



12 December 2017

Agenda Item: 8

REPORT OF CORPORATE DIRECTOR – PLACE

NEWARK AND SHERWOOD DISTRICT REF. NO.: 17/01644/FULR3N

PROPOSAL: USE OF LAND FOR THE IMPORTATION, STORAGE AND PROCESSING OF CONSTRUCTION AND INFRASTRUCTURE INERT WASTE

LOCATION: LAND ADJACENT TO RAILWAY LINE, OFF GREAT NORTH ROAD, NORTH MUSKHAM, NG23 6HN

APPLICANT: LAFFEY'S LIMITED

Purpose of Report

1. To consider a planning application seeking permission for the use of land at Great North Road, North Muskham on which to import, store and process inert wastes, including wastes arising from the Newark Waste and Water Improvement Project. The key issues relate to the principle of this type of development in the countryside having regard to the historic uses of the site; impacts to the amenity of adjacent residential properties from resultant noise; dust; from HGV traffic; and railway safeguarding issues. The recommendation is to approve a temporary planning permission for 2 years linked to the Newark Sewers project.

The Site and Surroundings

2. The application site is situated beside the Great North Road and its bridge over the East Coast Railway line, to the south-west of the A1 roundabout at North Muskham, 5km north of Newark on Trent.
3. The site is a small, narrow plot of land of circa 0.28 hectares framed between the railway line to the west and the raised embankment carrying the Great North Road over the railway to the east. (See plan 1) The road then goes onto form the southwestern arm to the roundabout below the A1 flyover. Historically the land would have been part of the Great North Road where it crossed the railway by means of a level crossing. The present over-bridge was built in the 1950s on a slight curving alignment to the east and which replaced the crossing. The land was latterly used for highway maintenance purposes by the Highways Authority.

4. There is a single point of access at the foot of the road embankment just prior to it joining the roundabout. An entrance barrier prevents unauthorised vehicular access. The site has a rough and unbound surface of soils and stone and is partly surrounded by trees and vegetation, particularly those along the road embankment which screen the road side and the site area below. At present the site is being operated to process and store inert waste materials with several large stockpiles on site which vary from time to time. The western edge of the site is marked by a depleted hedge with various trees which separates the application site and an adjacent parcel of rough land to the west. This area has recently been used for overspill, but has now largely been cleared and does not form part of the application site.
5. Trees and vegetation within a neighbouring garden to the north screen views to a property called Sandy Lodge which operates as a day care facility. This property along with the Ashiana Restaurant and several residential properties form a small cluster at the junction with the A1 roundabout and Bathley Lane directly to the north of the application site. (See plan 2) There is also a large single property immediately south of the railway line and the bridge (Downside Cottage) with clear views across the railway to the application site. The main settlement at North Muskham is around 500m distant, to the east of the A1 and its flyover. The application site is located within Flood Zone 2.

Background

6. The applicant is engaged as a sub-contractor to work on Severn Trent Water's (STW) £60 million Newark Waste and Water Improvement Project. The applicant provides haulage, processing and disposal of construction and inert wastes utilising a fleet of tipper HGVs and mobile processing equipment. It has a permanent base in Claypole to the east of Newark, but typically operates on an itinerant basis linked to construction and other contracts.
7. The STW works involve the renewal of 20km of old sewers across the town and the tunnelling of new larger capacity sewers including a 2.8m diameter transfer tunnel running 3km under the town. Construction sites, which are present across the town, are typically small and constrained by roads and the general urban fabric. The exception is a large compound which has been established at Quibells Lane near to the Crankley Point Sewage Treatment Works, beside the A46 bypass. This is from where the main 3km long sewer tunnel is currently being driven from and from where cuttings/spoil will be produced. Similar cuttings and excavated materials are being generated by the smaller tunnels and in-highway trenching taking place across the town. In total the STW works have been estimated to generate between 56,000 and 68,000 tonnes of spoil, much of which will require collecting and processing/recycling. Some of this has already been dealt with and reused as backfill or put to beneficial use elsewhere, thereby minimising landfill.
8. A similar proposal from the applicant to use a site off Drove Lane, Coddington (application Ref 3/17/00107/CMA, part of the former RAF Winthorpe) to process inert wastes, including those arising from the STW project, was refused planning permission in March 2017. The reasons given related to the site being located inappropriately in the countryside, contrary to policies within the Waste Core

Strategy and District Local Plan and unacceptable noise impacts and inadequate access.

9. Planning permission was granted in 2016 for a project by the Nottinghamshire Piscatorial Society at its fishing lakes at South Muskham, 2km to the south, which included the construction of a new embankment within one of the lakes. (A variation to traffic arrangements was subsequently approved under planning permission Ref 17/00059/CMM). The applicant is also engaged on this project utilising processed, clean spoil from the STW project. Construction of the embankment is nearly complete.
10. The application site has been used by the County Highways Authority and its contractors under a lease from the landowner to stockpile and process inert wastes arising from highway projects. This previous use fell as Permitted Development specifically for Local Highway Authorities (by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Schedule 2, Part 9, Class A and Part 12). This use of the land appears to have continued on an intermittent and ad-hoc basis for many years, but this history of use is uncertain in many respects. It is understood that by July 2016 the County Council's interest had ended and the site handed back to the landowner. The associated Permitted Development rights (for local authorities) ceased at this point. The site has been leased by the applicant to undertake similar, though more intensive, inert waste stockpiling and processing, including to deal with waste arising from the STW project.
11. Investigations into the use of the site by the applicant have been carried out by the County Council's Planning (Monitoring and Enforcement) Officers, which has also included discussion with County Council Property and Highways officers. Taking into account the historic use of the site which has many uncertainties, it was determined that the applicant did not have the benefit of planning permission or a demonstrable lawful use of the site and so the present application was duly invited.

