within 7 days of a written request being made.

Reason: To enable the waste planning authority to monitor the operations and ensure vehicle movements do not exceed that stated in condition 6 and to protect the amenities of the occupiers of nearby properties in accordance with policy CS34 of the Cambridgeshire and

Peterborough Minerals and Waste Core Strategy (July 2011) and policy LP16 of the Fenland Local Plan (May 2014)

Compliance with Paragraphs 38 of the National Planning Policy Framework (July 2018)

The waste planning authority has worked proactively with the applicant to ensure that the development is acceptable in planning terms. The development would contribute to the sustainable management of waste.

Source Documents	Location
Link to the National Planning Policy Framework: http://planningguidance.communities.gov.uk/blog/policy/ Link to the Waste Management Plan for England: https://www.gov.uk/government/publications/waste-management-plan-for-england Link to the National Planning Policy for Waste: https://www.gov.uk/government/publications/national-planning-policy-for-waste Link to the Cambridgeshire and Peterborough Minerals and Waste Core Strategy and Site Specific Proposals: http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/7 Link to the Fenland Local Plan : http://www.fenland.gov.uk/CHttpHandler.ashx?id=10010&p=0	



LOCATION PLAN
PLAN REF: EARL 16/1



ENFORCEMENT UPDATE REPORT

To: **Planning Committee**

Date: **13 December 2018**

From: **Joint Interim Assistant Director, Environment & Commercial Services**

Electoral division(s): **N/A**

Purpose: **To consider the following report**

Recommendation: **The Planning Committee is requested to note the content of this report.**

<i>Officer contact:</i>	
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1 INTRODUCTION

- 1.1 The purpose of this report is to brief the Planning Committee members on the planning enforcement and monitoring work being undertaken by the County Planning, Minerals and Waste team within the Environment and Commercial service.
- 1.2 The Enforcement update report is usually prepared and presented to members quarterly. The last full report was due to be presented in September 2018, but owing to a very full committee agenda the presentation of the report was delayed until October 2018 and consequently the report covered period 1 May 2018 to 21 September 2018. This report covers the work of the team in the next monitoring period which runs from 22 September to 30 November 2018. The next report will be due in April 2019.
- 1.3 The Enforcement and Monitoring team consists of the Principal Enforcement and Monitoring Officer, a Monitoring and Control Officer and a Senior Compliance Officer whose time is shared with the Flood and Biodiversity team.
- 1.4 Paragraphs 2 to 5 of the report summarise the following information:
- Complaints received and their current status;
 - Notices served;
 - Appeals;
 - Number of ongoing investigations;
 - Ombudsman complaints received.
- 1.5 Paragraph 6 of this report details site monitoring visits undertaken between 22 September 2018 and 30 November along with the chargeable income expected from chargeable visits during this financial year.
- 1.6 Paragraphs 7 to 14 of the report provide updates on a number of key ongoing Enforcement investigations.

2 COMPLAINTS RECEIVED

- 2.1 11 new complaints were received between 22 September 2018 and 30 November 2018. Table 1 summarises the status of these complaints at the time of writing.

Table 1 - Complaint Status

Complaint Type	Number
Under investigation	1
Breach established and resolved	5
No breach established, case closed	3
Not a county matter	2
Total	11

- 2.2 At the time of writing, of the 11 complaints received between 22 September and 30 November 2018:

- 10 cases have been investigated and closed;
- 1 case remains open and under investigation.

2.3 In addition to the new complaints received 21 pre-existing complaints (received before 22 September 2018) also remain under investigation.

3 NOTICES SERVED

3.1 No new Enforcement Notices (EN) or Breach of Condition Notices (BCNs) have been served in this period.

3.2 Two new Planning Contravention Notices (PCN) have been served in this period, the details of the alleged breaches of planning control that the PCN's relate to can be found in paragraphs 8 and 14 below.

