

Agenda Item No: 3

LAND AT: NATIONWIDE RECYCLING LTD, BARNWELL JUNCTION, SWANN ROAD, CAMBRIDGE, CB5 8JZ

FOR: ERECTION OF 48 METRE LENGTH OF 5 METRE HIGH FENCE AND 42 METRE LENGTH OF 5.1 METRE HIGH STACKED SHIPPING CONTAINERS TO PROVIDE NOISE ATTENUATION AND VISUAL SCREENING (RETROSPECTIVE)

LPA REF: C/5010/10/CW

To: **Planning Committee**

Date: **21 July 2016**

From: **Head of Growth and Economy**

Electoral division: **Abbey**

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

Recommendation: **It is recommended that planning permission is GRANTED**

Officer Contact:

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1.0 THE SITE AND SURROUNDINGS

- 1.1 The application site is formed of two separate areas, which include the fence and the area on which the containers are sited only. This has an area of 118m². The development is situated on an existing scrapyards, which comprises two yards that are divided by an access road and cover in total an area of approximately 0.4 hectares. The northern yard is used for handling non-ferrous metals. There is a 14 metres x 8 metres recycling building, small weighing shed, a small welfare building, but the majority of the operation including the storage of sorted metals is carried out in the open air within and outside skips. The southern yard is used for handling ferrous metal and has a weighbridge and a steel container used as a weighbridge office. The metal is handled and stored in the open within and outside skips.
- 1.2 The land lies at the southeastern edge of Mercers Row Industrial Estate which is located off Newmarket Road, near the Barnwell railway bridge. The main vehicular entrance is from Swann Road alongside the John Banks car showroom. This is also the means of access to an area of former goods yards to the north and to a car hire business, which occupies land to both the north and south of the scrapyards. On the land to the south of the scrapyards is the office, canopy, private car washing facility and some parking spaces. The land immediately to the north of the scrapyards is used for parking staff and hire fleet vehicles, which are secured behind a 2.1m high palisade fence. The rest of the former goods yards to the north of the scrap yard and hire car park is used as a self-storage yard with containers for which retrospective planning permission was granted by Cambridge City Council on 27 January 2015 (ref no 14/1549/FUL). The City Council is currently considering a partly retrospective application (ref no 16/0483/FUL) to increase the number of storage containers. Adjoining the northwest corner of the scrapyards and also the northwestern boundary of the hire car parking and self-storage yard are premises used by SCA Recycling which is accessed off Mercers Row.
- 1.2 The eastern boundary of the site runs alongside the railway line. On the other side of the railway line to the east is an embankment, which is approximately 3 metres in height, and supports undergrowth characteristic of railway verges as well as established deciduous and conifer trees. These provide a visual screen along some sections. Immediately to the east and adjoining the redundant branch line to the main railway line are two residential properties, Station House and Station Lodge. Station House is the former Barnwell Junction station and has a modern conservatory extension. It is situated to the northeast of the northern (non-ferrous) part of the scrap yard, directly opposite the self-storage area. Station Lodge is a 3-storey house built in the early 1990s that has been subsequently extended. It is situated directly opposite the northern part of the scrapyards which is bordered by the 5.0 metres high wood panel fence, and is one of the structures which is the subject of this planning application.
- 1.3 Barnwell Junction Pastures, a green open space and City Wildlife Site, separates Station House and Station Lodge from the businesses and houses on Ditton Walk to the east. Within it stands the Chapel of St Mary Magdalene and Stourbridge Chapel which is a Grade I listed building.

2.0 THE BACKGROUND AND THE DEVELOPMENT

2.1 Noise Complaint History

There is a history of complaints about noise emanating from the scrapyards. Monitoring undertaken at Barnwell Junction in 2009 recorded noise at a level above that at which complaints are likely. There have been a series of legal civil actions taken by residents.

On 30 July 2009 an interim injunction was applied for by local residents to restrain the alleged noise nuisance from the recycling activities. The site owners and operators agreed to restrict operational hours to 0800 to 1630 Monday to Friday and to use the crane grab for no more than 2 hours in a day (cumulative). The development which is the subject of this planning application sought to address the findings of the judgement (case reference HQ09X03460 dated 22 June 2010).