Proposed Development

12. This retrospective application seeks to regularise the use of the application site for the storage and processing/recycling of inert wastes, notably including those wastes generated from the STW Newark Waste and Water Improvement Project. The applicant's description of the proposal does not reference any temporary permission as sought, however the supporting documentation references a time period/duration of 3 years from the date of grant (not to be confused with a 3 years commencement period). The overarching justification for the proposed use of this site is based upon supporting the STW project; it states that the *"temporary use proposed is unique being tied explicitly to the Newark Sewer Scheme."*
13. The application states the importation of wastes would take place by 20-25 HGV trips per week (1,000-1,2050 per annum). These would operate between 07.30 to 19.00 hrs, potentially 7 days a week, as there is limited stockpiling capacity at some construction sites.

14. It states that the processing activities would be undertaken on a campaign basis estimated to be 2 or 3 days every 5 to 6 weeks. This would utilise a mobile crusher and screener, along with a wheeled loader and an excavator and would process 360-450 tonnes per week or circa 18,000-22,500 tonnes per annum (tpa). Processing would take place only on Mondays to Fridays between 08.00 and 18.00hrs. Suitable processed materials would be taken off-site, including for use at the South Muskham lakes project. There is therefore no permanent disposal of materials planned on the site.
15. The applicant has submitted plans setting aside an exclusion area beside the railway line. Subsequent plans have also been provided setting out the locations for a series of 4m high bunds to contain noise. Some of these are however outside of the application site boundary and this issue is further discussed in the report.
16. Supporting statements submitted include background to the STW project; a site selection methodology and an alternative site assessment. Statements have also be made to cover transport/traffic; environmental issues; flooding; dust; railway safeguarding; and noise.

Consultations

17. **Newark and Sherwood District Council- No objection.**

Other than comments provided from Environmental Health with respect to noise impact [see below], provided that Nottinghamshire County Council is satisfied that the proposed development complies with the relevant Development Plan policies and that no neighbours are materially impacted upon through nuisance and increased traffic generation and that the character of the surrounding countryside is not detrimentally affected, then Newark and Sherwood District Council have no other issues to raise on the proposal.

18. **Newark and Sherwood EHO – Comment based on original noise assessment.**

The submitted noise assessment is open to question. Its findings are based on 2 short periods of noise monitoring, comprising 6 hours in total around midday. Yet the site is seeking to operate 7 days a week 07:30 till 19:00. The full impact of these proposed working hours has not been properly assessed.

Furthermore large items of plant are proposed for the site. The noise sources of these can be at some height above ground. The report shows a significant adverse noise impact but this is assumed to be addressed by installing a noise bund. No accurate assessment of the noise reduction to be achieved by these bunds has been included and therefore the assumptions made are questionable.

19. **North Muskham Parish Council - Objection.**

While Members are fully supportive of the benefits of recycling to reduce the need for gravel extraction, they are not supportive of the land outlined in the application being used for this purpose.

The Parish Council has concerns on the noise assessment, as outlined in Newark and Sherwood District Council's Environmental Health Officer's report.

Neither is it considered that there was enough mitigation to reduce the risks of vehicles reversing into the site from the Highways Authority point of view. The site is accessed off a busy road that leads down to the A1 roundabout and heavy goods vehicles have been observed pulling into the road to reverse into the site. This is clearly a hazard on such a busy road.

20. NCC (Highways) - No objection.

The application site has been used in the past by a number of contractors and the Highway Authority for the importation of inert waste from construction and infrastructure projects. This has involved the movement of material to and from the site by HGVs for a considerable number of years.

This proposal is for the temporary use of the site for a 3 year period, in connection with the Newark Sewer Scheme.

It is recommended that turning facilities be provided within the site so that vehicles leave the site in a forward gear to ensure a safe exit.

21. NCC (Noise Engineer) – Supports, subject to conditions.

The revised noise assessment relies on 4m high noise screening, to avoid a significant adverse noise impact at Sandy Lodge to the north and Downside Cottage to the south-west, however it was apparent from the proposed layout that the positioning of the noise bunds would not provide sufficient screening and a direct line of sight remained between the operational area and Sandy Lodge to the north. The conclusions of the revised noise assessment were therefore flawed. Since then the applicant has re-evaluated the proposed layout and considered alternative options that would provide noise screening between the operational area and Sandy Lodge. The proposals indicate that a combination of bunds and a temporary noise barrier constructed from hay bales could provide the screening necessary. The bales would be constructed up the western side of the ramped site access which slopes upwards to meet the road level.