4 APPEALS

4.1 No planning or enforcement appeals have been dealt with in the period 22 September to 30 November 2018.

5 OMBUDSMAN COMPLAINTS

5.1 No Local Government Ombudsman (LGO) complaints were received during the period 22 September to 30 November 2018.

6 SITE MONITORING VISITS 22 SEPTEMBER - 30 NOVEMBER 2018

6.1 The Authority carries out proactive monitoring visits to check compliance with the conditions set out in the grant of planning permissions for quarries and landfill sites. The Authority levies fees for these visits, which are set out in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended). The national fees for conducting the visits are currently:

- | | |
|-----------------------------|------|
| • Actives sites | £397 |
| • Inactive or dormant sites | £132 |

6.2 The amount of chargeable monitoring visits scheduled to be conducted within each financial year is agreed in advance and all operators are notified of the proposed number of visits.

6.3 Other waste activities such as waste transfer stations, waste recycling sites and scrap yards are also visited by officers in order to assess compliance with the conditions set out in the grant of planning permission. However, the cost of these visits is borne by the Authority.

- 6.4 A summary of the number and type of chargeable monitoring visits, non-chargeable monitoring visits and complaint site visits carried out during the monitoring period is set out in Table 2 below.

Table 2 – Chargeable Site visits by type 22 September to 30 November 2018

Site Type	Visits
Landfill	7
Quarries	10
Non chargeable sites	4
Complaint site visits	10
Total	31

- 6.5 Chargeable site visits have priority as they generate a small but significant income stream for the Council.
- 6.6 The total income for the scheduled chargeable monitoring visits for the 2018 to 2019 financial year is £23,946.00.

7 ENFORCEMENT CASES

- 7.1 There are currently 3 active enforcement cases where formal enforcement action has been taken and monitoring is on-going. A summary of each case is set out in Appendix 1.
- 7.2 For the purposes of the Town and Country Planning Act 1990 the issue of an Enforcement Notice (EN) or the service of a Breach of Condition Notice (BCN) constitutes taking formal enforcement action.

8 MILL ROAD, FEN DRAYTON

- 8.1 On 5 October 2017 the appeal to the Planning Inspectorate against the Council's refusal to grant a Certificate of Lawful Development for use of the above land for the processing of inert waste was withdrawn. The Council had refused to grant a previous Certificate application for a similar waste planning use on the land in 2015.
- 8.2 The enforcement team made contact with the agent acting for the landowner about the ongoing breach of planning control. In March 2018 the agent submitted an enquiry about the possibility of obtaining pre application advice relating to a new Certificate application in respect of the ongoing waste use on the land. Officers advised that although it would be possible to deal with such an application, two previous Certificate applications had been refused and they were not aware of any material change(s) in circumstances that might be likely to lead to a different opinion.
- 8.3 Notwithstanding the above, the agent for the application has advised that a new Certificate application is being prepared. Noting the Council's refusal to grant the two previous Certificates, on 21 November 2018 a Planning Contravention Notice was served on the landowner in preparation for initiating enforcement action in respect of the unauthorised waste uses that continue to take place on the land.

9 LAND ADJACENT TO ROYSTON RECYCLING CENTRE

- 9.1 In February 2015 approximately 20,000 bales of refuse derived fuel (RDF) waste was deposited on the above land. A multi-agency approach produced an emergency plan taking into account of the site's proximity to the Cambridgeshire and Hertfordshire county border, the fire risk associated with the stored waste and the possible implications that the amount and type of waste had on the presence of an aquifer.
- 9.2 A topographic survey showed that approximately 13,952 tonnes of waste material had been deposited, raising the level of the land across roughly two thirds of the site. A condition survey, drilling of boreholes and modelling work were undertaken to inform the standard of clean up required by the Environment Agency (EA) to minimise the risk to groundwater. The operator provided the EA with a remediation proposal which did not target all of the waste deposits buried across the site.
- 9.3 On 25 May 2017 the EA served a Section 161A Works Notice under the Water Resources Act 1991 (the Notice) requiring the operator to remediate the land in 16 stages, with full compliance to be achieved by 11 April 2018. This deadline was not met and the EA submitted a prosecution case file to their legal team in respect of the non compliance. However the EA took expert advice on the evidence and decided not to pursue this charge.
- 9.4 However, the prosecution case regarding deposition of waste in or on land proceeded with guilty pleas being entered and a date for sentencing has been set for 14 January 2019.
- 9.5 In addition, the EA are currently deciding what measures to take, if appropriate, in respect of more intrusive sampling and groundwater monitoring.