2.2 The Development

It is proposed to retain a 48 metres length of 5 metres high timber fencing and also a line of stacked shipping containers 42 metres in length and 5.1 metres high (the barriers). Both were substantially complete before the end of March 2010. They provide noise attenuation and visual screening. Two sections of the shipping containers are open where they face the yard and are used to store recovered items such as batteries, component parts of vehicles and gas cylinders. The containers range along the eastern boundary of the southern scrapyard and are stacked two high. They are mostly painted dark green and have been subject to graffiti where they face the railway line. They are on a metal plinth and metal plates have been used to attach the containers to each other.

- 2.3 The fence comprises galvanised steel universal beam section posts, which are set 3 metres apart in concrete foundations. These are in-filled with 5 metres high stress graded softwood infill panels, light brown in colour. The fence extends along the northern (14 metres) and eastern boundaries (35 metres) of the northern yard.
- 2.4 The proposal does not alter the processes or volume of metal that is sorted on site for recycling. The barriers were in place before the application was submitted therefore the application is retrospective.

3.0 **PLANNING HISTORY**

- 3.1 C/78/0850 Use of land as builders and demolition contractors' yard – granted 20-12-1978
- C/80/0482 Erection of temporary storage buildings – granted 13-06-1980
- C/81/0033 Use of land for storing of scrap metal, waste skips and heavy goods vehicles, shearing and baling of scrap metal – granted 17-03-1981
- LDC/0024/93 Certificate of Lawful Use for the use of the land for the purpose of storage, breaking and distribution of non-ferrous metals only, being a use identified in the Town and Country Planning (Use Classes) Order 1987 (as amended) as a scrap yard (sui generis use) and for no other purpose and excludes the use of the site for the storage or distribution of minerals or for the breaking of motor vehicles – granted 24-03-1994
- C/95/0769/FP Erection of a non-ferrous metal store (Class B8) – granted 27-03-1996
- C/96/0789/VC Variation of condition 02 of C/0031/81 and condition 07 of C/95/0769/FP which relate to hours of operation on, and the occupation of, the scrapyard site and associated storage buildings (sui generis) – refused 31-10-1996
- 3.2 The certificate of lawful use (CLU) recognises the use of the northern yard as lawful as a result of the evidence submitted to Cambridge City Council which showed that, for a period of ten years prior to the date of the application, the site was used for the purpose as a scrap

yard for the storage, breaking and distribution of non-ferrous metals and materials. The fence is along the northeast and southeast boundaries of the northern yard. The southern yard has planning permission for use of land for storing of scrap metal, waste skips and heavy goods vehicles, shearing and baling of scrap metal (C/81/0033). The containers have been placed along the southeast boundary of the southern yard. The planning permission is for a permanent use and there are no conditions relating to noise. Condition 3 of C/81/0033 limits scrap materials or any other goods stored, stacked or deposited in the open to a maximum height of 4 metres.

