



**14 December 2021**

**Agenda Item: 6**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

**GEDLING DISTRICT REF. NO.: 7/2020/1223NCC**

**PROPOSAL: RETENTION OF A NEW BUILDING FOR THE END OF LIFE VEHICLE FACILITY**

**LOCATION: COLWICK BUSINESS PARK, ROAD NO 2, COLWICK, NG4 2JR**

**APPLICANT: MR. JONATHAN ALLSOP**

### **Purpose of Report**

1. To consider a planning application for the retention of a building used as an End of Life Vehicle (ELV) facility at Chris Allsop's Metal Recycling at Colwick Business Park, Private Road No 2, Colwick. The key issue relates to flood risk management. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

### **The Site and Surroundings**

2. The site is situated within Colwick Industrial Estate, approximately four kilometres east of Nottingham City Centre. Colwick Industrial Estate is extensive and incorporates a variety of uses including light and general industry, warehousing and waste transfer facilities (see Plan 1).
3. The application site is located within the Chris Allsop Business Park which is on the south western edge of Colwick Industrial Estate. The business park is adjoined by residential properties on its south-western boundary, a waste transfer station on the north-eastern boundary, the River Trent on its south-eastern boundary and industrial units on the north western boundary on the opposite site of Private Road No. 2.
4. The planning application site incorporates approximately 40% of the Chris Allsop land ownership. The boundaries of the site have been drawn to include the north-eastern part of the applicant's land ownership incorporating 2.9 hectares. The main body of the planning application site is rectangular in shape and measures 200m by 150m with access to Private Road No.2 to the north-west (see Plan 2).

5. Vehicular access to the site is obtained via Private Road No.2 which in turn links to the A612 via either Private Road No. 1 or Mile End Road. Mile End Road has an environmental weight restriction which restricts vehicles with a gross vehicle weight exceeding 7.5 tonnes from obtaining access to the A612 from the industrial estate.
6. In terms of the relationship of the operational waste transfer facility to adjoining land:
  - Beyond the northern boundary towards Private Road No. 2 and properties within Colwick Manor Farm there are intervening industrial uses incorporating open storage and commercial vehicle parking and a strip of tree/landscaping planting. The site is set back approximately 150m from the Private Road No. 2 and over 250m from residential properties in Colwick Manor Farm.
  - Beyond the western boundary towards residential properties on Fox Covert and Cottage Meadow the waste site is separated by two large industrial buildings which provide a visual screen of waste operations and an area of open storage as well as a landscape bund. The nearest residential properties are at a distance of approximately 110m from the waste facility.
  - Beyond the southern boundary there is the River Trent with Holme Pierrepont Country Park beyond.
  - Beyond the eastern boundary there is a large waste transfer building operated by Biffa Waste.
7. The site is located in Flood Zone 3a but benefits from the River Trent flood defences for a 1 in 100 year flood event with a 50% allowance for climate change.

## **Planning history**

8. The site has now been operational as a waste management facility to 'store, treat and transfer ferrous and nonferrous metals, End of Life vehicles, Waste Electrical and Electronic Equipment, inert construction and demolition materials, plastic packaging and non-hazardous household, commercial and industrial waste' for over ten years since an original grant of planning permission in November 2011 (reference 7/2011/0548NCC).
9. The site has undergone a series of changes relating to the configuration of site layout, amended drainage scheme, alteration to car parking facilities, alteration to plant and machinery used on the site, increase to storage heights and phasing for providing boundary enclosures rather than developing the site in one go, and noise attenuation measures also incorporated into the amended operations.
10. The site operates under two extant planning permissions. Planning permission was recently granted on 26 November 2021 (Ref: 7/2020/1224NCC) for the

variation of conditions 2 (Site Layout) and 23 (Boundary Wall) of Planning Permission 7/2017/1144NCC to have a phased erection of the moveable container boundary wall as development progresses.

11. Planning permission reference 7/2017/1147NCC was granted on 14 March 2018 for the retention of underground drainage storage tanks, above ground storage tanks, emergency generator, substation building and noise screen structure outside of the original site area.

