

**7 November 2023****Agenda Item:5****REPORT OF INTERIM CORPORATE DIRECTOR - PLACE****RUSHCLIFFE DISTRICT REF. NO.: 8/22/01279/CMA****PROPOSAL: SOUTHERN EXTENSION TO THE WASTE WOOD AND GREEN WASTE  
STORAGE YARD (PART RETROSPECTIVE)****LOCATION: JOHN BROOKE SAWMILL, OFF THE A46, NR WIDMERPOOL, NG12  
5PS****APPLICANT: WARING WASTE LTD - MR JOHN BROOKE****Purpose of Report**

1. To consider a planning application for a southern extension to the waste storage yard at the "John Brooke Sawmill" waste wood and green waste recycling facility situated off the A46 near Widmerpool. This is a retrospective application for planning permission since the extended yard area is now in full use. The recommendation is to refuse planning permission because the applicant has failed to provide sufficient environmental information to enable the Waste Planning Authority to fully assess the environment effects of the development including drainage issues, ground conditions, and dust, whilst other concerns are also considered in relation to landscape and cumulative impact.

**The Site and Surroundings**

2. The "John Brooke Sawmills site" is situated in the open countryside beside the A46 near Widmerpool (within Upper Broughton Parish) (see plan 1). The wider site comprises a large-scale wood recycling operation, green waste composting and a modern waste wood-fired energy plant with a substantial main flue. There are a number of industrial type buildings on site and large areas of hard surfacing, open-air waste storage and processing (see plan 2).
3. The wider site is screened by trees alongside the A46 and along the northern and eastern boundaries. To the immediate south are several small fields of grassland enclosed by hedges or planted tree belts (one field area has been removed to form the extended storage area that is subject to this application). Beyond these are fields growing coppice willow. A watercourse (Fairham Brook) passes to the east of the wider site in a shallow valley. Beyond this is the Network Rail test track and its embankment.

4. The small settlement of Hickling Pastures lies at an elevated position 600m north-east of the application site. The intervening land is farmed for dairy/beef. Broughton Grange Farm - a Grade II Listed Building is 250m to the south-west beyond a screen of conifers. 'Nottingham Heliport' is 200m to the south.
5. Access is taken directly from the south-bound carriageway of the A46 dual-carriageway. There is a gap within the central reservation creating a small crossing place over to the northbound carriageway and also across to a farm opposite.
6. The application site comprises a 1.1ha former grassland field to the south of the existing yard. This has been stripped and graded, with the soils used to create a bund (circa 2m high) along the southern and eastern boundaries of the extension site. A pre-existing bund separating the extension area with the authorised yard to the north has been partially retained. Crushed materials or aggregates have been laid to create an extended storage area and the stockpiling of waste, including green waste, has commenced.

### **Planning history**

7. A number of previous planning permissions have been granted in recent years which have progressively extended the site operations including the construction of a large biomass/energy from waste plant, and additional external waste storage areas. The most relevant are identified as follows:
8. 8/13/02185/CMA -The Erection of 2 New Industrial Buildings and Installation of 7MW (approximate) Wood Fuelled Renewable Energy Biomass Plant, retaining existing wood recycling and composting operations. Granted 05/02/15.
9. This permission also governs much of the waste wood/green waste recycling operations.
10. 8/14/00380/CMA -Resubmission of application for the creation of additional yard area for waste wood storage and erection of screening bund (partly in retrospect) adjacent to existing wood recycling site. Granted 19/06/14.
11. This extended the yard to the east and to the southeast (and is directly north of the application site).
12. 8/14/00610/CMA -Resubmission of flood compensation scheme application due to boundary change. Submitted in conjunction with application entitled: 'Resubmission of application for the creation of additional yard area for waste wood storage and erection of screening bund (partly in retrospect) adjacent to existing wood recycling site. Granted 19/06/14.
13. This has been formed to the immediate east of the current application site.
14. 8/16/00677/CMA- Additional hardstanding on undeveloped land within the confines of the existing wood facility site, the construction of 5m high wall for noise attenuation purposes, and the re-orientation of the wood shredding

building from that which is currently consented with amended roof design. Granted 29/06/16.

15. This comprised an 'infill' area within the existing site.
16. 8/21/01764/CMA -Change of use of building and land and erection of external storage tanks and concrete wall (retrospective) for the production of bioethanol from green waste. Granted 04/08/21.
17. This concerned existing site buildings and land.
18. 8/21/03194/CMA -Erection of new building for the production of renewable energy by gasification of by-products of the adjacent bioethanol production facility and waste wood. Granted 07/04/22.
19. This site lies to the north of the current application site and has not yet commenced.