The Noise Engineer considers a wall of hay bales to be feasible, but will need to be maintained at an effective height of 4m to ensure that the predicted noise levels are realistic. It is however, still likely that there will be audibility of operational noise from the site as the predicted noise levels from processing operations still exceed the background noise levels by around 9-10dB.

The processing operations will only occur on a campaign basis (2-3 days a month), but that these will represent an intensification of operations compared to previous uses. While prevailing noise levels in general are quite high due to the proximity of the A1 and the east-coast mainline, the nature of the noise from the processing operations is likely to be distinctive and distinguishable against the prevailing noise climate. As such it is recommended that the proposed operations if approved are granted on a temporary basis only, for the life of the Newark Sewer renewal contract for which the applicant cites as the reason for

choosing the site in question. For a temporary grant of permission, the proposed screening through the use of hay bales would seem appropriate, as they would otherwise be an inappropriate measure for proposals which would continue indefinitely. Conditions are recommended.

22. Environment Agency- No objection.

No objection is raised on flood risk grounds and the applicant is encouraged to utilise the North Muskham Flood Warning Area service and develop an emergency flood evacuation plan.

This development may require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency, unless an exemption applies.

23. NCC (Flood Risk) – No comment , general advice offered.

24. NCC (Reclamation) – No objection.

Provided the proposed environmental controls and procedures are implemented, then there is no objection to the proposal. The site has been utilised in the recent past by the Highway Authority for very similar processes i.e. the importation, storage and processing of construction and infrastructure inert waste under permitted development rights. The material derived from the Newark Sewer Scheme will fall within the definition of non-hazardous inert waste. The activity will involve mobile processing using temporary crushers and screeners as have been utilised in the past.

The site is not located adjacent to any rivers and/or streams; therefore, the risk of potential contamination being mobilised from site in drainage water run-off is minimal. The site is predominantly hard standing thereby protecting the underlying geology.

Dust levels will be mitigated utilising in-built plant systems and if necessary wetting down on-site utilising an on-site bowser.

25. Network Rail - No objection subject to conditions.

Network Rail (NR) specify measures which should be required to be followed especially with the close proximity of the development to an electrified railway (The East Coast Mainline).

Heaping, Dust and Litter- NR appreciate the developer's consideration of this issue and its impact upon the adjacent railway in the Dust Suppression document submitted. NR would not want to see materials piled against their boundary. Items to be heaped on site should be kept away from the boundary an equal distance as the pile is high to avoid the risk of toppling and damaging or breaching the boundary.

NR also have concerns over the potential for dust clouds and rubbish created from the processing at the site affecting the railway signal sighting. Therefore adequate measures for preventing dust and rubbish blowing onto Network Rail

property are to be in operation. The scheme proposed would appear to address these concerns and requirements.

Further detailed advice is given with respect to plant being operated in a 'fail-safe' manner; excavations/earthworks; method statements; and the security of the railway boundary.

26. NCC (Nature Conservation) - No objection subject to conditions.

No ecological assessment has been submitted with the application however the site comprises an area of bare ground/hard standing previously used as a Highways compound. There are no ecologically-designated sites within the vicinity of the application site and given its location, c.110m from the A1 and adjacent to the main East Coast railway line, there should not be any particularly noise-sensitive ecological receptors in the vicinity, and therefore do not expect elevated noise to give rise to any significant ecological impact.

It is assumed that all existing trees and boundary vegetation will be retained as part of the proposals. If this is the case, then no direct ecological impacts can be expected.

The 4m high earth bunds required to mitigate noise should be seeded with an appropriate wildflower seed mix to deliver a biodiversity enhancement of the site.

Dust should be controlled through standard dust suppression measures, which should be secured through a condition.

Publicity

27. The application has been publicised by means of 3 site notices (including one in the village), a press notice and by neighbour notification letters sent to the 5 nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement Review.

28. One letter of objection has been received from a neighbouring business/property (Sandy Lodge) providing adult social care/day care on the following grounds:

- (a) The objector's property is considered commercial but should be considered sensitive in the same way as for a residential property. Daytime support is provided to elderly people between 8am and 6pm and several clients are very vulnerable suffering from respiratory conditions such as asthma and Chronic Obstructive Pulmonary Disease (COPD). The support often includes time spent in the garden.
- (b) Concern was raised that the initial noise assessment overlooked the objector's property and its close proximity.
- (c) An additional area of land next to the railway was recently used by the applicant for a similar purpose without planning permission. Noise and

dust was produced over a period of weeks which caused considerable disturbance.

- (d) The company is trying to provide a safe, high quality social care service in order to address an area of growing need. The proposed activity could compromise the ability to provide this service and provide a safe and comfortable environment for clients and staff.
29. Councillor Bruce Laughton has been notified of the application and has referred it to Committee in accordance with the Council's scheme of delegation.
30. The issues raised are considered in the Observations Section of this report.