### **Proposed Development**

12. The original end of life vehicle depollution facility, granted under Planning permission 7/2011/0548NCC, was sited to the south west of the main entrance to the site in the non-ferrous metals building adjacent to the weighbridge office (see Plan 3).
13. Following a Health and Safety Audit carried out by the operators, this facility was decommissioned due to its location and operation on site causing a significant risk to staff and visitors to the site passing the facility. The former facility was within the open fronted area directly adjacent to the pedestrian walkway linking the car park and the site reception with materials stored at ground level. The area is no longer in use for waste management processing but has been utilised for storage of general equipment/non-waste deliveries. As a result of the requirements of the Health and Safety Audit, a new stand-alone facility was then constructed on the site for the end of life vehicle operations and hazardous material storage.
14. The proposal seeks the retrospective retention of the self-contained steel-clad building to be used as an End of Life Vehicle facility. The facility has a partition wall inside with decommissioning of end of life vehicles taking place on an open fronted work bay area on one side of the building. This involves hazardous fluids such as petrol and diesel, brake and other fluids, and coolants being removed from the vehicles. These various fluids are stored either in containers, which stand on a bunded platform measuring 2.55m x 1.36m and 0.39m high on the other side of the building in a locked designated area (brake and other fluids and coolants), or in double skinned tanks located on hardstanding outside the building (fuels and oil).
15. The building occupies 66m<sup>2</sup> on top of the impermeable concrete pad and measures 11m x 5.64m with a mono-pitched roof sloping from 6m at the highest point down to 4.57m. The building is accessed from within the metal storage area (see Plan 4).

### **Consultations**

16. **Gedling Borough Council** – No response received. Any response received shall be orally reported.

17. **Environment Agency Midlands Region – Object** due to to the absence of an acceptable Flood Risk Assessment (FRA).

*The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:*

- *Provide sufficient flood mitigation for the vulnerability classification of the proposed development (More Vulnerable). In particular, the Finished Floor Levels are not in accordance with the SFRA.*

*We have been informed by the LPA that the vulnerability classification is mainly “less vulnerable” but the development contains area`s which include hazardous substances, as such they are considered “more vulnerable”.*

*The Greater Nottingham Strategic Flood Risk Assessment (GNSFRA) states developments with a vulnerability of “Less Vulnerable” should be set above the 1% annual exceedance probably (AEP) flood event plus an appropriate allowance for climate change. As the site remains dry during this event, the proposed finished floor level (FFL) of 21.34m AOD [Above Ordnance Datum] is considered acceptable.*

*The GNSFRA states for “more vulnerable” uses the FFL should be set no lower than the 1% AEP breach flood event plus an appropriate allowance for climate change (22.32m AOD), with an additional 300mm freeboard. The “more vulnerable” uses on site will have a FFL of (21.34m AOD) but it should be noted they will be stored in containers up to a height of 22.68m AOD within the building. Although the hazardous material will be stored above the breach flood height (22.62m AOD) the EA has objected due to development is unable to meet the requirements set out in the GNSFRA. However, the EA acknowledges that the proposed development is a betterment on the existing situation which has a FFL less than 21m AOD and with the drums lid being above the 1% AEP breach flood height plus 30% climate change allowance, and an additional 300mm freeboard.*

*However, the EA advise applying the following conditions if the LPA is minded to approve this application;*

- *Less Vulnerable uses shall have a finished floor level no lower than 21.34m AOD.*
- *The “bund” shall have a finished floor level no lower than 21.73m AOD.*
- *The top of the “drums” containing the hazardous materials shall be set no lower than 22.62m AOD.*
- *The “drums” shall be restrained by being strapped securely to the structure of the building.*

18. **Western Power Distribution** – No objection.
19. **Colwick Parish Council, Severn Trent Water Limited and Cadent Gas Limited** have not responded. Any responses received shall be orally reported.