### **Proposed Development**

20. This retrospective application is seeking planning permission for the works to extend the outside storage area on which to stockpile both waste wood and green waste (see plan 3). Apart from any necessary landscaping for the soil bunds, the works appear complete and the storage of materials has commenced.
21. According to the applicant, the proposed southerly extension will provide more storage capacity to allow for seasonal fluctuations in the throughput of the established site and to enable better management of current stockpiles which can exceed current planning limits, particularly when there are unforeseen shutdowns in the adjacent biomass energy facility.
22. The additional storage will also allow for safety improvements to be made to the existing site following recent health and safety audits, including reducing stockpile heights and increasing open space around the piles to increase visibility for vehicles manoeuvring around the site. It is proposed that the storage of waste on the application site would be no higher than 8m.
23. The application states that an "*impermeable plastic barrier*" has been laid along with an underground drainage system "*which drains into the existing underground drainage system thus creating a permeable base on which imported wood waste and green waste would be deposited.*" However, the same paragraph then appears to suggest the barrier does not run under the entirety of the application area where vehicles access/manoeuvre: "*while this is permeable, any run off would direct itself towards the existing surface water management lagoon to the east.*"
24. There are no proposals for any processing operations on the extended site and no plans to increase throughput or HGV numbers attending the wider site operations. The proposed operational hours are the same as the wider site

operations: • Monday to Friday – 08:00 – 18:00 hours; • Saturdays – 09:00 – 17:00 hours; and • Sundays and Bank/Public Holidays – no operations.

## Consultations

25. **Rushcliffe Borough Council-** *No objection subject to the County Council being satisfied that there would be no significant adverse impact on visual amenity and the open character of the surrounding countryside, ecological assets (including protected species and habitats) or the amenities of adjacent/ nearby residents or the surrounding area.*
26. *Conditions are requested to restrict the use of the area to storage of waste wood and green waste only, the hours of operation (collection/depositing of waste), and restricting storage of waste to no higher than 8m.*
27. **Hickling Parish Council-** (neighbouring Parish) - *Object (excessive dust and increased litter).*
28. *Excessive dust is produced by the plant and there are insufficient measures in place to contain or reduce airborne dust pollution (have occupational limits been measured by Environmental Health- and is this dust detrimental to health?)*
29. *Increased spread of litter - the current storage arrangements for waste wood, pallets etc. are not working and a considerable amount of litter is spread by the wind (generally in the direction of Hickling Pastures).*
30. **Upper Broughton Parish Council** - No response received. Any response received will be orally reported.
31. **Environment Agency-** *No objection. Comments on dust and site drainage.*
32. *Dust: The Environment Agency have been working with the site operator for a number of months in order to reduce the fire risk of the activities presented on site. This has been our main focus and an extension to the site would allow storage of material to be carried out in a manner which lowers the fire risk considerably. However, on recent site inspections we have, along with Notts CC Planning Enforcement, raised the issue of dust being emitted from the activity and causing problems for neighbouring businesses and residents. To date, no improvements have been seen to be made to the operation of the site in relation to dust and there is concern that an increase in storage areas will only increase the presence of dust on site. The EA are intending on addressing the dust issue with the operator, once the greater risk from fire has been addressed and mitigated.*
33. *Drainage: We can confirm that the activity for the extension does not produce effluent. Therefore, there should be no requirement for effluent to be managed in the proposed extension area. The current site drainage is therefore suitable for the control of surface water pollution from the site.*

34. *The site imports, stores, shreds and exports waste wood. They are not permitted to process treated wood that is classed as hazardous so it will be purely non-hazardous wood that is processed on site.*
35. *We have looked at the letter from Via (Reclamation) and we generally agree with the comments on the enquiry.*
36. *From a groundwater point of view, at a site like this there is always the potential for previous uses to have resulted in land contamination. It sounds like the top layer of soil has been removed to create some soil bunds, there is no evidence that this material has been sampled. Given this and that there is no evidence of further investigation and assessment it is very difficult to ascertain the risk posed to the Fairham Brook. With regards to the risk to controlled waters, the main risk would be the leaching of any contamination on site (currently unknown) and this then reaching the Fairham Brook.*
37. *Permit: The proposed extension is likely to require a variation to the site's Environmental Permit.*
38. **NCC (Lead Local Flood Authority)-** *No objection, drainage details requested.*
39. *Requests the submission of a detailed surface water drainage scheme (prior to commencement of development) including use of SuDS as the primary means of surface water management and detailed designs of any attenuation system, and the outfall arrangements and calculations on the performance of the system for a range of return periods and storm durations.*
40. **NCC (Nature Conservation) -***Objects and requests habitat compensation.*
41. *Aerial photos indicate that the application site was previously a grass field, but the unconsented works have meant that it is now not possible to survey the field to determine its value or whether any mitigation is required for its loss. It therefore has to be assumed that the site had at least moderate ecological value (e.g. as a moderately diverse semi-improved grassland in moderate condition).*
42. *On that basis, the applicant should create an equivalent area of habitat elsewhere (e.g. on other land they own at the site) to compensate for this loss of habitat. The Defra BNG metric should be used to determine the area of habitat required to provide a minimum 10% net gain, and the area must then be safeguarded and managed for a 30 year period.*
43. **Via (Landscape) -** *Requests updated landscape strategy and management plan, incorporating the required ecological mitigation.*
44. *It is agreed that there is no physical landscape impact as a result of the proposed works. The impact on landscape character of the site itself is minor adverse, and moderate/minor adverse on the surrounding landscape character area. The visual impact on identified receptors is assessed to be no more than minor adverse on the environs of Broughton Lodge Farm and views from Hickling Pastures residential properties are thought to be unlikely due to intervening vegetation.*