Observations

Planning policy assessment

31. As a waste management development the proposal falls to be assessed against the Nottinghamshire and Nottingham Waste Core Strategy (WCS) and the saved environmental policies within the Nottinghamshire Waste Local Plan (WLP). Certain policies within the Newark and Sherwood Local Development Framework (LDF) are also relevant. The National Planning Policy for Waste (NPPW) is a material consideration. Despite being a retrospective application it should be assessed on its merits against these plans and policies and having regard to material considerations in the usual way.
32. WCS policy WCS3 sets out the broad vision to increase recycling rates in the County by prioritising the development of new recycling facilities in line with the waste hierarchy. The proposal would recycle inert wastes such as those arising from the Newark Sewer improvement scheme, enabling clean processed materials to be put to beneficial use, which could include soils being used at the nearby South Muskham lakes project or hardcore sold onto customers which could displace the need for primary aggregates. Generally there remains a need for more inert recycling facilities in the County and specifically there is clearly a need and sustainability rationale to have locally available sites to serve the sewer improvement works, which are a substantial investment in local infrastructure and generate large volumes of inert wastes. The management of waste arising from the works are also being undertaken in line with the objectives of Policy WCS2 in terms of its collection, sorting, recycling and recovery for beneficial use and the avoidance of landfill.
33. In terms of the site selection, the policy assessment is more complex and affected by the planning history and material considerations. Policy WCS4 sets out the broad locations for waste management facilities based on the size and needs of the County's communities. It sets out that smaller and medium facilities will be supported in, or close to, the Newark built up area. It further states that small scale facilities will be supported in all locations where it will help to meet local needs and fit in with local character. However it also states that facilities within the open countryside will only be supported where such locations

are justified by a clear local need, particularly where this may enhance employment opportunities.

34. Reference to the table at appendix 2 of the WCS allows an indicative categorisation of the scale of the proposal. Based on the small site area of 0.3 hectares and a stated annual processing throughput of circa 18,000 to 22,500 tpa the site would be characterised as a small scale facility by the size of the site (those less than 1ha) and depending on its throughput characterised as a medium or small scale facility (20,000 tpa being the threshold). This can be visually appreciated on the site, where at present a series of stockpiles take up a large proportion of what is a small and narrow plot.
35. Policy WCS7 then turns to site specific criteria and sets out what types of waste management facilities may be appropriate on differing land uses. Under this policy, aggregate recycling facilities of all sizes are directed to employment land or land allocated for such and thereby away from sensitive receptors, although the supporting text suggests other sites such as quarries may also be appropriate for temporary aggregate recycling. The NPPW also states that previously developed land may also be appropriate for waste management uses, however this is a broad statement making no distinction between the differing nature of waste management developments and their impacts.
36. Newark and Sherwood LDF Spatial Policy 3 and Policy DM8 seek to control rural development. Development away from the main built-up areas of villages, in the open countryside, is strictly controlled and restricted to uses which require a rural setting. Policy DM8 follows this by limiting such development to a list of development types. Being district policy, waste management proposals are not dealt with or cited as being appropriate in countryside locations. For employment uses the policy states that small scale employment development will be supported where it can demonstrate the need for a particular rural location and a contribution to providing/sustaining rural employment to meet local needs. The supporting text however suggests that the requirement to investigate the availability of alternative sites, should not necessarily apply to small scale proposals and particularly those not involving built development.
37. Understanding and characterising the application site and the proposal is therefore key to assessing the site's suitability against WCS Policies WCS4 and WCS7 and Newark and Sherwood LDF Policies SP3 and DM8.
38. Against WCS4 and WCS7 the key question is whether the site serves a particular local need and why the facility cannot be located in or 'close(r) to' the Newark built up area on employment land. Whilst not located in Newark the facility is still serving a local need and especially aiding the delivery of a local infrastructure project, albeit that it is 5km from Newark where the waste originates. More local still is the development at South Muskham where clean soils are being accepted to enhance the angling lakes. The three locations are directly connected by the road corridor. However the site cannot reasonably be classed as employment land and is more akin to being derelict land or previously developed land. Its history of use by the Highways Authority and before that as part of the Great North Road would certainly support its classification as being previously developed land. However as aggregate

recycling is only supported on employment land under Policy WCS7, the use of the site is not *supported* by this policy, but this does not necessarily result in a non-compliance and the proposal should be assessed against the plan as a whole. In order to be supported by WCS4 the proposal must also fit in with local character, which brings into the assessment its historic and similar use.