4.0 PROCEDURAL AND LEGAL MATTERS

- 4.1 A report was published prior to this application being withdrawn from the agenda of the County Council's Development Control Committee on 10 March 2011 because of the an intention to make a legal challenge. A challenge was subsequently made upon grounds that the application should be subject to environmental impact assessment (EIA) because of the impact of noise on residential amenity and that the site should have been assessed in combination with the adjacent car sales (now car hire) business.
- 4.2 Officers were of the opinion that the scrapyards operation as changed by the erection of the fence and placement of the containers was not Schedule 2 development as set out in the EIA Regulations because it failed to meet the minimum size threshold for consideration (0.5 hectare). Consequently the proposal did not need to be screened to assess whether or not it would be likely to have significant environmental effects and therefore was not considered by officers to be EIA development.
- 4.3 On 2 June 2011, the objectors sought a screening direction from the Secretary of State (SoS), which was issued on 22 September 2011. It concluded that EIA was not required. It was intended that the application be determined by the Development Control Committee in November 2011. However, it was not included on the agenda because the objectors disagreed with the SoS's decision, which the SoS declined to review. In December 2011 the objectors applied to the High Court for judicial review of the SoS's decision, asking that the screening direction be quashed. The proceedings were stayed pending the outcome of a separate case then before the Court of Appeal which was dealing with similar principles and points of law. A Consent Order, finalised on 13 January 2014, indicated that the SoS accepted the need to re-determine the screening direction. The direction of 22 September 2011 was quashed.
- 4.4 On 19 November 2014 the SoS issued a second screening direction. This also concluded that an EIA was not required and was also subject to a legal challenge by the objectors. On 13 January 2015 the SoS cancelled the November 2014 screening direction "on a precautionary basis", in the light of additional information being brought forward about. In October 2014 a retrospective application (ref no 14/1549/FUL) had been made to Cambridge City Council for the use of land to the north of the scrap yard as a self-storage yard and this had not been taken into account by the SoS.
- 4.5 On 18 December 2015 the SoS issued a third screening direction having taken into account the information which had come to light since a direction had been first issued. He noted that the adjacent land that was being used as a self-storage yard may be associated with the scrap yard and may in turn increase the size of the scrap yard to more than 0.5 hectare. This would take it above the threshold to constitute Schedule 2 development and upon this basis it would need to be screened. Schedule 2 development becomes EIA development if it is likely to have significant effects on the environment. The SoS was not persuaded that the noise impacts of the scrapyards on the two nearby houses meant that there were

significant effects on the environment within the meaning of the EIA regime. He took into account the potential for cumulative impacts with the adjacent car hire and self-storage developments.

- 4.6 The SoS commented that the EIA Regulations are in place to protect the environment in the public interest, not to protect the amenity of individual dwelling houses. There may be an impact on a particular dwelling or dwellings without there being any likely “significant effect on the environment” for the purposes of the Regulations. The SoS concluded that for the reasons summarised above the development is not EIA development.
- 4.7 The SoS commented on the purpose of the EIA regime: “it is not the intention of the EIA regime to apply the fairly elaborate environmental assessment regime to each and every planning application however minor. The regime must be applied with a degree of common sense, recognising that the EIA regime is intended to apply only to a limited number of projects; namely those projects of which it can sensibly be said that they may have a significant effect on the environment.”
- 4.8 Given the limited number of sensitive receptors the SoS was not persuaded that the magnitude of impact is such to suggest that significant environmental effects have occurred or are likely to occur. Surveys undertaken since the barriers were put in place show that noise levels have not reduced below that which complaints are likely. A survey carried out in July 2013 suggests that levels are similar to those recorded before the barriers were put in place. However, there is also no evidence that the change to the scrapyards caused by the barriers has resulted in increased levels of noise. Overall, while noise levels at the site continue to have an adverse impact on some noise sensitive receptors, the modification to the scrapyards does not appear to have changed the noise landscape to the extent that significant environmental effects, either positive or adverse, have resulted or are likely to result.
- 4.9 Turning to the cumulative impacts of the development with other activities in the area, the SoS notes that the changes to the car hire business on adjacent land have the potential to extend the noise and nuisance in the area. However, in the light of the limited number of sensitive receptors affected by these changes, he does not consider that the impacts of this development are likely to be significant. When considering the cumulative impacts of this and the scrapyards development the SoS is of the view that no new significant impacts have occurred or are likely to occur, including indirect effects.

5.0 PUBLICITY

- 5.1 The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010. The following neighbouring properties were notified:

Station Lodge, Barnwell Junction, Newmarket Road, Cambridge CB5 8JJ
Station House, Barnwell Junction, Newmarket Road, Cambridge CB5 8JJ

- 5.2 In April 2016 consultees and the occupiers of the two neighbouring properties (the objectors) were given the opportunity to make additional comments.