45. *It is agreed that there are only likely to be views at Viewpoint 4 which is close to Broughton Lodge Farm and from the heliport as well as a short section of public right of way (PRoW) Bridleways Upper Broughton 1 and 2 and Upper Broughton Byway 14. The applicant has not provided a conclusion to their assessment, but the magnitude of effect is considered to be no more than a moderate/minor adverse visual effect.*
46. *It is however essential that the management plan put in place for application reference 8/13/01285/CMA is adhered to in order that the surrounding screening vegetation matures to provide additional screening to the existing and the proposed development.*
47. *The landscape strategy and management plan, together with the associated drawings, produced by Roger Harrison Architecture should be revisited and updated and amended to include the proposed ecological mitigation, and to show what parts of the plan have already been implemented successfully and what remains to be carried out.*
48. **Via (Noise Engineer)** – No objection, subject to assuming noise conditions governing the wider site operations will be extended to the expansion area.
49. *There are no proposals for any processing operations on the application site and no plans to increase throughput or HGV numbers. Operational hours would be the same as the wider site operations.*
50. *The closest residential dwelling is the Keepers Cottage, however this dwelling is no longer used as a residence in accordance with Condition 7 of a previous planning application (NO. 8/21/03194/CMA) from 7th April 2022.*
51. *The southern extension will be located in closer proximity to another Noise-Sensitive Receptor: the Broughton Grange Farmhouse, which is located at around 280 m from the current site operations area. Another previous planning application from the same applicant (NO. 8/21/01764/CMA) included day and night-time noise measurements at Broughton Grange Farmhouse, as follows:*
- LAeq,16hr (07:00-23:00) = 67.4 dB(A)*
- LAeq,8hr (23:00-07:00) = 62.4 dB(A)*
52. *Despite the shorter distance to the nearest NSR (the Broughton Grange Farmhouse) from the expansion area, the ambient noise character at this receptor is dominated by road traffic noise from the A46, and so it's unlikely that the proposed development will generate additional noise issues at this receptor.*
53. **Via (Geo-environmental)** – requests further information and/or conditions relating to contamination and to protect Fairham Brook from pollution.
54. *Contamination risk*
55. *There is potential for the soil bunds to include potential contaminants, including metals, fuels and asbestos. These contaminants, if present, could potentially*

come into contact with site users, or leach into the adjacent watercourse. There is no information to demonstrate whether any evidence of ground contamination was observed during the works.

56. *Recommends that the applicant is asked to provide details on the ground works, including visual observations made during the work and confirmation of whether any evidence of potential contamination was observed, with any additional measures taken.*
57. *Recommends that the applicant is asked to provide the results of chemical testing on any raised soil bund areas associated with the application. The submission should also include a plan and an environmental screening / risk assessment.*

#### Pollution risk

58. *The potential for future contamination of the adjacent Fairham Brook is likely to be higher than it was prior to the development of the proposed extension. This is mainly because other storage areas within the site are located on concrete hardstanding and / or within buildings, while the extension is not. Even if the impermeable membrane was correctly installed, which has not been proven by the applicant, pathways for surface water to migrate into the underlying ground are much more likely to occur, due to physical damage or wear and tear, than would occur on concrete hardstanding. This could lead to migration of contaminants, including organic chemicals from the green waste storage, into the adjacent watercourse.*
59. *It is also unclear from the submitted documents how the drainage is managed across the wider site and how surface water from the extended area would be collected and directed into the existing drainage system.*
60. *VIA (Geo-environmental recommends the planning application is not approved until:*
61. *The applicant provides sufficient evidence that the extension has not increased pollution risks to Fairham Brook; and The Environment Agency controlled waters officer confirms that the as-built development is acceptable and not in breach of the Environmental Permit with respect to controlled waters.*
62. *If it is not possible to comply with the above requirements, no further works shall be carried out in the area identified, unless first agreed in writing by the CPA, until a strategy to mitigate / remedy any identified risks has been submitted to and approved in writing by the CPA.*
63. *Further conditions are recommended should additional ground works be required.*
64. **Hickling Parish Council, NCC (Built Heritage) and Network Rail Civil Engineering** have not responded. Any response received will be orally reported.

## Publicity

65. The application has been advertised by a press notice, a site notice, along with notifications to four neighbouring residential and commercial neighbours. Councillor John Cottee has also been notified of the application. The arrangements accord with the County Council's Statement of Community Involvement. No representations have been received in this case.

## Observations

### The need for site expansion

66. The proposal is for a retrospective further southern extension to the open air waste storage area. Routine site monitoring has revealed that the works are complete, having been undertaken in August/September 2022. This report will identify how there are a number of outstanding matters and concerns which in the opinion of Planning Officers require a response from the applicant. Requests for additional information and responses to the issues arising have been made directly to the applicant, since the appointed planning agent is no longer engaged, but there has been no meaningful attempt to respond to the Waste Planning Authority (WPA) over recent months. Therefore the application requires determination as it was submitted.
67. Policies within the Nottinghamshire and Nottingham Waste Core Strategy (WCS), saved Waste Local Plan (WLP) and the Rushcliffe Local Plan (Parts 1 and 2) are material in the assessment of the planning application, along with national planning policy. The Upper Broughton Neighbourhood Plan, whilst acknowledging the John Brooke Sawmills site, explicitly excludes waste development from its scope and so is not considered relevant. The County and City Councils are preparing a new Waste Local Plan, which is now at the Pre-Submission Draft stage, but no reference to it is needed given this has yet to reach the formal submission and examination stages.
68. WCS Policy WCS3 is supportive of extensions to waste recycling and composting facilities in order to support the needed increased rates of recycling/composting across the Plan area. However the proposed site extension expressly does not affect or raise the facility's overall throughput to manage waste and so the level of supportive weight from this policy should be significantly reduced having regards to its purpose and context to grow the recycling and composting sector.
69. Policy WCS4 advises that the development of facilities within the open countryside will be supported only where such locations are justified by a clear local need, particularly where this would provide enhanced employment opportunities and/or would enable the re-use of existing buildings. The local need in this instance for the expansion of the site appears to be based on the operator's own need for space and may be partly explained by seasonal fluctuations in waste input (particularly green waste) and a desire to create fire breaks as highlighted by the Environment Agency's response. There doesn't