39. By reference to the District policies a strict interpretation of the site would result in it being classed as an open countryside location where small scale employment uses may be appropriate. However when taking into account the appearance and character of the site in its context, it is hard to classify it as being part of the open countryside for the purposes of protecting any particular important characteristic or for sustainability reasons.
40. The site has the appearance of being previously developed land due to its previous and recent permitted use. It is characteristically different from the site which was refused planning permission at Drove Lane. It is well contained and well defined by topography, by vegetation and by transport infrastructure. It does not have the appearance of being part of the open countryside as such, whereas the adjoining field where the activities had until recently breached can be more clearly appreciated as part of the open countryside. Its legacy of use can be seen in the stony made ground and its surface has remained in this way for many years and has not revegetated or been rehabilitated back into a greenfield state. It can therefore be seen as a previously developed site inset within the open countryside.
41. The history of the site's use after the construction of the bridge in the 1950s is unclear, but there is evidence of its similar use to the proposal by the County Council acting as the Highway Authority and use by contractors working on behalf of the Authority (including the applicant) in more recent years. It is understood that this use ceased in July 2016. The Waste Planning Authority has been aware of the previous activity and has been satisfied that the use was permitted development. Officers' knowledge of the site is that there was an occasional deposit of surplus road plainings or similar materials from local highway works, but that this was typically small scale and unobtrusive. Occasional crushing/screening had also taken place to process such materials. There is therefore a lawful history of similar use of the site, but on the very specific terms afforded to the Highways Authority by virtue of the permitted development legislation and which was possibly more small scale, infrequent and unobtrusive when compared with proposed use.
42. When comparing the site's historic and current use (subject to this application) anecdotally it would appear that there is a greater use of the site at this time as evidenced by the large stockpiles, the more regular presence of heavy plant/machinery and the fact that the use had breached and extended into the neighbouring field, until the operator agreed to pull back to the application site. This is likely due to the applicant's contract with STW and also their project at South Muskhams lakes. There could be an argument that this more frequent and greater use of the site (including handling a greater volume of materials) amounts to an intensification of use which results in a materially different character of development to its historic use. This is however hard to evidence due to the historic patterns of use.

43. If the site was utilised at the upper end of estimated throughputs the facility could be classed as a medium sized facility which should ideally be in the Newark urban area or close to it. The applicant has produced an alternative site assessment which attempts to demonstrate that alternative, closer sites such as employment land are cost-prohibitive, requiring works or not immediately available or not suitable for other reasons.
44. The applicant requires a site no more than a 10-15 minutes' drive from the STW works and a similar distance from their base at Claypole and to/from the project at South Muskham Lakes. The applicant does not wish to further impact on communities in Newark which are already affected by the STW works. Nor do they wish to impact the development of the southern urban extension. A total of 11 alternative sites have been considered. Some are clearly unsuitable or not available including Newark Lorry Park and the haul road to the British Sugar factory. A number of green field sites allocated for employment purposes are within the Brunel Drive industrial estate which are being actively marketed for office/warehousing uses. The applicant considers that there are various factors which render them unsuitable or unviable such as the need to provide new hard surfaces at prohibitive cost and also the closeness of residential areas or sensitive food-led businesses. Cromwell quarry, which has permission for aggregate recycling, has also been discounted due to commercial reasons and also due to HGV impacts within the village. This site is also 3km further north than the application site.
45. The robustness of such assessments are always open to question and by its nature each alternative site may have its benefits and disadvantages. However in focussing on whether the application site is suitable or not, the specific legacy and site history noted above, along with its immediate availability so to not delay or complicate progress with the ongoing sewer improvement scheme, is considered to be of more material significance than the availability of other sites at this time.
46. Taking the above matters into account the proposed use could be seen as a small-to medium scale facility using a parcel of previously developed land set in a modified rural context. The operation would be of similar character to its previous history of use, but with potential for a more intensive use and operation as a result of the STW works in Newark. Ideally an employment site in Newark would have been identified through a proper due diligence process including taking pre-application planning advice. However, taking all matters into account this site is considered acceptable in principle for the proposed use, but as assessed below the environmental and amenity impacts also need to be taken into consideration before reaching a final planning decision.

Traffic and Access Arrangements

47. Waste Local Plan Policy W3.14 states that permission will not be granted for waste management proposals unless the vehicular movements generated can be satisfactorily accommodated on the highway network and would not cause unacceptable disturbance to local communities.

48. Policy WCS11 seeks to promote alternatives to road transport and minimise distances travelled in undertaking waste management.
49. Paragraph 32 of the NPPF states that planning decisions should ensure that safe and suitable access can be achieved and that planning proposals should only be refused on transport grounds where the residual cumulative impacts of development would be severe.
50. The site is situated 5km distant from Newark and the various STW construction sites producing waste for which this site is being promoted to handle. It however benefits from direct access onto the Great North Road, part of which becomes the A616 at South Muskham up to the A46 Livestock Market roundabout on the Newark bypass. The site is also adjacent to the A1 junction, which provides a further option for access.
51. The application states an estimated 20-25 HGVs would deliver to the site per week (40-50 two-way) and that the site has historically been used by such vehicles when used by the County Council as Highway Authority. In terms of routeing it states that as the overall project in Newark progresses HGV movements to and from the town and the application site will likely involve different routes. For example works on the northern side of the town might result in HGVs using the A1, whereas more central sites would result in HGVs using the A616/Great North Road to the application site.
52. These are very low levels of traffic generation which can be readily accommodated on the highway network to and from the site and it is not considered necessary to restrict or control the routeing for these vehicles, given the multitude of locations across the town which are or will produce inert construction wastes as a result of the sewer improvements. For this reason road haulage is also the only practicable means of transporting this waste and a location in reasonable proximity is an operational requirement.
53. Access directly into and out of the site is via a surfaced driveway which is in a poor state of repair/upkeep. It is around 5m wide and so not wide enough for two HGVs to pass, but it does have a wider mouth at around 9.5m with visibility in both directions. At this point vehicles crossing the railway bridge descend and slow to the approach on the roundabout.
54. The application states that it would be unlikely that more than a single HGV would be at the site at any one time and that therefore there should not be a conflict with one HGV leaving the site whilst another attempts to arrive. The application states that all vehicles will turn left out of the site and use the A1 roundabout/underpass to turn back to Newark, either by the Great North Road or A1. A condition could require appropriate signage at the site exit to secure this matter.
55. Concerns have been raised by North Muskham Parish Council, however the Highways Authority raises no objection but requires that vehicles enter and leave the site in a forward gear. This will necessitate leaving a turning space within the site and managing vehicles appropriately.