10 FIELD 6184 / BLACK BANK, LITTLE DOWNHAM

- 10.1 The Enforcement and Monitoring team had investigated the alleged importation of waste onto agricultural fields at First Drove and Black Bank, little Downham for a number of years.
- 10.2 An Enforcement Notice was served in relation to the unauthorised importation of waste on to land at First Drove in 2012, the details of which can be found in Appendix 1 below. The Notice was not fully complied with but legal advice was that without evidence of the original land levels a prosecution for failure to comply with the Notice was unlikely to be successful. The land owner ceased the importation of waste on to that piece of land. However, in 2015 concerns were raised that the importation of waste had now transferred onto land at Black Bank, Little Downham which is within the same agricultural unit and ownership as First Drove.
- 10.3 Noting that the service of the Enforcement Notice had not remedied the breach of planning control at First Drove, the Council sought advice from Counsel on how to address the ongoing unauthorised importation of waste on to the agricultural unit. Following legal advice, in February 2018 the County Council submitted an application to the High Court for a prohibitory injunction which would make it a criminal offence to import any further waste material onto any part of the agricultural unit.

- 10.4 A two day hearing took place at the Royal Courts of Justice on 23 and 24 July 2018. The Judge did not rule on the application for an Injunction at the hearing because the Defendants (the landowners and tenant farmer) agreed to a High Court Order instead. The Order states that the defendants must not import any waste onto the land or undertake any engineering operations (such as the creation of bunds) without fresh planning permission or the written consent of the County Council. The Order is drafted in the same terms as an Injunction and a confirmed breach could result in contempt of court proceedings just as if it were an Injunction.
- 10.5 The Order states that landowner must notify the Council if they wish to import waste or undertake engineering operations on the land and detail the anticipated volume of waste required. Once notified, the Council has six weeks to agree or object to the proposed importation and if the Council fails to respond then the works can take place without being in breach of the Order. However, if the Council refuses consent and the landowner wants to dispute this then he will need to apply to the County Court for them to rule on whether the waste is legitimately required for permitted development works on the land.
- 10.6 The defendants were ordered to pay 75% of the Council's legal costs which the Judge commented reflects the fact that the Council was successful in bringing the proceedings before the Court.
- 10.7 The final agreed Costs amount that the defendants need to pay to the Council is £11,500.00. The Executive Director has agreed that this amount can be paid in four annual instalments with interest charged at 4% above the base rate, which is in line with how the Council calculates late payments under its Section 106 agreements. The first annual invoice has been sent to the defendants and payment is due by 1 December 2018 and so a verbal update on whether the payment has been made can be provided to members at Committee.

11 COTTENHAM SKIPS, HISTON ROAD, COTTENHAM

- 11.1 Throughout 2017 and 2018 officers investigated a number of allegations that material and debris from the Cottenham Skips waste transfer station was escaping from the site and detrimentally affecting the condition of the Cottenham to Histon cycle path. Officers confirmed that Condition 14 of S/00795/11/CW which required the phased implementation of hard standing across the site had not been fully implemented and that this could be contributing to the problem with the debris escaping on to the highway.
- 11.2 Officers have served a Planning Contravention Notice on Cottenham Skips in respect of their failure to complete the hardstanding on site and the evidence obtained from the completed notice will allow officers to assess whether this has any impact on the condition of the highway. The Notice also covers the breach of Condition 2 of the same permission which relates to the failure to leave a turning circle onsite as shown on the approved plans.
- 11.3 In August 2018, a local Councillor reported a concern to the Minerals and Waste Planning Authority (MWPA) about the accumulation of waste material in an adjacent drainage ditch to the north east of the site. Officers passed evidence of the

environmental risk from the amount of waste escaping the site and landing in adjacent fields on to the Environment Agency to investigate.