appear to be any benefit for local employment per se and the extended area has not made use of existing infrastructure- it was previously undeveloped and outside of the authorised waste management site area.

70. Policy WCS7, identifies the general locations where waste management facilities will be supported, subject to there being acceptable environmental impacts and does not provide policy support for recycling operations or development associated with Energy Recovery (Incineration) in open countryside locations. However, an exception is made for open air composting which has similarities with the type of waste storage proposed.
71. Policy WCS8 (Extensions to existing waste management facilities) is supportive of extensions, or a redevelopment or improvement of existing waste management facilities where this would increase capacity or improve existing waste management methods, and/or reduce existing environmental impacts. It should be noted that this policy does not give carte blanche for all extensions or expansions and the supporting text makes clear that assessment of environmental impacts is important to inform whether to support such extensions.
72. There are a number of unresolved concerns regarding environmental impacts as discussed further below, in particular the likelihood of increased dust generation and water pollution. The need for the site extension should be balanced against these issues and findings.
73. The proposed site extension expressly does not affect or raise the facility's overall throughput to manage waste and the additional storage would not make any contribution towards improved rates of recycling or composting. The purpose of the above planning policy is in part seeking to grow the recycling and composting sector and its capacity to manage waste, with throughput being the key indicator, not purely the storage of waste (and the volumes of waste stored at any one time may also be limited by the Environmental Permit). Therefore whilst the proposed development complies with Policy WCS3, the level of supportive weight from this policy should be significantly reduced having regards to its purpose and context.
74. Against the backdrop of policies WCS4, WCS7 and WCS8, the applicant's claimed need for the site extension is not so convincing to justify a further and cumulative expansion of the facility and its encroachment into the open countryside.
75. There is a significant area of storage space at the site which has been expanded with cumulative grants of planning permission. A significant and excessive stockpile of waste wood which persisted on site for several years has now been cleared (and before the extension area was implemented) allowing for managed stocking areas as well as requirements such as for fire breaks. The provision of these breaks is needed and has support from the Environment Agency, but it is not sufficiently evident that this depends on the physical expansion of the site as opposed to improving general stockpile management and compliance with existing planning and permitting conditions regarding their volumes and heights.

76. The proposal to stockpile waste up to 8m high on the new area does not appear conducive to maintaining access and fire breaks at the foot of the waste and appears to propose/facilitate a further expansion of the quantity of waste stored at the site at any one time, rather than a steady turnover and throughput of waste which represents best practice in waste management and aids the minimisation of environmental impacts. Meanwhile green waste has to date been managed in its own discrete area of the existing facility. There will be seasonal variations with this waste stream but it has not been sufficiently justified as to why the additional space is required for this waste and why this waste cannot be managed within the other parts of the existing developed site area.
77. Given the site's location in the countryside, Policy 22 of the Rushcliffe Local Plan Part 2 is also engaged. It seeks to conserve and enhance the intrinsic character and beauty of the countryside, its landscape, heritage, wildlife and natural resources. Within such locations there is potential support for the expansion of all types of business and enterprises, however this is expressed in terms of building conversions and well-designed new buildings, with no clear support for quasi-industrial open-air storage. The supporting text also helps explain that these developments must be appropriate in and require a rural location. Finally the policy specifies a need to assess a range of criteria. Of these a), c) and d) are relevant:
- a) the appearance and character of the landscape, including its historic character and features such as habitats, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is conserved and enhanced;
  - c) it does not create or extend ribbon development;
  - d) built development is well integrated with existing buildings, where appropriate;
78. The proposal appears at first instance to be contrary to the aims of Policy 22 as the open storage of waste materials do not conserve the intrinsic beauty of the countryside and goes beyond the scale of the appropriate developments envisaged, however these matters are considered further below.

#### Landscape and visual impacts

79. A landscape and visual appraisal has been submitted with the application which is considered sufficient to be able to come to a view on the impacts. The Council's landscape advisors within Via have also reached a view on these matters as summarised in their consultation response.
80. With reference to the Greater Nottingham Landscape Character Assessment the local landscape is of good condition and of strong character (Nottinghamshire Wolds Policy Zone 03 - Widmerpool Clay Wolds) and the overall strategy is to conserve this. Of the relevant actions includes conserving the rural character, hedgerows and conserving areas of permanent pasture to maintain the pastoral character of the policy zone. It notes that industry is not

present or visible within this landscape and this should be conserved through careful consideration of siting of development and planting works.