### **Publicity**

20. The application has been publicised by means of eight site notices around the Crossland Meadow housing estate and Mile End Road to the west and on Private Road 2 outside neighbouring industrial businesses, with a press notice in the Nottingham Post in accordance with the County Council's adopted Statement of Community Involvement. A neighbour notification was sent by email to a local resident who had previously raised concerns regarding operations on the site and within the wider business park.
21. No letters of representation or proforma letters have been received raising objections.
22. Cllr Mike Adams has been notified of the application.
23. Former Cllr Nicki Brooks was notified of the application
24. The issues raised are considered in the Observations Section of this report.

### **Observations**

25. The planning application seeks retrospective planning permission to regularise the addition of a metal framed building to be used as an End of Life Vehicle (ELV) facility, replacing the old facility adjacent to the site office within the existing brick buildings.
26. Through the regular monitoring of the site, a number of inconsistencies between the approved scheme and the development as constructed had become evident and the developer was requested to retrospectively regularise the unauthorised development through the submission of this planning application.
27. The request for a planning application to regularise unauthorised works on the site is consistent with the approach set out in the Government's Planning Practice Guidance (PPG) 'Ensuring Effective Enforcement' which sets out national policy and expectations in terms of planning enforcement policy. It advises that planning authorities have discretion to take enforcement action when they consider it is reasonable to do so and any action taken should be proportionate to the breach of planning control. Paragraph 011 of this PPG states that 'local planning authorities should usually avoid taking formal enforcement action where.... there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area and the development is acceptable on its planning merits...and in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for

example, where planning conditions may need to be imposed.’ This approach is reflected in the County Council’s adopted Local Enforcement Plan (January 2021) which identifies retrospective planning applications as being an appropriate method of dealing with breaches of planning control to regularise unauthorised works.

#### Planning policy assessment

28. The Waste Core Strategy does not allocate specific sites for waste management facilities, but Policy WCS7 (General Site Criteria) establishes the broad principles that will be used to assess whether a particular location is likely to be suitable in principle for a waste management facility. The policy identifies that metal and aggregate recycling/processing facilities are most appropriately located on employment land including areas which are already used for, or allocated for, employment uses such as industrial estates, business or technology parks etc. The site selection approach set out within Policy WCS7 reflects policy within the National Planning Policy for Waste (NPPW) which gives preference to industrial sites and previously developed land for the development of waste infrastructure.
29. Policy WCS3 (Future waste management provision) states priority will be given to the development of new or extended waste recycling facilities to provide Nottinghamshire sufficient waste management capacity and Policy WCS4 (Broad locations for waste treatment facilities) supports the development of small-scale waste treatment facilities in all locations where these will help to meet local needs and fit in with the local character, and large-scale waste treatment facilities close to the built-up areas of Nottinghamshire. The new facility is a relatively small scale operation within the operational larger metal waste management facility which has scope to increase operational capacity within the existing footprint and is situated within Colwick Industrial Estate in accordance with Policies WCS3, WCS4 and WCS7 of the Waste Core Strategy.
30. Policy WCS8 (Extensions to existing waste management facilities) supports the 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. The improvement to existing waste management methods has been discussed within the Proposed Development section of the report where it was confirmed the existing facility has been decommissioned to improve Health and Safety and to provide a new dedicated facility, isolated from other parts of the site. The reduction of existing environmental impacts is discussed in greater detail later within the Observations section.
31. Colwick Industrial Estate is identified within the adopted Gedling Local Planning Document (GLPD) Policy LPD 44 (Retention of Employment and Employment Uses) and the Proposals Map identifies the application site as a designated employment site. Policy LPD 44 seeks to retain industrial land in employment use within Use Classes B1 – B8 and sui generis uses of a similar nature and is supportive of the further expansion of these sites for employment purposes

subject to there being no unacceptable environmental and amenity impacts. The application site is on an existing waste management facility.

32. It is therefore concluded that the locational policies of the development plan are supportive of the development of the waste transfer facility within Colwick Industrial Estate, subject to there being no unacceptable environmental impacts.