- 11.4 On 19 November 2018 officers inspected the drainage ditch and confirmed that the waste had been cleared and that the repairs had been made to the site boundary which had resulted in a significant improvement in the condition of the adjacent land. Officers will continue to monitor the site and surrounds and liaise with the EA to address any repeat of the spillage.

12 BLOCK FEN

- 12.1 The upgrading of Block Fen Drove to make it suitable to accommodate all the mineral and waste traffic associated with sites in the area has been an ongoing issue for a number of years. Appendix 1 details formal enforcement action that had been taken previously to try to resolve this issue.
- 12.2 A formal Section 278 (S278) agreement from the Highway Authority was required for the works to improve the highway and the application for the agreement needed to be accompanied by 50% of the application fee. In September 2016 the sharing of the costs for the scheme was agreed and all the operators sent in their share of the formal S278 agreement application fee.
- 12.3 In May 2018 planning permission reference F/2000/17/CW was approved for the continuation of landfill and a number of other waste uses at the Witcham Meadlands quarry within Block Fen, operated by Mick George Limited. The S278 designs for the improvements were at an advanced stage and, as a consequence, a pre commencement condition was imposed on the permission relating to the Highway improvements. The condition requires that no development shall take place until the improvements have been made to Block Fen Drove.
- 12.4 The new permission has been implemented, however the S278 agreement has yet to be finalised and the operator has not yet been unable to undertake the required upgrade because the power company won't permit works near their cable in wet weather. This means that the improvement works are not likely to take place until early next year. The operator has been advised that, provided that the delay in undertaking the highway improvements is only because of the agreement and the weather conditions, then the planning harm caused by the breach may not need addressing immediately. However, if the timescale slips and there is a longer delay then the MWPA will reassess the position in respect of enforcement.

13 SAXON PIT, PETERBOROUGH ROAD, WHITTLESEY

- 13.1 In January 2018 the Environment Agency (EA) received a number of odour complaints associated with inadequate waste acceptance procedures taking place at Saxon Pit as part of filling the excavation void which is covered by a County Council waste planning permission. Investigations undertaken by the EA revealed a large scale problem regarding the acceptance and depositing of nonconforming waste material covering a large area down to an approximate depth of 2 metres.
- 13.2 All work on site has stopped whilst the operator voluntarily comes up with a remediation strategy to be agreed by the EA. The net result of the unauthorised

activity is that the stabilisation project was not completed by November 2018 as originally intended and the previous planning permission has now expired. However, a S73A planning application has been submitted to extend permission for the importation of waste to buttress the southern face of the former quarry.

- 13.3 The EA has served an Enforcement Notice requiring the removal of the non conforming waste from phase 1 of the development by 10 February 2019. However, at the time of writing this report, the period in which the Notice could be appealed had not expired and further updates on this can be provided at Committee, if they are available.
- 13.4 The EA is continuing to investigate the deposit of non conforming waste across a further five phases of the development and are the lead investigators because there are multiple breaches of the operator's environmental permit and no planning permission is currently in place to enforce against.
- 13.5 Officers from County Planning will continue to work closely with the EA to ensure that enforcement officers are aware of the current situation and whether this would affect the determination of the S73A planning application or subsequent enforcement investigations.