81. The applicant makes no further comment on the impact of the proposed development on the landscape character of the site or area. However Via Landscape adjudges the site as having a low landscape sensitivity and that the proposed works result in a low magnitude of effect which leads to a minor landscape effect on the site itself. Beyond the site boundary the area is of moderate sensitivity and there is a low magnitude of effect leading to a moderate/minor effect on the landscape character of the area.
82. The conclusions that there is a minor to moderate impact to the local landscape is reasonable and reflects the fact there has been a further and cumulative encroachment of the facility and its external waste storage areas into the undeveloped open countryside with a consequent further erosion of the rural pastoral character and the loss of grassland. The proposals do not conserve and enhance this landscape as per the objectives of Policy 22 of the Rushcliffe Local Plan.
83. The applicant has assessed a number of views in the local vicinity of the site and this has been reviewed by Via Landscape. Due to a combination of surrounding vegetation/tree belts and distance to receptors there is limited visibility of the application site (the extension). Largely this is at distance from the public rights of way network and possibly from elevated parts of Hickling Pastures. There are no views of the application site area from the A46 and from Broughton Grange Farmhouse due to tree screening. The hedgerows have been retained and a small bund has been formed along the southern boundary from the top soils previously stripped.
84. Officers are however not satisfied there is a clear need to allow up to 8m high stockpiles at this site extension. Where planning controls exist on existing areas of the wider facility they are limited to no more than 4m high. Stockpiles at twice this height on the outside edge of the facility would be unscreened for most of their height and volume and would also have greater exposure to the elements and may contribute to dust emissions. Although the extension is directly adjacent and lateral to the existing facility the visual presence and sprawl of the wider facility would increase in the local views including from nearby public footpaths and elevated areas at Hickling Pastures. In line with Policy W3.3 of the Waste Local Plan, a planning condition could reasonably reduce the impact and limit stockpile heights to 4m which would be acceptable. However, as noted above, the landscape character would not be conserved and enhanced and so some negative weight has to be taken into the planning balance.

#### Built Heritage

85. Broughton Grange Farm is an early C19 Georgian house that is Grade II Listed and positioned 250m to the south-west of the application site. The application site along with the remaining pasture field to the west had historical linkage with this house but this relationship has been markedly eroded by the expansion of the sawmills site and its diversification into large scale waste management. The

farmhouse's setting is now much more focussed around the house, its outbuildings and immediate grounds and is further confined in visual terms by a screen of coniferous trees. The proposed site expansion brings waste stocking activities closer to the farmhouse, but a buffer remains in the form of the adjacent field, retained hedgerows and the coniferous tree screening.

86. The trees and hedgerows form part of a long term landscape strategy pursuant to condition 35 of planning permission 8/13/02185/CMA and its associated legal agreement (for the biomass power plant and incorporating the associated recycling yard). In this, the conifers which currently screens and prevents intervisibility to the Farmhouse, is ultimately scheduled to be thinned and replaced by a new native tree shelterbelt. The strategy would provide 10 years for the new planting to establish before the conifers would be removed in order to maintain some level of screening at all times. At present this new shelter belt has not been implemented as required and it is understood that the applicant may seek to retain the conifers (although no revised scheme has been submitted to date) so there is no immediate prospect of them being removed. An updated landscaping strategy will be required and as noted by Via Landscape the current application may offer such an opportunity to require this formally.
87. Policy 28 of the Rushcliffe Local Plan (Part 2) seeks to conserve and enhance heritage assets including listed buildings and their settings. Policy W3.28 of the Waste Local Plan does not permit harm to the character, appearance, condition or setting of listed buildings. The NPPF makes clear that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance, so that they can be enjoyed today and for future generations (para 189). Development proposals should avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal (para 195). And great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be (para 199).
88. In this case the retained and managed landscaping in terms of the existing tree screen, or any replacement as part of a refreshed landscaping strategy, is considered to preserve the setting and significance of the listed farmhouse from any further development impacts. Also as noted below there are unlikely to be increased noise emissions at the farmhouse given the prevailing traffic noise from the A46. Therefore the application is considered to accord with policies 28, W3.28 and national planning policy protecting designated heritage assets.

#### Biodiversity

89. No ecological appraisal or survey has been submitted with the application. However, it can be assumed (and in agreement with NCC Nature Conservation) that prior to the works taking place the site comprised semi-improved grassland- a priority habitat. As this facility has expanded in recent years there has been a cumulative loss and erosion of this grassland.
90. This latest proposal needs to be seen in light of the shift in planning policy towards a greater need to preserve, restore and recreate priority habitats and

deliver net gains for biodiversity. This is encapsulated in RBC Policy 38 which expects development to preserve, restore and re-create priority habitats in order to achieve net gains in biodiversity. Developments that *significantly* affect a priority habitat (or species) should avoid, mitigate or as a last resort compensate any loss or effects.

91. The applicant has not sought to avoid the impact and has already progressed the works and has removed the grassland (although the soils appear to remain in bunds). The loss is therefore direct, cumulative in its scale and therefore significant. There is no obvious mitigation pathway, so following the ecological hierarchy in Policy 38 it is necessary to consider the provision of compensatory habitat provision or enhancement. This has been put to the applicant, however no response or solution has been forthcoming and no obvious compensatory strategy exists which could form a potential planning condition. As such there has been a direct unmitigated loss of priority habitat, which cannot be made acceptable through planning condition and is contrary to the requirements of Policy 38 of the Rushcliffe Local Plan Part 2 and further in breach of Policy WCS13.