#### Flood risk

33. Planning policy relating to the management of flood risk is incorporated in the NPPF and its supporting Planning Practice Guidance (PPG) Note concerning flood risk and coastal change. NPPF paragraph 159 encourages development to be undertaken in low flood risk areas and directs development away from areas at highest risk but acknowledges that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. NPPF paragraph 167 advises that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding and where it can be demonstrated that:
- a. within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b. the development is appropriately flood resistant and resilient;
  - c. it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d. any residual risk can be safely managed; and
  - e. safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
34. The PPG confirms NPPF policy requiring the application of the sequential test, described as a sequential approach to steer new development to areas with the lowest probability of flooding. The PPG states:

*The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.*

35. GLP Policy LPD 3 - Managing Flood Risk is consistent with NPPF policy insofar that it states that 'Where development in areas of flood risk is considered acceptable it will only be considered appropriate when informed by a site-specific flood risk assessment. Proposals should include mitigation measures to protect the site and deal with any residual flood risk to include flood resistance/resilience measures, provide safe access and escape routes'. The Nottinghamshire and Nottingham Waste Local Plan (WLP) Policy W3.5 (Water Resources – Pollution Issues) states that planning permission will not be granted for waste management facilities where the development affects the integrity or function of floodplains, unless the harm can be mitigated by engineering measures and/or operational management systems.
36. The application site is identified on the Environment Agency's flood map as being within an area classified as a Flood Zone 3a (an area with a high probability (1 in 100 or greater annual probability) of river flooding) but is also protected by flood defences (constructed in 2012) which means that the actual level of flood risk is now much lower. Environment Agency data shows that in the event of flooding, the site does not flood up to and including a 1 in 100 year +50% climate change event, presuming the defences hold.
37. From the details in the PPG set out above, development should ideally be steered away from the application site, being in Flood Zone 3a, but it must be acknowledged that the business has operated from this site for a long period of time and the wider area in general, also in Flood Zone 3a, is home to a variety of commercial and industrial operations, including other waste management facilities for which the County Council is the Waste Planning Authority. All of these businesses benefit from the flood defences in place.
38. It would normally be the case that the proposals in Flood Zone 3a would need to apply the sequential test to demonstrate whether other sites with less flood risk are available for the proposed development. However, the PPG details a number of instances where the sequential test does not need to be applied, including for 'minor development'. Specifically, in relation to flood risk, 'minor development' includes 'industrial/commercial/leisure etc. extensions with a footprint less than 250 square metres'. Whilst this is a standalone building as opposed to an extension of an existing building, it is effectively an extension to the applicant's existing operations and as the building has a footprint of 66m<sup>2</sup>, far less than the 250m<sup>2</sup> threshold in the PPG, it is considered to be minor development in this respect and so the sequential test does not need to be applied.
39. The PPG also details that different development types have different flood risk vulnerability classifications. The vulnerability classification of the wider site, being classed as a 'waste treatment facility (except landfill and hazardous waste facilities)' is mainly 'less vulnerable'. However, a section of the ELV facility is used for the storage of hazardous substances (oils, brake fluids, etc) and as such this part of the site is considered 'more vulnerable' ('landfill and sites used for waste management facilities for hazardous waste').



40. Table 3 of the PPG details the acceptability or otherwise of different flood risk vulnerability classifications in different flood risk areas. This table is set out below.

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	x	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	x	x	x	✓*

Key:

✓ Development is appropriate

x Development should not be permitted.

41. As can be seen from this table, 'more vulnerable' development can be permitted in Flood Zone 3a subject to the application of the 'Exception Test'. The Exception Test requires proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. However, again the PPG advises that the Exception Test does not need to be applied to 'minor development', which this application is.
42. This does not mean to say that such 'minor development' cannot pose potential flood risk issues and the PPG provides guidance on this matter too. It states that minor developments are unlikely to raise significant flood risk issues unless:

*“they would have an adverse effect on a watercourse, floodplain or its flood defences;*