6.0 CONSULTATIONS

- 6.1 Cambridge City Council – no objection to the proposal for the following reasons:

The site is allocated in the Proposals Map (2006) as a Protected Industrial Site. As the application does not propose a change of use, it is considered to be compliant with Cambridge Local Plan policy 7/3. Given that the site is not within a Conservation Area and that the characteristic of the site is of an industrial nature bounded by the railway running along the eastern boundary, it is not considered that the appearance of the proposal to retain the retrospective fences would be in conflict with policies 3/4 or 3/7 of the Cambridge Local Plan (2006).

[April 2016: no objections]

6.2 Cambridge City Council – Environmental Health Officer – supports the application.

Barrier Construction - To be effective a noise barrier needs to have a surface density of at least 12kg/m², which both the fence and containers will have. It also must be free from holes as even small gaps will allow a significant amount of sound to breakout. This is not an issue for the fence but there is a hole in the container barrier around the ferrous yard, which is to allow access for a drain. A barrier that prevents line of sight between the noise source and receiver will give a 10dB reduction. This figure is roughly confirmed by the applicant's statement. This reduction is perceived as a halving of the volume of the noise. The barrier having sufficient height achieves this. The barriers prevent any direct view to Station House. It is noted that the current barriers, especially the containers around the ferrous yard, do not exclude a line of sight to the top floor of Station Lodge, a building that postdates the yards. It may not be feasible to build barriers that will adequately address overlooking from the top storey of Station Lodge which is three storeys in height.

6.3 *Noise Reduction* - On site measurements by the Environmental Health Officer have not been taken, but based on the size, location and construction, he is of the opinion that the barriers are having a positive effect on reducing the noise from the site. The Environmental Health Officer has highlighted comments made by His Honour Judge Simpkins (Paragraphs 130 & 131, Thornhill & Ors v Nationwide Metal Recycling & Ano [2010] EWHC 1405 (QB),

“This is not a plain case of nuisance but taking all the above matters into account I find that between those dates [NMR taking over the site and erecting the barriers] there was a nuisance. I also find that since the barriers have gone up, and providing that use of the crane is regulated to the extent that it has been recently then there is no nuisance.”

6.4 The site has an environmental permit, formerly a waste management licence, issued and enforced by the Environment Agency, the conditions of which are intended to ensure the Best Available Techniques (BAT) are used. These include conditions to control noise, dust and smoke. It is a defence against enforcement action under the permit that the site operator is employing BAT. The site is also potentially subject to statutory nuisance action by Cambridge City Environmental Health which is under a duty to investigate any complaints of nuisance. As the site has an environmental permit any enforcement action would first require the permission of the Secretary of State. None of Cambridge City Council Environmental Health, nor Cambridgeshire County Council or the Environment Agency received any complaints about the site in the three years up to 2011. The Environmental Health Officer advises the objectors to ask the Environment Agency to update the environmental permit with the measures detailed in the court case judgement which would enable the Environment Agency to use its powers of enforcement should they be required.

6.5 [May 2016]: The following information which dates from after the previous comments were made has been reviewed:

1. A noise report by Hilson Moran dated 7 July 2011 [commissioned by the objectors]

2. A noise report by MAS dated 12 Aug 2013 [commissioned by the objectors]
3. Email from local residents objecting to the development

- 6.6 The email from the local residents refers to a car hire business and a storage yard now operating in the area. Both of these sites have been subject their own planning applications, consultations and permissions. The application for the expansion of the storage yard is currently awaiting decision.
- 6.7 There is no record of complaints about noise from the site being received by the Environmental Health team since our previous comments in 2011, when it is understood that the barriers were in place.
- 6.8 Planning policy and guidance has undergone significant change since our previous comments with the introduction of the National Planning Policy Framework in 2012 (NPPF), NPPF Planning Practice Guidance - Noise, a Noise Policy Statement for England and the repeal of PPG 24 – Planning and Noise. However, the new policy and guidance do retain the same principles and also continue to identify the use of noise barriers as a recognised noise control method to mitigate the adverse effects / impacts of noise.
- 6.9 Having taken all the above information into consideration the conclusions reached in the 2011 advice still stand in this case and our recommendation is for this application to be approved with the additional wording along the lines of “The approved development shall be retained thereafter” as there is a need to ensure that the barrier proposals are retained as detailed.
- 6.10 Environment Agency - no objection in principle to the proposal. The application meets with the conditions of the environmental permit for the site which requires a screening fence of ‘at least 2.5 metres high’ – the fence in the application is 5m high. The site permit does not have any specific conditions relating to noise.
- 6.11 [May 2016]: No further comment to add to the earlier response.
- 6.12 Cambridgeshire County Council – Ecology Officer – no comments to make.
- 6.13 Network Rail - asks the developer to confirm the clearance to the fence line. The contractor needs to be aware of the 3 metres exclusion zone to the nearest part of the Overhead Line Equipment for any work or equipment to be located. Any scaffold, cranes or other mechanical plant must be constructed and operated in a “fail safe” manner that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports. To avoid scaffold falling onto operational lines, netting around the scaffold may be required. In view of the close proximity of these proposed works to the railway boundary the developer should contact Network Rail’s Outside Parties Engineer before any works begin.

[May 2016: No further comments.]

7.0 INDIVIDUAL REPRESENTATIONS

- 7.1 Objections and comments dated (13/01/2011) set out by an agent acting upon behalf of representors are summarised below:

- The barriers have little effect in reducing the impact of the noise from the scrapyards so are not fit for purpose. Granting permission would add to the misconception that they have resolved a serious noise nuisance when they have not.
- A scrapyard does not fall within the uses designated in the local plan [Protected Industrial Site]. The barriers are adjacent to land in residential use and to land designated as a wildlife site and as Cambridge Green Belt. They are close to open land which has Grade I and Grade II listed buildings nearby.
- The scrapyard makes little contribution to sustainable development. Recycling is part of the waste hierarchy but it is unlikely that without the scrapyard the metal would be diverted to landfill.
- Cambridge City Council has not taken appropriate enforcement action to address the adverse impact of the scrapyard on local residents.
- Cambridgeshire County Council does not appear to have considered its obligations under the EIA Directive 85/337/EEC.
- Factual errors and omissions in the correspondence between the applicant's noise consultant and the environmental health officer.

7.2 Additional comments (May 2016):

Since the barriers were erected the area has seen several material changes such as

- A busy car hire business & car storage compound and a storage yard have been set up, the vehicles passing outside the fence. The storage business has applied to increase in size and extend operating hours.
- Trees that used to afford some screening of the barriers has been permanently removed.
- The barriers have deteriorated over the time, including through vandalism and show no signs of any maintenance whatsoever. The fence has posts that are different colours and is viewed directly from patio doors/windows.
- Lighting has been added to the fence which is disturbing during the hours of darkness and the white conduit is prominent during daylight hours.
- The fence is described by the applicants as reflective meaning that the disturbance caused by the traffic passing between them and our residences is amplified together with the extended hours and greatly increased use by the new businesses.
- The gap between the barriers and the lack of alignment has the effect of funnelling the sound towards our properties.
- The industrial area in the vicinity has been partially replaced by residential properties.

7.3 Copies of the individual representations will be placed in the Members' Lounge one week before the date of the meeting.

8.0 PLANNING POLICY AND RELEVANT GUIDANCE

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The relevant development plan policies are set out in paragraphs 8.3 and 8.4 below.

8.2 The National Planning Policy Framework (March 2012), the Waste Management Plan for England (December 2013) and National Planning Policy for Waste (October 2014) are also material planning considerations.

8.3 Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document (adopted July 2011) (the M&W Core Strategy)

CS34 Protecting Surrounding Uses
CS41 Ancillary Development

8.4 Cambridge Local Plan (adopted July 2006)

4/13 Pollution and Amenity

7/3 Protection of Industrial and Storage Space

8.5 Cambridge Local Plan 2014: Proposed Submission (July 2013) Is still at the examination stage with hearings scheduled to take place from June until September 2016. Little weight can therefore be attached to the draft policies.