#### Noise

92. Based on the information provided and the advice from Via, officers are satisfied that the additional storage provision would not lead to unacceptable noise at the nearest properties including the Grade II listed Broughton Grange Farmhouse. This is largely due to the remoteness to residential properties and the high background noise prevailing from A46 traffic, but also subject to reasonably restricting the operations to storage (and not processing) and mirroring the hours of operation from the existing authorised facility. Subject to conditions this would satisfy Policy W3.9 of the Waste Local Plan.

#### Dust

93. By way of context there is a history of dust complaints stemming from the existing waste wood recycling facility affecting nearby landowners and the WPA alongside the Environment Agency have for a number of years been pursuing improvements in practice and reduced emissions. This includes the need to comply with a planning conditional requirement that wood shredding only take place within the enclosed shredding building. The control of dust is both a matter for the planning regime, in terms of the use of land, (Policy W3.10 of the Waste Local Plan is relevant) and a permitting matter for the EA. Breaches remain under monitoring and investigation by both the WPA and EA.
94. Whilst no additional processing is proposed in the extended area which could give rise to further dust emissions, and shredded materials would continue to be stored in a separate walled area of the facility, the storage of additional unprocessed waste wood and in particular its tipping, handling and movement by mobile plant has potential to add to the existing dust issues and is a key concern of Hickling Parish Council but also cited by the EA. Issues of litter

escape have also been noted and the WPA has records of such occurrences, although dust is the main issue.

95. The EA advise that the extended area of waste storage needs to be brought into the site's Permit by way of an application. They intend to address the dust issues with the operator and a dust emission control plan would usually form part of that process and would be a means of addressing pre-existing issues. A planning condition could also be attached to require an updated dust management plan which could cover the application site but also the wider facility in the applicant's control and operation. However the proposed expansion of the site and the additional storage upon it points towards a further risk of dust emissions. In this context it would be advisable to have further details of the dust mitigation measures and therefore a full understanding of any likely residual risk or impact of increased dust before the WPA to inform this planning determination in order to be sure that the site expansion is appropriate in land use terms and having regard to the proximity of receptors (including farms). This approach would accord with saved Policy W3.1 of the Waste Local Plan which states that planning permission for waste management facilities will not be granted unless sufficient information is provided to enable a balanced assessment of all relevant factors. Such information could include the need for the facility, the measures to minimise pollution and environmental disturbance, and likely impacts on existing and adjacent land uses.
96. The issue has been raised with the applicant without any response to the issues and concerns raised. Further information is clearly necessary at the application stage in order to understand the likely effectiveness of mitigation measures and to understand the magnitude of the escape of dust in the context of pre-existing concerns and complaints. The application is considered to not have demonstrated that there would be no unacceptable impact on environmental air emissions or the quality of life of those living or working nearby (including cumulative impacts) which does not satisfy Waste Core Strategy Policy WCS13 (Protecting and enhancing our environment) and there is not enough information for the purposes of WLP Policy W3.1.

#### Ground Contamination and Remediation

97. Although the pre-development site was that of grassland the risk of ground contaminants is a possibility given the presence of the adjacent facility and known instances of the fields being used for storage of waste, and parking of plant and vehicles. No investigation or preliminary risk assessment appears to have been carried out and the comments from Via Geo Environmental are noted above including a request for testing of the soil bund to be undertaken along with a risk assessment. The Environment Agency indicate they agree with these comments and recommendations. The applicant has been asked whether they considered risk of contaminants when completing the works and whether any were encountered, but no response has been made to the WPA on this issue.
98. If contamination was disturbed in undertaking the soil stripping and bund works then this could, in combination with an inadequate drainage and protection

system, leach to the sensitive receptor, the Fairham Brook, to the immediate east.

99. A proportionate response to the issues raised is needed in order to understand whether there is a risk to the local water environment. NPPF para 183 requires adequate site investigation information, prepared by a competent person, to be available to inform assessment that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).
100. In the absence of any assistance from the applicant it is concluded that there is a lack of information to understand the level of risk and it is contrary to WLP Policy W3.1, Waste Core Strategy Policy WCS13 and is inconsistent with the NPPF.

#### Flood risk, drainage, surfacing and pollution control issues

101. The submitted Flood Risk Assessment (FRA) indicates an area of flood risk associated with the Fairham Brook directly to the east (this is for both fluvial and surface water forms of flooding). The high risk Flood Zone 3 just enters the edge of the red line site area as depicted in the FRA, with the majority of the application site denoted at low risk in Flood Zone 1. The FRA recommended avoidance of Flood Zone 3. This advice appears to have been taken on board as the red line appears to have since been cut back on the red line plan forming the planning application thus avoiding the at-risk area. Furthermore the indicative site layout plan (which has the former red line area as per the FRA) indicates the area for waste storage would be further set in from the at risk area and leaves space to retain an existing 'drainage lagoon'. The lagoon was an earlier planning requirement to offset the flooding and drainage issues associated with the earlier yard extension to the north (planning permission 8/14/00380/CMA). Other forms of flood risk have been considered and groundwater flooding cannot be ruled out, however it is the fluvial and surface water flooding which is the main issue.
102. As the waste storage activity would take place wholly in FZ1, in flood risk terms it is an appropriate and compatible use of this land with reference to the Planning Practice Guidance subject to ensuring that flood risk is not increased elsewhere. The management of surface water is of relevance here.
103. The FRA identifies that the development will generate significant surface water runoff, relative to the pre-development greenfield site. However the authors advise that, at the time of writing the FRA, a drainage strategy could not be recommended owing to a lack of information and lack of firm details of the planning proposal. This included the need for further investigation of ground conditions. It states the design of the surface water drainage system is outside of the scope of the assessment. It does however consider that the likely discharge of surface water will be to the Fairham Brook but mitigation/attenuated would be required to control the discharge rate (to