*they would impede access to flood defence and management facilities, or;*

*where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows.”*

43. The ELV building is located over 150 metres from the River Trent and the flood defences and so would not have any adverse impact on these, nor would the building prevent access to the defences. The application site, and the wider Colwick industrial area, are not designed to be a local flood storage area during times of flooding, hence the defences that are in place. It is therefore considered that the ELV building would not raise significant flood risk issues.
44. Although the application of Government policy on flood risk indicates that the ELV building would not raise flood risk issues, the flood risk assessment submitted with the application acknowledges that flood defences can be breached and if this was to occur in a worse case flood event comprising a 1 in 100 year flood event plus 30% addition for climate change, the development site would become inundated with flood water with flood levels predicted to be 22.32m Above Ordnance Datum (AOD). Existing ground levels across the wider site range from a low point of 19.07m AOD to a high of 22.88m AOD on the south eastern boundary of the site and so significant areas of the site would be flooded. The floor level of the ELV building is 21.34m AOD, meaning that flood depths in the building would be 0.98m if flood levels were 22.32m AOD. Flooding of greater magnitude could occur. Given this potential for the ELV building to flood if the defences were to be breached, the Environment Agency has objected to the development of the facility in this location.
45. The applicant states that operational controls regarding potentially hazardous materials are regulated through the permitting process and ensure that any risk of pollution at a time of flooding is not significant. These controls ensure that fluids are drained from vehicles prior to processing and stored in bunded sealed tanks. Diesel and oils are stored in secure double skinned tanks in a designated impervious area outside the building. Significant pollution risks from flooding events therefore are not anticipated.
46. Further guidance on the implications of flood levels for the development can be found in the Greater Nottingham Strategic Flood Risk Assessment (GNSFRA) which was published in 2010 (with an addendum published in 2017) and which covers Nottingham City and neighbouring local authority areas (Broxtowe, Gedling, Rushcliffe and Erewash). The GNSFRA aims to help local planning authorities understand potential flood risks across the study area. The GNSFRA states that developments with a vulnerability of “Less Vulnerable” should be set above the 1% (1 in 100 year) annual exceedance probability (AEP) flood event plus an appropriate allowance for climate change giving a level of 22.32m AOD. As the site remains dry during this event, because of the presence of the flood defence that offers flood protection for a 1 in 100 year flood event with a 50% allowance for climate change, the proposed finished floor level (FFL) of 21.34m AOD is considered acceptable for less vulnerable development.
47. The GNSFRA states for “more vulnerable” uses, such as the ELV building and its use for the storage of hazardous substances such as diesel, oil and other

fluids, the FFL should be set no lower than the 1% AEP *breach* flood event plus an appropriate allowance for climate change (22.32m AOD), with an additional 300mm freeboard to account for uncertainties in flood levels (22.62m AOD). This application is retrospective and the current “more vulnerable” uses have a finished ground level of 21.34m AOD but it should be noted that storage takes place on a 390mm bunded platform, effectively raising the FFL to 21.73m AOD. Furthermore, the hazardous fluids are stored in containers, the tops of which are at a height no lower than 22.68m AOD within the building. Therefore, the hazardous material is stored above the breach flood height with the additional freeboard (22.62m AOD) but the EA has objected due to the FFL of the building being below this height. On this basis, the EA considers that the development is unable to meet the requirements set out in the GNSFRA. These various critical heights are set out on the schematic drawing on Plan 5.

48. However, as the site is an existing long-established waste facility, unlike a new site, it is impractical and virtually impossible to raise the levels across the site to this level. The site has extensive areas of existing hardstanding and so ground levels are already established. Whilst there are areas in the east-south east of the site that achieve these levels, being at a height of up to 22.88m AOD, these sections are either not currently in use for waste management or are utilised as the safe refuge area in the event of flooding and form part of the access for emergency vehicles in this scenario.
49. What is considered critical in terms of the assessment of this application is that the finished floor level of the new ELV facility provides a better scenario than the existing facility which has been decommissioned following the Health and Safety audit carried out by the applicant and which has a finished floor level of below 21m AOD. The lids of the drums (22.68m AOD) within the new facility are above the 1% AEP breach flood height plus 30% climate change allowance, and an additional 300mm freeboard level and this represents a significant improvement on the previous facility.
50. The EA acknowledge that this facility provides a betterment on the previous facility in terms of flood risk despite not meeting the requirements of the GNSFRA and have provided conditions regulating the storage heights and requirements for the development in this facility. Taking a pragmatic approach including consideration of the fact that this is an existing longstanding business at this site, and that the operation of the ELV facility is an important part of the process of recycling old vehicles in an environmentally acceptable and responsible way, plus bearing in mind the flood defences that are in place to protect the site and the surrounding area, it is considered that the application can be supported. The application accords with Policy WCS8 which supports the redevelopment or improvement of existing waste management facilities which reduce existing environmental impacts.
51. Support is subject to the implementation of the proposed mitigation measures which would be regulated by planning condition and on this basis, it is considered that the development could proceed without being subject to significant flood risk and the development would not increase flood risk to the wider catchment area. The development would therefore accord with the NPPF

which acknowledges that development can sometimes be necessary in flood risk areas and requires them to be made safe without increasing flood risk elsewhere.

52. Notwithstanding the definition of 'minor development' in the PPG when specifically considering flood risk (as detailed in Paragraph 38 above), the Town and Country Planning (Consultation) (England) Direction 2009<sup>1</sup> defines 'major development' in respect of non-residential development, as 'a development where the new floor space to be provided is 1,000 square metres or more, or the site area is 1 hectare or more'. The Direction imposes a requirement on planning authorities to refer to the Secretary of State any application which involves major development (as defined in the Direction) in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussions with the local planning authority. The Direction allows the Secretary of State an opportunity to consider whether to exercise his powers to call-in the planning application for determination. Since the facility seeks planning permission within Flood Zone 2 and 3 and the wider site area is stated as 3.5 hectares which is greater than the 1 hectare threshold in the Direction, and despite the application being considered as 'minor development' using the definition in the PPG, it is considered that the requirements of the Direction need to be followed. Therefore, if Members are minded to support a grant of planning permission, it would be necessary to refer this decision and provide the Secretary of State a period of 21 days starting from an acknowledgment of receipt to decide whether he wishes to intervene in the decision and call-in the planning application before the County Council issue the decision notice.

#### Surfacing and drainage

53. WLP Policies W3.5 (Water Resources – Pollution Issues) and W3.6 (Water Resources – Planning Conditions) seek to avoid pollution of ground and surface water through implementing engineered solutions including impermeable surfacing to operational areas, use of appropriate drainage systems and control over waste types.
54. The impermeable surfacing and drainage have previously been assessed and approved through the previous planning permission and are acceptable from a drainage point of view. The concrete surfacing has been engineered to fall to the south and discharge into the drainage storage tanks situated outside of the concrete boundary wall provided under Planning Permission 7/2017/1147NCC. These holding tanks have been sized to allow for the subsequent phases of the

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<sup>1</sup> The Town and Country Planning (Consultation) (England) Direction 2009 (Circular 02/09) has been replaced by The Town and Country Planning (Consultation) (England) Direction 2021, but applies only to applications received by a Local Planning Authority after 12 April 2021. This application pre-dates the change.

development and have sufficient capacity to contain surface run off and ensure the site does not exceed the rate of flow of an equivalent green field site and thus result in no increased flood risks.

55. The development is therefore considered to be compliant with WLP Policies W3.5 and W3.6 since the design of the site satisfactorily safeguards against water pollution.

#### Landscape and Visual Impact

56. WLP Policy W3.3 (Visual Impact of Plant, Building and Stockpiles) seeks to minimise the visual impact of waste management facilities by locating the facilities in appropriate locations which minimise impact on adjacent land, keeping development low in height, grouped together, and satisfactorily maintained. WLP Policy W3.4 (Visual Impact - Screening and Landscaping Measures) identifies the importance of screening to reduce visual impacts.
57. The development is similar in character to that of other buildings across the wider Colwick Industrial Estate. Furthermore, the location of the ELV building is within the western portion of the metal waste operations and benefits from being remote from residential properties with public viewpoints well screened.
58. The physical separation and intervening uses between the waste facility and the road frontage/residential properties provide screening of the site, ensuring that there is minimal visibility between the consented waste activities and residential properties in accordance with the objectives of WLP Policy W3.4.
59. The northern container boundary wall also sufficiently screens this and results in minimal visual impacts. It is therefore concluded that the ELV building proposed in this planning application, whilst taking into account the approved interim phased boundary wall and future movement of the phased wall, is visually acceptable and the development is compliant with WLP Policies W3.3 and W3.4 which seek to ensure visual impacts from waste development are minimised and screened as far as practical.

#### Ecological Impact

60. The site is not designated for its nature conservation interest, is generally hard surfaced with very small areas of vegetation offering negligible habitat for protected or notable species. Significant ecological impacts are not therefore predicted as a result of the development.

#### Traffic, Access and Parking

61. WLP Policy W3.14 (Vehicular Movements) states that planning permission will not be granted for waste management facilities where the vehicle movements likely to be generated cannot be satisfactorily accommodated on the highway

network or where such movements would cause unacceptable disturbance to local communities.

62. Traffic and parking have been assessed in previous applications for the site and the construction of a new end of life vehicle facility within the site to replace the old will not give rise to additional vehicle movements or increase staffing levels. Vehicle movement numbers are regulated through planning condition on the wider waste management site planning permission which also incorporates provision for staff/visitor parking areas within the site layout plans.
63. In terms of access to the wider highway network, Private Road No. 2 forms part of a network of industrial access roads which serve Colwick Industrial Estate and connects to the A612 Colwick Loop Road via Private Road No. 1. Access to the A612 via Mile End Road to the west is regulated by an environmental weight restriction which was put in place to protect occupiers of residential properties on Mile End Road from environmental disturbance from HGVs and prohibits HGVs associated with this development from using this road.

#### Noise

64. It is considered that the relocation and operation of the end of life vehicle facility would not result in any increase to noise levels across the site. Existing planning conditions are in place to control significant adverse noise impacts from the wider waste management facility to nearby sensitive noise receptors or any significant detriment to the amenity of occupiers of adjacent industrial/commercial land and therefore the development accords with WLP Policy W3.9 (Noise).

#### Operating Hours

65. The operating hours of the facility are regulated within the wider waste management facility's planning permission that the previous facility operated under. There is no proposed change from the operating hours of between 0700 to 1800 Monday to Friday. On Saturdays between the hours of 0730 to 1230 the site shall only be operational for the delivery of material and the sorting of materials using forklift trucks, guillotine, bailer and granulator. The metal and recycling plant shall not be operated on Sundays and between 1000 to 1300 the site shall only be used for the receipt and unloading of incoming waste with no other operations undertaken. Outside of these hours including Bank or Public Holidays the site shall be closed and shall not receive, transfer or process waste.

#### **Other Options Considered**

66. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

## **Statutory and Policy Implications**

67. 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

68. The development would be located within an established industrial park benefiting from perimeter security fencing, security lighting and CCTV coverage.

### Data Protection and Information Governance

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

### Human Rights Implications

70. 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, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

### Public Sector Equality Duty Implications

71. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty and there are no identified impacts to persons/service users with protected characteristics.
72. Potential impacts to the amenity of the occupiers of nearby residential properties have been considered. The working methodologies operated within the site seek to minimise and mitigate environmental emissions from the site. Planning conditions together with waste permitted regulations ensure that these environmental controls are implemented.

### Implications for Sustainability and the Environment

73. These have been considered in the Observations section above.

74. There are no human resource, financial, or children/adults at risk safeguarding implications. There are no implications for County Council service users.

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

75. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **RECOMMENDATIONS**

76. Subject to the application being referred to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 and the Secretary of State deciding not to call in the application for his own determination, it is RECOMMENDED that planning permission is granted for the above development subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

**ADRIAN SMITH**

**Corporate Director – Place**

### **Constitutional Comments [SG 19/11/2021]**

This decision falls within the Terms of Reference of the Planning and Rights of Way Committee.

### **Financial Comments [RWK 22/11/2021]**

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

### **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/4181](http://www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=F/4181)



**Electoral Division(s) and Member(s) Affected**

Carlton East

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