9.0 PLANNING CONSIDERATIONS

9.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these are expected to be applied. It is a material consideration in planning decisions and at its heart is a presumption in favour of sustainable development. It states that:

- Proposed development that accords with the development plan should be approved without delay;
- Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted; and
- Proposed development that conflicts with an up-to-date development plan should be refused unless other material considerations indicate otherwise.

9.2 The Government identifies three dimensions to sustainable development which give rise to need for the planning system to perform a number of roles which it states should not be undertaken in isolation:

- an economic role: contributing to building a strong, responsive and competitive economy, including the provision of infrastructure;
- a social role: supporting strong, vibrant and healthy communities, by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role: contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

9.3 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

9.4 The NPPW provides guidance on the determination of waste planning applications. Local Authorities should:

- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the document 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;
- 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;

9.5 The barriers are ancillary to the operation of the scrapyards which is a waste management facility. Policy CS41 is therefore the starting point for evaluation and says that:

Proposals for ancillary development associated with waste management facilities or mineral site will be considered against policies and criteria contained elsewhere in the development plan. If permission is granted a condition will be attached limiting the life of the ancillary development to the life of existing operations.

Permanent or extended retention of ancillary facilities may be permitted where it is demonstrated that this:

- Is required for health and safety/pollution control*
- It is not detrimental to surrounding uses*
- Is not contrary to policies contained elsewhere in the development plan*

The other relevant plan policies are Core Strategy CS34 and Local Plan 4/13. The former aims to protect surrounding uses and states:

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.

Cambridge Local Plan policy 4/13 states:

Development will only be permitted which:

- Does not lead to significant adverse effects on health, the environment and amenity from pollution; or*
- Which can minimise any significant adverse effects through the use of appropriate reduction or mitigation measures.*

9.6 The principle of the operation of the scrapyards is established and the current application seeks permission to retain the two barriers only. It is intended that they provide acoustic and visual screening to the site and storage for recovered components. It is the impact of the barriers themselves that needs to be considered.

Visual Impact

9.7 One of the purposes of the barriers is to provide a visual screen. The barriers can be seen from the eastern side of the railway line above the pre-existing railway boundary fence, most noticeably where this is relatively low chain link. In some places the railway fence is approximately 3 metres high and of solid construction. The scrapyards and railway line are lower than the adjoining businesses such as the John Banks car showroom. The new barriers are seen against a backdrop of the large industrial buildings to the northwest of the scrapyards. The timber fence and shipping containers are compatible with the industrial nature of the site. Without them in place the scrapyards would be more visible; the chain link railway fence would not have offered any visual screening for local residents. When viewed

from the opposite embankment, the higher, solid barriers effectively screen most of the activities in the two yards, apart from when the crane grab is in operation and protrudes above the height of the fencing.

- 9.8 The fence is as described in paragraph 2.2. The objectors' observations are that it has posts of different colours. This seems to be a reference to one light coloured post at the northern end facing the railway and houses. The others on the same façade are rust coloured. This is not considered to significantly affect the appearance of the fence. The containers are predominantly green in colour. It is acknowledged that they have, like the lower, solid railway fence in front of them, been vandalised by the addition of some graffiti (the normal control of which is outside the scope of the planning system) and that the containers and fencing are exposed to the elements.
- 9.9 For the reasons set out in paragraphs 9.7 and 9.8 the barriers are not particularly noticeable or intrusive, or out of character with the general area. They do not therefore conflict with development plan policies CS41 and CS34.

Lights

- 9.10 The objectors have reported being disturbed by lighting that has been added to the fence. The northern yard has lights mounted on the fence which runs along the north east and south east boundary (and which is the subject of this application). The lights are below the level of the top of the fence and are angled into the yard so light-spill outside the yard is unlikely. There is an approximately 5 metres high lighting column on the north west boundary of the southern yard, close the weighbridge office. It is mounted with two luminaires, one angled to the south (i.e. towards Newmarket Road) over the stockpile of metal and the other to the north west over the site access. Station Lodge is approximately 65 metres to the north east and whilst these lights may be visible they are not orientated directly towards the house so unlikely to cause a statutory nuisance.

Noise Impact

- 9.11 The most recent noise surveys (carried out in July 2013 for the objectors) suggest that levels are similar to those recorded before the barriers were put in place. The report (MAS Environmental dated 12 August 2013) concludes by saying that:

“As there has been little or no reduction on noise impact at the affected residences, and no significant reduction in background noise, it is considered that mitigation has had a minimal beneficial effect or that source noise levels at the site have increased.”

This is not dissimilar to MAS Environmental's conclusion following monitoring undertaken in September and October 2010 which was that:

“The barriers have provided minimal improvement in noise levels, and far less than predicted.”

MAS Environmental acknowledges that the barriers have had a small positive effect in reducing noise from the scrapyards experienced at Station House and Station Lodge.

- 9.12 In his judgement in the High Court of June 2010 His Honour Justice Simpkins concluded that the barriers had made a sufficient difference to bring the noise below the threshold of nuisance. As noted by the SoS (see paragraph 4.8 above), there is no evidence that the change to the scrapyards caused by the barriers has resulted in increased levels of noise. The objectors refer to the barriers reflecting the noise from vehicles accessing the self-

storage facility. This is a matter that will be for consideration by Cambridge City Council when they consider the application to expand that business. The barriers do not conflict with development plan policies CS41, CS34 and 4/13.

- 9.13 The NPPW requires planning authorities to consider the likely impacts on the environment and on amenity against locational criteria which include those relating to noise, light and vibration. Appendix B paragraph j states that:

Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.

- 9.14 The effect of the development on sensitive receptors, in this case two nearby households, is considered to be neutral in terms of noise. Lighting has been discussed in paragraph 9.10 above.
- 9.15 The environmental health officer has recommended that if planning permission is granted, a condition should be imposed requiring the barriers to be retained. The barriers were erected at a time when the scrapyards were considered by local residents to generate a level of noise which was a nuisance. The High Court found that without the barriers the activities at the scrapyards undertaken by Nationwide Metal Recycling (who took over the site in April 2009) only just crossed the threshold of nuisance and that the barriers had made sufficient difference to bring it below the threshold provided the use of the scrapyards is restricted to the hours set out in the waste management licence (Monday to Friday 0800 to– 1630 hours), and the crane is not used for more than 10 hours a week. The High Court awarded an injunction restricting the use of the crane.
- 9.13 No noise-generating activity forms part of the application and the barriers were put in place in response to the nuisance case, not as part of a planning permission for any of the waste management development that takes place at the scrapyards. It would be difficult to justify imposing a condition to retain the barriers when consideration of the scrapyards use itself does not fall within the terms of this application. If the barriers were to be removed the operations at the scrapyards may again reach the level of nuisance but that is not a matter for the waste planning authority and would fall to be considered under separate environmental health legislation relating to nuisance. The methods of operation may change in future. For example, the scrap yard may be able to operate without the crane and in such a way that without the barriers it does not cross the threshold of nuisance. It is considered that the operators should have the option of operating in such a way if the nature of their metal recycling business changes. Additionally, should circumstances change visual considerations would also need to be taken into account within the circumstances at the time when considering future alterations or changes. For this reason it is not considered appropriate to recommend that any condition be imposed to require the barriers to be retained.

10.0 CONCLUSION

- 10.1 On the evidence available the barriers have made a small difference to the local noise environment and their limited visual impact is not inappropriate alongside a railway line close to an established industrial area. On balance, it is considered that the proposal to retain the barriers is acceptable without any recommended conditions, for the above mentioned reasons. The development is considered to be compliant with the relevant

development plan policies as set out in the previous section of this report. The development does not conflict with national planning policies so there is no reason why permission should not be granted.

11.0 RECOMMENDATION

11.1 It is recommended that planning permission be GRANTED.

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 Cambridge Local Plan 2006: https://www.cambridge.gov.uk/content/local-plan-2006</p>	