greenfield rates and to accommodate 1 in 100 year plus 40% flood event) in order to not worsen any downstream flooding. It is not clear whether for waste storage if this would be appropriate, or if it would require means to intercept potential pollution runoff.

104. NCC Flood Risk have requested a detailed surface water drainage scheme to include the use of sustainable drainage as the primary means of managing the surface water (which as noted above will be significant). Full details are required including for attenuation systems and outfall arrangements and the request is for these details to be provided prior to commencement of the development. However the works have already been undertaken and it is entirely unclear as to what drainage system, if any, has been installed. Furthermore the applicant has not responded to requests to supply such further drainage details.
105. The application states that the site connects to the existing site drainage infrastructure, but this is wholly unclear and may not be sufficient in capacity. Evidence of such drainage connections and also of the underlying liner which the application claims has been installed has not been observed at site (often a liner would be apparent around the edges of a development area) and it is not clear what has been installed in practice.
106. Allied to this matter is a concern over the cleanliness of the surface water arising given the land would be used to store unprocessed mixed waste wood as well as green wastes. Notwithstanding the advice from the Environment Agency (whose second letter appears to focus on waste wood as opposed to green waste), officers remain concerned that waste stockpiles sitting externally in the elements (and potentially for a long duration as has been seen at the existing facility) could leach contamination, or nutrients from the organic breakdown of the green waste which is also proposed to be stored on the extension. Such run-off could pose a risk to the Fairham Brook close to the east.
107. The application alludes to run-off from the internal haulage routes being directed to the existing surface water management lagoon to the east. These routes are entirely unclear and not delineated and this again raises concerns that the development area is not sealed/impermeable and risks opening pollution pathways. The 'lagoon' was also sized for a specific earlier yard extension and whether it has spare capacity is not known. Given the complete lack of details on the drainage system apparently installed, the application has failed to demonstrate that the local water environment would be protected from the enlarged waste activities.
108. The selection of a crushed stone or aggregate floor for the storage area as opposed to a more robust concrete surface as has previously been used for the earlier yard extensions is also of concern. As highlighted by Via Geo Environmental the aggregate and plastic liner combination is liable to wear and damage from the regular movement of mobile plant and from tipping and loading of waste. In combination with the absence of drainage arrangements the development and choice of materials is not considered to be of a high standard of design as per the requirements of WCS Policy WCS15.



109. For a proposal which seeks to use this land to store both waste wood and green waste, for which ground and surface works have already been completed, the lack of details for drainage and containment are of serious concern. Once again there is insufficient information for the purposes of WLP Policy W3.1 and Waste Core Strategy Policy WCS13. The application has also not demonstrated compliance with WLP Policy W3.5 which seeks to protect surface and groundwaters from pollution. The deficiencies cannot be reasonably made good through the imposition of conditions given the completed nature of the works and it is justifiable to instead refuse the application on this ground.

### Conclusion

110. After assessment of the relevant issues it is considered that the application has not adequately addressed a number of key concerns, namely drainage and protection of the water environment, ground contamination, and dust control, whilst other concerns arise in relation to biodiversity and landscape impact. Meanwhile the benefits of increased waste storage space is not clearly understood, particularly for the green waste element. Any such benefits appear narrowly confined and do not contribute towards increased recycling or composting targets within the Waste Core Strategy. Non-compliance has been identified with certain key planning policies including Policy W3.1 of the Nottinghamshire and Nottingham Waste Local Plan, Policy WCS13 (Protecting and enhancing our Environment) of the Nottinghamshire and Nottingham Waste Core Strategy, and policies 22 (Development in the Countryside) and 38 (Non-designated biodiversity assets etc) of the Rushcliffe Local Plan Part 2. This leads ultimately to a conclusion that the proposals also do not comply with Waste Core Strategy policies WCS4, WCS7, WCS8 and WCS13 owing to environmental concerns, or insufficient justification for further development in the open countryside. Material considerations including national planning policy have also been considered. Officers therefore would advise that this planning application does not accord with the Development Plan taken overall and should be refused.
111. Enforcement powers are available to the WPA to remedy a breach of planning control should a retrospective application such as this be refused. Whilst taking enforcement action is discretionary, in this instance should Members be minded to refuse the planning application then it would be also be considered expedient and in the public interest to initiate appropriate formal enforcement action to restrict the use of the expanded site and require its removal and restoration.

### **Other Options Considered**

112. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted.
113. A number of concerns have remained unresolved with no assistance from the applicant. Active consideration has been given to whether the outstanding issues of concern could be rendered acceptable through the imposition of planning conditions, however given a number of uncertainties, including their

likely effectiveness in satisfactorily addressing the issues, refusal of planning permission is considered necessary in order to protect the local environment and amenity. Enforcement options are available although the applicant may seek to address the issues by way of a resubmission.