56. It is therefore considered that subject to a planning condition requiring HGVs to enter and leave by means of a forward gear and only to turn left when leaving the site, along with steps to keep the highway clean from mud and debris, the proposal accords with Policy W3.14 on highway grounds. Against Policy WCS11 there is no direct conflict, but some of the alternative sites considered by the applicant would be closer to the works and would therefore have more support from this policy in terms of minimising travel distances.

Noise

57. The impact of noise from site operations to neighbouring properties is a key issue in considering this application. Noise would be generated by HGVs delivering and leaving the site, from the operation of mobile plant and machinery handling waste materials and from the occasional use of a crusher and screener. The site context is one where there are neighbouring residential and other sensitive use properties, but also notable transport noise from the A1 and railway.
58. Policy WCS13 is applicable so that development proposals should not result in an unacceptable impact to the quality of life of those living or working nearby. WLP Policy W3.9 enables conditions to be attached to reduce the potential for noise impact.
59. A noise assessment has been produced with the application and undertaken against relevant British Standards. This has then been revised in response to advice from the County Council's Noise Engineer to include an assessment for all affected properties. A sketch plan has also been provided to show the position of various planned noise attenuation bunds/features around the site.
60. Based on this it is clear that the site and its environs are already subject to significant transport noise from the elevated A1 and from the mainline railway. This is however a different and more constant character of noise as opposed to the types of machinery noise (clanks, bangs etc) that could be expected from the proposed operations. Whilst taking this context into consideration, the County Council's Noise Engineer has recommended noise attenuation screens to reduce the predicted noise impact at the closest receptors.
61. Primarily these would take the form of 4m high earth bunds, the first of which would be sited adjacent to the railway to benefit Downside Cottage, which lies on the opposite side of the line. A line of further bunding has been proposed along the western/north-western side boundary to reduce resultant noise to properties on Bathley Lane. It is unfortunate that this is proposed outside of the application site boundary and on the adjacent parcel of land, where unauthorised overspill has recently been cleared. However the applicant has a common lease for both parcels of land and it would be possible to secure these by condition in this instance. It would also be impracticable to site bunding within the application site and not impede access. Additional screening is also considered necessary to reduce noise to Sandy Lodge to the north. Whilst operating partly as a day care facility it should be treated in the same way as a residential property for noise assessment purposes. In this instance the provision of a wall of straw bales, as tabled by the applicant/agent is considered

to be an effective solution to remove the line of sight to Sandy Lodge (for noise purposes this discounts trees and vegetation, which will aid in screening the bales). This would be sited alongside the north-western corner adjacent to, but leaving open the access road.

62. The County Council's Noise Engineer, after visiting the site, considers this solution to be feasible, but only for a temporary planning permission which should be linked to the Newark Sewer Improvement Works, as bales would degrade over time. The proposed mitigation is therefore considered appropriate to bring predicted noise impacts within acceptable thresholds, although it is acknowledged that operations would still be audible, in particular the crusher and screener which would be heard over the background noise character.
63. The applicant has been asked to consider reducing the hours for material processing from 08.00 to 18.00 (Monday to Friday) to 08.00 to 16.00 however they are unwilling to agree. They state that shorter processing hours would lead to an increase in the number of days on which processing may occur and that the Noise Assessment has been based on the submitted hours and accepted by the County Council's Noise Engineer. The applicant considers the request to be unreasonable.
64. Therefore on the basis of the advice of the County Council's Noise Engineer and that crushing and screening would only be undertaken infrequently on a campaign basis, estimated to be 2 or 3 days every 4 to 6 weeks, the hours of 08.00 to 18.00hrs for processing is recommended in condition 5. Deliveries of materials would be more regular, but are short in duration and during daytime hours (07:30-19:00hrs). This is set out in recommended condition 6. Residual noise impacts should therefore be limited to certain times and operations.
65. Subject to mitigation measures and screening being provided by condition, along with controls on the hours of operation, the proposal is not considered to result in an unacceptable noise impact to neighbouring properties, thereby complying with Policy WCS13.

Dust

66. WLP Policy W3.10 states that planning conditions may be imposed to require measures to suppress dust. WCS Policy 13 applies with respect to a development proposal demonstrating there would be no unacceptable impact to any element of environmental quality or the quality of those living and working nearby.
67. The proposal has potential to generate fugitive dust from the movement of HGVs and mobile plant, from the handling of materials and stockpiles, and from the operation of a mobile crusher and screener. This could impact on the adjacent railway, road and neighbouring properties. As a retrospective application it is noted that dust has been cited as an issue from a local objector. The application acknowledges the issue and proposes operational controls accordingly.

68. Water sprays would be used to dampen down dust when required. When undertaking crushing and screening operations, the crusher would be sited well away from the railway and it would incorporate in-built dust suppression (usually in the form of an in-built water spray). To protect the railway a 10m wide exclusion zone would be created beside the line, along with netting/fencing and a 4m high bund.
69. It is considered that the enclosed topography of the site aids with the containment of dust and that adequate protection is given to the railway (as confirmed by Network Rail). If the operator handles materials appropriately, by for example minimising drop heights and maintains a water supply along with a spray or bowser on site to dampen down dust as required, then dust leaving the site should be adequately controlled. Due to the tight access, HGVs will have to manoeuvre, enter/leave the site at slow speed which should also limit airborne dust. The Reclamation Officer does not object and mitigation measures can be specified in a suitable planning condition.
70. Accordingly whilst fugitive dust cannot be totally avoided, the operation would not give rise to an unacceptable dust impact subject to the operator employing the suppression measures. These can be specified in an appropriate planning condition.

Ecological Impact

71. The site is not affected by any ecologically designated sites in the vicinity, nor is it expected that any noise sensitive species will be present. There are mature trees and hedging present on site which will remain in order to screen the site. Operational dust can be controlled. No objection is raised by NCC Nature Conservation but it is requested that any screening bunds to be seeded with a wildlife enhancing seed mix. This however does not appear to be practically possible due to the type of materials available and to be used for the bunds, which in any event would be temporary. The application thereby does not engage WLP Policy W3.22 which applies where a resultant harm to species or habitat has been identified and there is no conflict with the overarching WCS Policy WCS13 with respect to this matter.

Landscape and Visual Impact

72. WLP Policy W3.3 states that where permission is granted for a waste management facility, conditions will require plant and storage areas to be located and grouped together and kept as low as practicably possible so as to minimise visual impacts to adjacent land. Policy W3.4 enables screening and landscaping requirements to be provided to reduce visual impact. Such measures could include planting proposals (or the retention of existing trees or hedges); the provision of permanent screening bunds and the size and location of temporary stockpiles.
73. Newark and Sherwood LDF Policies Core Policy 13 and DM5 seek to take into account local landscape and distinctiveness so that local landscape is conserved/enhanced in consistency with the relevant landscape aims for the

area. Reference to the Newark and Sherwood Landscape Character Assessment shows the site to be situated within the Trent Washlands Policy Zone 11, which defines the landscape condition as moderate, but fragmented by transport routes. It has a moderate sensitivity leading to a policy action of 'create and conserve'.

74. The application site appears as a well-contained and screened site between the elevated road, the railway and a mature tree line, which prevents the site being seen or appreciated within the open countryside. A similar line of mature trees and vegetation greatly limits passing views from the road. The site has broadly lain in its current state for a significant number of years under its previous permitted development use.
75. The proposed use appears to be more intensive than its historic use as a result of the applicant's contract with STW, with greater and larger stockpiles of materials present at any one time. However these are generally sited against the embankment of the elevated road and do not exceed its height. The mature vegetation screens passing views. Therefore despite the larger stockpiles the use of the site can be considered to result in a neutral landscape impact. In terms of visual impact the site is naturally screened and there is no proposal or expectation that the trees would be affected or removed. The size of the stockpiles is largely governed by the extremely limited amount of space within the site and the need to maintain access and manoeuvring space and space for the mobile crusher and screener to operate. The proposed noise attenuation measures would also not be visually detrimental as bunding would be seen in the context of other material stockpiles and the hay bales would be screened from Sandy Lodge by a line of trees.
76. It is not considered necessary to control the height of the stockpiles or impose other such conditions in the interests of visual impact and the proposal is considered to accord with Policy W3.3 and W3.4 and CP13 and DM5.

Flood Risk

77. WLP Policy W3.5 requires development proposals to safeguard the integrity and function of the floodplain unless the impact can be mitigated through engineering or operational management measures. Policy W3.13 enables condition/controls to be imposed to protect the floodplain.
78. The NPPF states that when determining planning applications, it should be ensured that the proposal is appropriate to the site's flood risk and that the risk is not increased elsewhere. This should be informed by a flood risk assessment and sequential approach to site selection, preferring sites at the lowest risk of flooding.
79. The application site is situated within Flood Zone 2 which has a medium risk of flooding, (having between a 1 in 100 and 1 in 1,000 annual probability of river flooding). Waste management facilities, other than landfills and those handling hazardous wastes, are deemed to be 'less vulnerable' and an appropriate use of such land as stated within the Planning Practice Guidance.

80. Whilst it is preferable to identify sites at a lower risk of flooding the applicant states that the site is the only readily available site suitable for this use after considering a range of alternative sites and that this would continue a long-standing historic use of the site under permitted development rights.
81. No objection has been raised from the Environment Agency or from the NCC Lead Local Flood Authority. The Agency recommends the company utilises their flood warning service as part of contingency planning.
82. Whilst a suitable site at lower risk of flooding should be preferred, the proposed use of the site to process only inert wastes is appropriate on flood risk grounds and the type of waste operations would not raise any pollution issues in the event of a flood. The proposed use of the site is therefore considered acceptable on flood risk grounds in accordance with the relevant policies and the more up to date guidance within the NPPF and PPG.

Contamination

83. WLP Policy W3.5 states that permission will not be granted to waste management facilities where there would be an unacceptable risk of pollution to ground or surface waters. Accompanying Policy W3.6 enables conditions to be imposed as required to protect these resources.
84. The application proposal is for the processing and transfer of inert wastes only, including construction wastes and tunnelling cuttings resulting from the STW project in Newark. This will essentially continue a long-standing use of the site. If planning permission was to be granted then this would be specifically for the processing of inert wastes only, with the exact types of wastes within this category defined by the separate and primary regulation, in this case by the Environment Agency via the Environmental Permitting Regulations.
85. The risk of pollution to the ground environment from the waste is therefore minimal. Associated plant and machinery may result in a separate but small risk of fuel spillage and it is possible that fuels could be brought and stored at the site. A standard condition requiring the safe storage of such fuels can be imposed. The proposed development is therefore compliant with Policy W3.5.

Railway Safeguarding

86. The site is situated directly adjacent to the East Coast Main Line which is electrified with overhead wiring and has line speeds up to 125mph. The safeguarding of this nationally important route is a material consideration in the planning process.
87. The applicant has taken account of this constraint in proposing a 10m exclusion zone and a 4m high earth bund along the southern boundary with the railway. This will prevent operations threatening any encroachment to the railway such as from temporary stockpiles or from plant/machinery working near to the overhead wires. The bund would also aid in containing wind-blown dust, along

with other best practice measures to minimise dust which have been stated in the application.

88. Network Rail have considered this information within the application and have raised no objection subject to various requirements to protect the operational railway. These can be subject to planning conditions and associated informative notes if permission is approved. It is therefore considered that the site's proximity to the railway has been appropriately considered so that it will not affect its operation.

Planning balance / other material considerations

89. Assessment of the above matters shows that the proposed development may not be expressly supported by all relevant planning policies in this case. Planning decisions should be determined in accordance with the Development Plan (read as a whole) unless material considerations indicate otherwise. In reaching a recommendation it is necessary to balance certain matters and consider the relevant material considerations.
90. The need to manage waste sustainably and relatively locally to its source clearly weighs in favour of the proposal. Ideally however it would be situated on employment land nearer to Newark, however the historic use of the site for similar, but less intense purposes can be taken into account. There are also benefits from it being located near to the South Muskham lakes project.
91. In this instance a further key material consideration is the linkage the applicant has to the Newark Sewer Improvement Project which is well underway across the town. This is one of the most significant non-transport infrastructure schemes in recent times in Nottinghamshire and its scale and ambition inevitably causes short term impacts to realise long term benefits. It is accepted that those benefits may not directly accrue to the North Muskham community in this instance, however officers have found solutions to mitigate noise and dust impacts and are content that the access arrangements are suitable. These matters can be subject to planning conditions. A further mitigating impact is that planning permission could be granted on a temporary basis with strict controls, thus ensuring the progress of the sewer works, particularly as STW are now constructing the main 3km long tunnel which is at the heart of the project. The immediate availability of the site to the applicant as subcontractor to manage the volumes and flows of construction and tunnel wastes weighs in favour over having to identify a further alternative site at this stage.
92. On balance it is recommended that a temporary planning permission is granted to serve the Newark sewer improvement project, which is estimated to run until summer 2019. A two year permission would give flexibility after which the use should cease (along with removal of noise screening) as the use of the site would unlikely to be supported on a permanent basis.

Other Options Considered

93. 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

94. 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

95. The applicant will be responsible for securing plant/machinery left on site overnight and securing the gate to prevent unauthorised access.

Data Protection and Information Governance

96. All members of the public who have made representations on this application are informed that copies of their representations, including their names and addresses, are publically available and are retained for the period of the application and for a relevant period thereafter.

Human Rights Implications

97. 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 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to presence of nearby residential and other sensitive properties. The proposals have the potential to introduce impacts such as noise and dust upon these properties for a time limited period. However, these potential impacts need to be balanced against the wider benefits the proposals would provide, notably the need to sustainably manage and recycle waste from a local major infrastructure project. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Public Sector Equality Duty Implications

98. A neighbouring property (Sandy Lodge) operates as day care facility and their objection is duly noted above. In considering potential impacts such as from

noise and dust, the property has been considered as a sensitive receptor on a par with a residential use which is a higher level of sensitivity than as a business use. Officers have worked to find solutions to minimise and mitigate noise impact to this property and conditions can secure such measures to be implemented, including measures to control dust. A temporary grant of planning permission is also a mitigating factor.

Implications for Sustainability and the Environment

99. These have been considered in the Observations section above, including the merits of sustainably managing waste as a resource.
100. There are no financial; human resource; or children safeguarding implications. There are no implications for county council service users.

Statement of Positive and Proactive Engagement

101. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

102. It is RECOMMENDED that temporary planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments (RHC 30/11/2017)

Planning & Licensing Committee is the appropriate body to consider the contents of this report.

Comments of the Service Director - Finance (SES 29/11/17)

There are no specific financial implications arising directly from this 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.

Electoral Division and Member Affected

Muskham & Farnsfield - Councillor Bruce Laughton

Report Author/Case Officer

Joel Marshall

0115 993 2578

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