14 OLDFIELD LANE, WISBECH

- 14.1 In January 2018 the enforcement team received an allegation that an end of life (ELV) scrapyard was operating without planning permission at Unit 6, Oldfield Lane, Wisbech. Officers visited the site to assess the planning use and noted a large number of vehicles and vehicle parts stored across the site in various states of assembly and repair. The tenant of the site advised that all the vehicles and parts related to his hobby of banger racing, that he shared the site with 4 or 5 others and that most of the vehicles were registered with the DVLA as SORN (Statutory Off Road Notification). Officers advised that because the use of the site appeared to be for ELV a Planning Contravention Notice (PCN) might need to be served to get a formal written record of activities and operations at the site but that, prior to service, a further visit could establish whether there had been any turnover of vehicles and parts to ascertain whether this is a hobby yard or a commercial ELV site.
- 14.2 Evidence obtained at a second site visit, which took place in April 2018, was that there did not appear to have been any noticeable turnover of the vehicles and parts on the site and a banger / stock racing car was seen being worked on within a workshop at the site. However, it was still not clear from the level of activity at the site whether this was an ELV scrapyard or a yard used for storage and repair of stock cars, which would be a matter for Fenland District Council planning rather than a County Waste matter.
- 14.3 On 19 October 2018 a third site visit was undertaken with an Officer from the EA who is also investigating the activities at the site and assessing whether the tenants require a permit or exemption from the EA for the handling of waste. The tenants present at the visit advised that there are still four regular users of the site for banger car mechanics / repair / assembling and each person takes a section of the site for storage of vehicles and parts. One of the tenants gave details about a number of the vehicles that were seen and photographed at this visit, such as at which race they will be taken to, in what timescale and that they will be destroyed

during the races. The fixtures and fittings within the vehicles are stripped before races and engines and parts are replaced on site. Once destroyed, the vehicles are returned to the site and then taken to the authorised ELV site that operates on Oldfield Lane to be dealt with as scrap. One lorry on the site contained a large number of panels for vehicles which the tenant advised were being stored for the nearby ELV site.

- 14.4 On 22 November 2018 a PCN was served on the tenants of the site and the land owners to gather more information about the land planning use of the site to confirm whether this is a waste site or a site to repair stock racing cars which would be a District planning matter.
- 14.5 Officers continue to liaise closely with the EA about the use of the site and have also had discussions with Fenland District Council planning enforcement so that they are aware of the activity at the site should the evidence from the PCN confirm that this is not a matter for County Waste Planning.

APPENDIX 1 – ENFORCEMENT CASES WHERE NOTICES HAVE BEEN SERVED AND MONITORING IS ONGOING

KEY: RED = HIGH PRIORITY AMBER = MEDIUM PRIORITY GREEN = LOW PRIORITY

Description of Alleged Breach	Location	Notice Issued	Comments
<p>1. GREEN Failure to comply with condition 6 of planning permission F/02017/08/CM and E/03008/08/CM.</p> <p><u>Condition 6</u> No development shall commence until a scheme for the phased improvement of the public highway known as Block Fen Drove from its junction with the A142 to its junction with the private haul road referred to in condition 4 has been submitted to and approved in writing by the MWPA in consultation with the local highway authority. The submitted scheme shall include a programme of implementation and shall be fully completed by 5 August 2012.</p>	Mepal Quarry Block Fen Drove Mepal	BCN 06/01/14	<p>A BCN was served on the site operator for failing to implement the approved scheme to improve the public highway</p> <p>See section 12 on Block Fen in the main body of the report for a further update.</p>
<p>2. GREEN Failure to comply with condition 7 of planning permission S/01556/10/CW regarding surfacing of the site.</p>	Long Acre Farm Fen Road Chesterton Cambridge	BCN 08/10/13	A joint visit with the EA in May 2015 confirmed that the majority of the waste had been removed from the site, the hardcore and soils that remained on site did not represent a pollution risk. The site was not operational for most of 2017 and but in 2018 it was taken over by Ely Skips who cleared the site and resumed the sorting of waste, but only within the buildings.
<p>3. AMBER Without planning permission, the change of use of the land from agricultural land to a mixed use comprising of agricultural and the importation and disposal of waste material and raising the level of part of the land by the depositing of waste materials.</p>	First Drove Little Downham Ely	EN 17/01/12	An EN for unauthorised change of use was served in 2012 and upheld but varied at appeal. The amended notice required the removal all the waste from land to the level of the adjoining field. Topographical surveys of the land confirmed that the EN had not been fully complied with. Counsel has advised that the case did not meet the public interest test for a prosecution. But advice received in 2017 in respect of the larger agricultural unit led to the High Court action detailed in section 10 above.

Summary of Decisions Made Under Delegated Powers

To: **Planning Committee**

Date: **13 December 2018**

From: **Joint Interim Assistant Director Environment & Commercial**

Electoral division(s): **All**

Purpose: **To consider the above**

Recommendation: **The committee is invited to note the report**

<i>Officer contact:</i>	
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1.0 INTRODUCTION

- 1.1 At the committee meeting on 31 January 2005 it was agreed that a brief summary of all the planning applications that have been determined by the Head of Strategic Planning under delegated powers would be provided.
- 1.2 The Scheme of Delegation set out in Part 3D of the Council's Constitution describes the extent and nature of the authority delegated to the Executive Director: Place and Economy to undertake functions on behalf of Cambridgeshire County Council. The delegations are made either by the Full Council or one of its committees. The Executive Director, considered it necessary and expedient, to authorise the Head of Strategic Planning (now the Joint Interim Assistant Director Environment & Commercial) to undertake functions on his behalf. These authorisations are included within a written schedule of authorisation published on the Council's website which is available at the following link for Place and Economy:
<https://www.cambridgeshire.gov.uk/council/council-structure/council-s-constitution/>.

2.0 SUMMARY OF DECISIONS

- 2.1 Six applications have been granted planning permission under delegated powers during the period between 20/10/2018 to 02/12/2018 as set out below:

1. **F/2008/18/CM** – Section 73A planning application to develop land without complying with Condition 3 (Time limit) of planning permission F/2013/16/CM for the completion of construction of two agricultural reservoirs by the extraction and export off site of the remainder of unprocessed sand and gravel (at the outset approximately 650,000 tonnes) for a further temporary period until 31 October 2019, with the completion of final restoration and landscaping by 30 April 2020.

Location: Lyons Farm Reservoirs, Wimblington Road, Manea, Cambridgeshire, PE15 0JZ

Decision granted 24/10/2018

For further information please contact Jane Stanley on 01223 743812

2. **H/5000/18/CC** – Extension of the existing Academy car park in order to provide six car parking spaces

Location: Spring Common School, American Lane, HUNTINGDON, PE29 1TQ

Decision granted 30/10/2018

For further information please contact Tracy Rockall on 01223 699852

3. **H/5014/18/CW** – Planning application to retain and operate landfill gas utilisation plant and compound for a further 20 years until 31st December 2038.

Location: Landfill Gas Extraction Site, Brampton Road, Buckden, PE19 5UH

Decision granted 11/15/2018

For further information please contact Jane Stanley on 01223 743812

4. **H/5010/18/CW** – Retrospective installation of aggregate bagging plant

Location: Mick George (haulage) Ltd, Second Drove, ST. IVES, PE27 4YQ

Decision granted 16/11/2018

For further information please contact Will Laing on 01223 706731

5. **H/5011/18/CW** – Section 73 application for extension to waste recycling building, reconfiguration of waste transfer station site and extension to hours of operation without compliance with conditions 2 (Approved Plans); 6 (On-Site Activity Outside of Building); Condition 8 (Stockpile Heights); Condition 9 (Parking Areas) of planning permission reference H/5009/15/CW.

Location: Mick George (haulage) Ltd, Second Drove, ST. IVES, PE27 4YQ

Decision granted 16/11/2018

For further information please contact Will Laing on 01223 706731

6. **F/2003/18/CW** – Section 73A planning application to develop land in relation to Unit 1 (part of the original application site) without complying with Condition 7 (Hours of operation for Unit 1) of planning permission reference F/2004/16/CW and F/2010/16/CW, which are pursuant to planning permission F/2019/02/CW (Proposed Erection of Two Industrial Buildings for the Granulation and Baling of Waste Plastics for Recycling).

Location: Unit 1 and 2, Eastwood Industrial Estate, Eastwood End, Wimblington, PE15 0QN

Decision granted 22/11/2018

For further information please contact Jane Stanley on 01223 743812

Source Documents	Location
Applications files	SH1315, Shire Hall, Cambridge, CB3 0AP