## **Statutory and Policy Implications**

114. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### Crime and Disorder Implications

115. There are no implications in light of the report recommendation however the site benefits from site security measures.

### Data Protection and Information Governance

116. Given that no representations have been received from the public, it is considered that no data protection issues have been raised.

### Human Rights Implications

117. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however a refusal of planning permission is being recommended and so there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

### Implications for Sustainability and the Environment

118. These have been considered in the Observations section above including concerns regarding surface water drainage and pollution.
119. In light of the report's recommendation, there are no implications in respect of human resources, children/adults at risk safeguarding, finance and for the Public Sector Equality Duty. There are no implications for service users.

## **Statement of Positive and Proactive Engagement**

120. In accordance with the requirement set out in the National Planning Policy Framework the Waste Planning Authority has sought to work positively whilst considering the planning application and has proactively attempted engagement with the applicant in order to respond to material considerations and consultation responses received. In this instance, however the applicant has not responded and it has not been possible to resolve this issues of concern so as to overcome the harm as identified in the reasons for refusal. The Waste Planning Authority would be willing to offer pre-application advice to the applicant in respect of any future revised proposal.

## **RECOMMENDATIONS**

121. It is RECOMMENDED that planning permission be refused for the reasons set out below. Members need to consider the issues set out in the report, and resolve accordingly.
122. Members authorise Officers to take appropriate enforcement action, as may be deemed expedient, to remedy the breach of planning control.

**DEREK HIGTON**

**Interim Corporate Director - Place**

## **Constitutional Comments**

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference set out in the Constitution of Nottinghamshire County Council

(JL 26/10/23)

## **Financial Comments**

There are no specific financial implications arising directly from the report.

(PAA29 20/10/2023)

## **Background Papers Available for Inspection**

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and you can view them at: [www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=F/4436](http://www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=F/4436)

## **Electoral Division and Member Affected**

Keyworth - Councillor John Cottee

Report Author/Case Officer

Joel Marshall

0115 9932578

For any enquiries about this report, please contact the report author.

**RECOMMENDED REASONS FOR REFUSAL**

1. Against the context of policies WCS4, WCS7 and WCS8 of the Nottinghamshire and Nottingham Waste Core Strategy, the applicant's claimed need for the site extension and any benefits arising does not justify a further, and cumulative expansion of the waste management facility and its encroachment into the open countryside. The further and cumulative encroachment of the waste management facility and its external waste storage areas into the undeveloped open countryside is considered to result in further erosion of the rural pastoral character and does not conserve and enhance the intrinsic beauty of the countryside including its landscape character, and natural resources, contrary to the requirement of Policy 22 of the Rushcliffe Local Plan Part 2. The storage of waste in external stockpiles up to 8m high would be excessive and would increase the site's visual presence and sprawl in the locality contrary to the objectives of Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.
2. The application fails to provide basic and necessary information regarding the management of surface water drainage and the associated control of potential pollution and run off to nearby surface or ground waters. The application is therefore considered contrary to the following saved policies of the Nottinghamshire and Nottingham Waste Local Plan: Policy W3.1, which states that planning permission for waste management facilities will not be granted unless sufficient information is provided to enable a balanced assessment of all relevant factors, and Policy W3.5 which seeks to protect surface and groundwaters from pollution. It is also contrary to Policy WSC13 (Protecting and enhancing our environment) of the Nottinghamshire and Nottingham Waste Core Strategy which requires demonstration that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact.
3. There has been a direct unmitigated loss of priority semi-improved grassland habitat contrary to the requirements of Policy 38 of the Rushcliffe Local Plan Part 2 which expects development to preserve, restore and re-create priority habitats in order to achieve net gains in biodiversity. The impact is significant due to the cumulative expansion of the waste management facility in recent years and no compensation measures have been identified. The application is also further contrary to Policy WSC13 of the Nottinghamshire and Nottingham Waste Core Strategy which requires demonstration that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact.
4. The application does not provide any information to allow the Waste Planning Authority to assess whether the site is suitable for the proposed development taking account of ground conditions and potential risks of contamination. The proposals are therefore contrary to Policy W3.1 of the Nottinghamshire and Nottingham Waste Local Plan which states that planning permission for waste management facilities will not be

granted unless sufficient information is provided to enable a balanced assessment of all relevant factors. It is also contrary to Policy WSC13 of the Nottinghamshire and Nottingham Waste Core Strategy which requires demonstration that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact. The proposals also do not meet the requirements of paragraph 183 of the National Planning Policy Framework.

5. The application has not demonstrated that there would be no unacceptable impact from environmental air emissions (dust) to the quality of life of those living or working nearby, including cumulative impacts from the increased external storage areas when combined with existing dust emissions from the existing site. The effectiveness of any mitigation measures is in doubt. The application is contrary to Policy W3.1 of the Nottinghamshire and Nottingham Waste Local Plan which states that planning permission for waste management facilities will not be granted unless sufficient information is provided to enable a balanced assessment of all relevant factors. It is also contrary to Policy WSC13 of the Nottinghamshire and Nottingham Waste Core Strategy which requires demonstration that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact.