



**13 October 2020**

**Agenda Item: 6**

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

**NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/20/00641/FULR3N**

**PROPOSAL: CHANGE OF USE OF LAND TO ALLOW FOR THE EXTENSION OF THE EXISTING YARD INCLUDING THE RAISING OF GROUND LEVELS, NEW EXTERNAL WALLS AND NEW ADDITIONAL HIGHWAY ACCESS**

**LOCATION: BRIGGS METALS, GREAT NORTH ROAD, NEWARK ON TRENT, NG24 1DP**

**APPLICANT: BRIGGS METALS LIMITED**

### **Purpose of Report**

1. To consider a planning application for a northern extension to the Briggs Metals recycling/scrap yard, Great North Road, Newark. The key issues relate to whether the proposed development is appropriate and sustainable, having regard to its situation within the functional floodplain and open countryside; visual and local amenity impacts; vehicular access and highways issues; and consideration of the benefits of the development to the safe operation of the facility and its contribution to the local circular economy.
2. The recommendation is to refuse planning permission, as it is considered that the application conflicts with the Development Plan as a whole and that the beneficial aspects weighing in support of the proposal are insufficient to overcome the clear conflict and the inappropriateness of the proposed use of the land which is at high risk of flooding, together with the additional visual harm which would arise.

### **The Site and Surroundings**

3. The Briggs Metals site is a long-standing scrap metal recycling facility situated beside the A616 Great North Road, 200m north of the A46 Newark Cattle Market roundabout and opposite the extensive British Sugar factory site. It specialises in traditional scrap metal collection and processing including vehicle depollution / End of Life Vehicle (ELV) recycling and supports 20 full time employees.

4. The current yard covers approximately 1 hectare and sits on apparently elevated, made-ground surrounded by lower level grazing pasture and other fields all forming a part of the functional floodplain (Flood Zone 3b) forming an 'island' between the two branches of the River Trent at Kelham and Newark. The adjacent Great North Road is carried over these washlands by means of a raised causeway and a series of 18<sup>th</sup>-century arched viaducts ('Smeatons Arches'). Surviving sections are Grade II listed including to the south east of the site (see Plan 1).
5. The existing scrap yard has a single point of access from Great North Road and a weighbridge on entering. Various structures on site include a 10m tall shredder/fragmentiser with cyclonic system and several steel framed buildings and storage bays. A large stockpile of scrap metal is usually present in the centre and a range of mobile grabs/cranes and other plant are employed to move materials.
6. Sheet metal fencing encloses the site along three sides and a bund and planting area forms the southern side. The entranceway is gated and has a brick wall frontage. The applicant also has a residential property ('Edward House') on the site, behind the brick wall frontage. To the north a continuous mature hawthorn hedgerow lines the boundary of the proposed site extension with the highway verge, including an occasional mature sycamore within.
7. The low-level grasslands which surround the site to the west, south, (and also over the road to the east) are designated Local Wildlife Sites for their damp and/or unimproved grasslands, although the field to the south is being degraded by occasional storage and driving of plant and vehicles from the applicant's yard.
8. To the north is a small residential area and a farm complex (there are about 15 properties on or just off Kelham Lane). The two closest of these properties are accessed from Great North Road including one ('Breedon House') housing an established children's day nursery which is 90m to the north-west (as measured from the corner of the proposed site extension to this physical property). Its extensive garden area (also used by the nursery children) extends up to the corner of the proposed site extension save for a field access and a dense line of coniferous trees. It is understood the second of these closest properties ('Latham Hall') is in the control of the applicant and is not therefore currently considered a sensitive property (see Plan 2).
9. Lying between the existing yard and these nearby properties to the north is an area of private amenity land (described as the applicant's residential curtilage land in the application) with some scattered scrub. Some 0.4 ha of this 0.8ha area forms the application site for the proposed yard extension and is demarked roughly by new post and rail fencing across the field. There is potential evidence of soil tipping/raising in the application area, however it is still 1 to 2m lower than the existing scrap yard and separated by sheet metal fencing and several self-set trees and scrubby vegetation.

## Planning history

10. The current scrap yard is long established, and possibly dating back more than 50 years. There is no record of a planning permission ever having been granted for its creation, instead its existence and continued operation was formalised through the grant of a Lawful Development Certificate by Newark and Sherwood District Council in 1998 (ref. 95/51085/LDC). There are limited planning controls attached to this LDC which primarily sets out the extent of the site and what broad types of recycling can be undertaken.
11. Since then the site appears to have expanded beyond the area demarked under the LDC by incorporating the main buildings at the north-east (previously excluded) and in more recent years there is evidence of some expansion along the southern boundary.
12. Planning permission was refused by the WPA in 2016 for the retrospective use of this additional land, along with the retrospective erection of various plant and structures and building extensions within the yard. Permission was refused due to an inadequate flood risk assessment resulting in an objection from the Environment Agency. This went unresolved for several years leading to the eventual issuing of the refusal. Due to the passage of time, these developments which have remained in place will be outside the time limit for taking any enforcement action, but nonetheless the current yard and its operations extends beyond that permitted by the 1998 LDC and no other formal permission or LDC has ever been granted.

## Proposed Development

13. The application is for a 0.4 ha northern extension to the current scrap yard to provide new waste storage areas and improved vehicular access arrangements. The extension would be created by means of land raising through the use of imported fill materials (4,500m<sup>3</sup> of inert waste/aggregate) to bring it up by 1 to 2m to the existing yard level. The existing self-set trees and fencing would first be removed/felled. The applicant intends to remove the trees irrespective of the outcome of the planning application to prevent damage to the existing fence and buildings.
14. The yard would extend north by circa 45m on its eastern end, beside the Great North Road and by 20m at its western end beside a field access. The land raising would take 4 weeks and an average of an additional 25 HGV loads per day to source the materials. The extension would be hard surfaced with concrete and with provision for capturing surface water drainage. A new concrete sectional wall, or alternatively concrete 'lego' block wall, would be built along the new northern and extended western and eastern boundaries with space for potential landscape planting on its outside face and potentially a paint or green colour wash. (see Plan 3).
15. The application initially proposed that these walls would stand 4m high as measured from the new internal ground level. However in order to reduce noise

impact to nearby properties (including the nursery) the noise assessment accompanying the application now recommends that the wall be built 5 or 6m high. (in effect this would be circa 7 or 8m high when including the need to raise the site levels). Inside of the wall a range of open storage bays would be formed using stackable concrete blocks. Stockpiles of waste metals would not be stored above the top of the new walls. There would also be no processing within the extension area.

16. The proposed layout also includes a new, second vehicular access onto Great North Road, which would act as a 'exit only', with the existing access made into 'entry only', thereby creating a circular route for HGVs around the existing main building. A section of hedgerow would be removed to create this exit and further cutting back would be required for visibility reasons. Barrier controls and signage would be installed. A second outgoing weighbridge would also be added.
17. The application states that the proposals are required to provide additional scrap metal storage space to maximise recycling and ensure the viability of the business. Metals would be able to be stored for longer periods on site and then sold on when material prices are at their highest, allowing it to take full benefit of the fluctuating market price for scrap metal.
18. The proposed site extension is also stated as being of critical importance in order to create a safer and more organised internal working arrangement and to address the difficulties with HGV manoeuvring and the congestion at the current site access. This existing access is not of an appropriate standard to allow two HGVs to pass and the location of the weighbridge further compounds the problem. The application states that on a daily basis HGVs have to park on the verges along Great North Road while either waiting for the weighbridge to become free or because other HGVs are exiting the site, sometimes by reversing out of the site with the aid of a banksman. This detrimentally affects the operation and safety of the public highway.
19. No changes are proposed to the site's throughput (up to 75,000 tonnes per annum under an Environmental Permit), the types of waste, or the means of processing. It is understood the site currently operates with a throughput of circa 60-65,000 tpa.

## **Consultations**

20. **Newark and Sherwood District Council** - *No objection, subject to securing an additional landscaping/planting scheme.*
21. *The removal of four poor quality, self-set trees on the boundary is accepted and it has been noted that four replacement saplings have been planted to the north of the site boundary to act as mitigation. Further tree planting is proposed and these details should be secured through a planning condition.*
22. *Noise and dust emissions should also be fully controlled by planning conditions.*

23. *Otherwise, Newark & Sherwood District Council has no comments to make on this planning application provided that Nottinghamshire County Council is satisfied that the proposed development complies with the relevant Development Plan policies.*
24. **Newark Town Council-** *No objection.*
25. **Environment Agency –** *Object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone (3b) in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance (PPG). The EA recommends that planning permission is refused on this basis.*
26. *The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3b, the functional floodplain, which is land defined by the PPG and the Newark and Sherwood District Strategic Flood Risk Assessment Level 2, Phase 2, 2012 as having a high probability of flooding. The development is classed as less vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.*

The EA has provided supplementary comments in response to the applicant's 'Supplementary Statement in Response to Consultee Comments':

27. *The applicant has highlighted other nearby developments in flood risk areas at British Sugar (Change of use from agricultural land to land to be used for conditioning (drying by windrowing) of topsoil, ref 3/18/01148/FULR3N, granted planning permission by the WPA on 25/07/2018) and for the extension of the lorry park, but note that each proposal has to be considered on an individual basis and flood risk can vary from site to site. The EA have reviewed the British Sugar permission and they are not clear whether the WPA in granting planning permission accepted the proposal as 'water compatible', and therefore appropriate within flood zone 3. They are unable to comment on the lorry park development without the reference.*
28. *The EA acknowledges that the applicant has undertaken a Flood Risk Assessment which contains detailed hydraulic modelling. But as the proposed development has a vulnerability classification of "Less Vulnerable" and it is located in Flood Zone 3b, the Planning Practise Guidance clearly states that this vulnerability is incompatible with the flood zone.*
29. *The applicant's supplementary statement mentions the Lead Local Flood Authority (LLFA) has not objected to the proposal but the Environment Agency has. The EA wish to highlight the remit of the EA is fluvial/tidal flooding from main river watercourses (such as the River Trent) whereas the LLFA's remit is flooding from ordinary watercourses and surface water.*

30. *The EA therefore maintains their objection on the basis that the proposed development has a vulnerability classification of 'Less Vulnerable' which is incompatible for the Flood Zone 3b. The WPA should reconsult the EA if the WPA considers the proposed development to have a vulnerability classification of 'water compatible' as their comments and position may change. If the flooding concerns are overcome they would wish to advise the WPA of recommended conditions with regards to groundwater and contaminated land.*
31. **NCC (Highways) – No objection, subject to conditions**
32. *The application explains that the site only has one substandard point of access at present which makes it difficult for 2 HGVs to pass one another and can compromise the operation of the adjacent A616 Great North Road. This is subject to a 50mph speed limit, and queuing is a common occurrence along this stretch especially during peak periods.*
33. *The layout of the site itself is compact, and the additional land would enable a more efficient, and optimal operational site layout to be achieved along with the creation of a new exit only onto the A616. The new access would provide an improvement on the existing situation.*
34. *The design for the new site exit demonstrates achievable visibility splays, subject to the cutting back of the hedgerow immediately to the north. A condition is recommended to ensure the new exit visibility splays are provided and thereafter kept free of obstructions.*
35. *A condition is also recommended to require the new access to be surfaced in accordance with the Highways Authority's road specification and not concrete as shown in the application.*
36. *The proposal will result in a negligible increase in traffic generation, caused solely by the potential slight increase in staffing numbers. There are no plans to increase the site's throughput (75,000tpa).*
37. *A review of road accident records outside the site shows none of the 4 collisions involved vehicles entering/exiting the site. Most were recorded as shunt type collisions up to 2018, with no further reported accidents to the end of 2019.*
38. **NCC Flood Risk – No specific comment to make.**
- As the Lead Local Flood Authority, advise they should only be consulted on major developments with regards to surface water drainage. Having considered the scale of this application the LLFA believes it is not required to respond in detail to this application. General advice is provided, including all development should ensure it does not increase flood risk to existing properties and sustainable drainage methods should be preferred where feasible.*
39. **Via (Noise Engineer) – No objection subject to conditions including the provision of a 6m high boundary wall.**

40. *The noise assessment initially only considered operational noise from the proposed extension area, not cumulative noise from the overall scrap yard. After further discussion it was agreed that the noise level from operations in the proposed extension area should not exceed 5dB BELOW the background noise level L90, so to ensure with confidence that the proposal would not lead to any notable change in noise levels at the nearby receptors.*
41. *This can be achieved by introducing a 6m high concrete-block wall to the rear of the storage area to act as a noise barrier along the northern boundary, as recommended by the noise assessment.*
42. *An alternative of a 5m high concrete block wall has also been assessed which achieves a Rating Level of - 3dB below the background noise L90. To maximise protection to the nearest receptors it is recommended that the 6m high concrete-block wall be required by planning condition.*
43. *Additionally, mobile plant on the extension area should operate only at ground level and not on stockpiles, and mobile plant and vehicles under the operator's control should be fitted with broadband reversing alarms.*
44. **NCC (Nature Conservation) - Comments**
45. *The area affected is grassland/pasture. No form of ecological assessment has been carried out, so the botanical quality of the grassland is not known, and nor is it known whether there is any potential for protected species (e.g. badgers) to be occupying the application site. It would be prudent for a Preliminary Ecological Appraisal of the application site to be carried out.*
46. *The application site is in proximity to a number of Local Wildlife Sites, designated for their botanical interest; it is not envisaged that these would be (indirectly) affected by these proposals.*
47. *Not aware of any particularly noise-sensitive ecological receptors in the vicinity which may require specific assessment, and in any event, a 4m high wall will be installed around the site perimeter which will provide noise attenuation.*
48. *Existing boundary vegetation should be protected during development, and a condition should be used to this effect. If absent, planting in the form of a native-species hedgerow should be established along the new northern site boundary – again, this should be secured through a condition.*
49. **Via (Landscape) – Concerns raised regarding the harmful impact to visual amenity.**
50. *The proposed site is located in the Trent Washlands Landscape Character Area of the Nottinghamshire Landscape Character Assessment. The surrounding floodplain is Trent Washlands Policy Zone 53 – Averham Weir River Meadowlands. The characteristic features of this Policy Zone are:*
  - *Flat low-lying landscape with some linear stretches of pasture against the River Trent.*

- *Intensive arable production.*
  - *Abandoned gravel workings with establishing scrub vegetation and some wet woodland.*
  - *Some mixed hedgerows along roads or surrounding fields of pasture.*
51. *This Policy Zone has a moderate landscape condition and a low landscape sensitivity and a landscape action of **Create and Reinforce**, which is defined in the Landscape Character Assessment as follows:*
- ‘Actions that strengthen or reinforce distinctive features and patterns in the landscape, whilst creating new features or areas that have been lost or are in poor condition.’*
52. *The site itself is located in Trent Washlands Policy Zone 33 – Newark West River Meadowlands. The characteristic features of this Policy Zone are:*
- *Flat, low-lying topography*
  - *A highly fragmented pastoral landscape*
  - *Flood meadow*
  - *Fragmented riparian habitat along the River Trent*
  - *Some arable fields*
  - *Views dominated by highways, industry and urban fringe*
  - *Many detracting features including roads and railways*
  - *4 Civil war earthworks which are all Scheduled Ancient Monuments*
53. *This area has a very poor landscape condition and a very low landscape sensitivity and a landscape action of **Create**, which is defined in the Landscape Character Assessment as follows:*
- ‘Actions that create new features or areas where existing elements are lost or are in poor condition’*
54. *Policy Zone 33 was separated from Policy Zone 53 due to the presence of several Local Wildlife Sites designations for grasslands of ecological interest. These grasslands wrap around the existing and the proposed development (reference 5/177 Newark Grassland, 5/2401 Valley Farm grassland, 5/661 Kelham Road Grassland II, and 2/778 Great North Road Grassland). But Policy Zone 33 has been fragmented by development such as road infrastructure and the British Sugar site. Increased visual impact as a result of the proposed development will continue to industrialise this area and further erode its landscape character.*
55. *Regarding visual impacts from the proposed 6 metre high wall, the houses to the north of Kelham Lane are unlikely to have views due to screening by the surrounding built development. Valley Farm at the end of Kelham Lane has farm buildings which will also screen the residential dwelling on this site. There are unlikely to be views from Newark Bridleway 15 passing along Kelham Lane due to screening by the surrounding built development.*

56. *The nursery (Breedon House) is the closest property to the site and has a large garden where children are able to play outside. The proposed increase in height of the wall is to reduce noise impact on these receptors. The nursery building is located 90 metres to the north west of the proposed site and the garden area extends up to its corner. However, there are unlikely to be views from the house or garden due to the surrounding mature vegetation on all of the boundaries. Other buildings to the south of Kelham Lane are also unlikely to have views due to the intervening screening effect of the vegetation surrounding the nursery garden and the second closest residential property. This property is believed to be under the ownership of the applicant and is therefore not considered here.*
57. *There are most likely to be views of the proposed 6 metre wall from vehicles using the A616 travelling south. For vehicles travelling north, the wall will be screened by roadside vegetation and the existing brick wall frontage. For vehicles travelling south, the existing northern boundary is well screened by roadside vegetation, but the removal of 20 metres of mature hedgerow is likely to open up views from this vantage point. Because of its height the wall will become visible above the existing hedgerow that remains. It is accepted that vehicle drivers will be concentrating on the approach to A46 roundabout but at the same time they will be slowing and queuing at busy periods. Visual impact for vehicles travelling south will extend for a distance of approximately 165 metres.*
58. *The applicant has suggested that the proposed six metre high wall could be painted green so that it blends into its surroundings more effectively. However, Via (Landscape) consider that this would do little to address its overall scale and visual presence and would only draw attention to the wall. It would also be difficult to maintain such a high wall in good condition.*
59. *The applicant has suggested that the exterior of the wall could be planted but Via (Landscape) believes it will be very difficult to mitigate the visual impact of the 6-metre wall with planting and would question if there is enough space available. It would also take some time for the screening vegetation to reach maturity and care would need to be taken in both the species selection and the location of any planting so that it would not cause structural damage to the wall.*
60. *Having reviewed the draft committee report, Via (Landscape) support the officer's conclusion that the proposed development would cause harm to the visual amenity of the area. In particular, Via (landscape) consider that the 6-metre-high wall will have a visual impact on vehicles travelling south on the A616 travelling south for a distance of 165 metres.*
61. **NCC (Archaeology)** – *No objection. Recommends a written scheme of investigation by way of condition.*
62. *The archaeological potential of the site is far from clear. It is in relatively close proximity to the Grade II Listed Smeaton's Arches, and is adjacent to a stretch of embankment and an associated channel which was dug either side of the structures, possibly used as the material for the embankment but also acts as flood storage.*

63. *The proposed extension to the scrap yard is at the original 18th Century ground level, and at least part of the site is beyond the channel. The lidar imagery suggests there has been some dumping in the southern half of the site, although this is not clear. No information suggests that the area has been otherwise damaged, and therefore archaeology may survive here – noting that this part of the Trent Floodplain has a complex and intensive archaeological resource.*
64. *It is assumed that topsoil and organic rich materials would be first stripped before the ground level is raised to match that of the current scrap yard. If there is archaeology present, it will be exposed by such work, and is likely to be damaged by vehicle movements and the import of the inert materials.*
65. *It is recommended that an archaeological investigation known as “strip, map and sample” be conditioned if the proposal is granted consent.*
66. **NCC (Built Heritage) - No objection.**
67. *The site is close to parts of the designated heritage asset known as Smeaton’s Arches. However, the nature of the proposal and distance to the nearest part of the designated heritage asset is adequate so as to not cause any negative impact on the setting of the asset.*
68. **Via (Reclamation); Severn Trent Water Limited; Cadent Gas Limited; and Western Power Distribution** have not responded. Any response received shall be orally reported.

## **Publicity**

69. The application has been advertised by a press notice, a site notice and 15 neighbour notification letters in accordance with the County Council’s Adopted Statement of Community Involvement.
70. One letter has been received from a nearby resident raising concerns over the increased risk of flooding to nearby properties and whether the proposed mitigation would be effective and kept in place. A safety concern is also raised, noting the effects of a large fire at the site last year and how the proposal would bring the site operations closer to the residential properties to the north. This could also lead to an unwelcome increase in noise and dust.
71. Mark Spencer, Member of Parliament for the neighbouring Sherwood constituency has written to support the application proposal. The MP notes that the applicant is an important local employer and a long-established local recycling business. The proposed extension would support the continued employment of 20 full time employees at Newark and a further 8 in Mansfield and the applicant anticipates being able to employ a further 2-3 FTE members of staff as a result of the proposal. He states the UK’s recovery post COVID -19 will depend on local small and medium sized companies being able to rebuild and grow to achieve their potential, including through more international trade.

72. The MP believes the new access and in/out system would also provide significant improvements both to on-site recycling operations and site safety and by also reducing impacts on the Great North Road from HGVs having to reverse and/or park up as they wait for space to be created on site.
73. He further states that the evidence from the Environment Agency on the possibility of flooding is considered inconclusive. Aerial photos showing flooding in February 2020 are of poor quality. Although the site is within the flooding zone the proposed site extension does not actually flood. The proposals would allow the containment of any possible floodwater.
74. Councillor Mrs Sue Saddington has been notified of the application.
75. The issues raised are considered in the Observations Section of this report.

## **Observations**

### Principle planning and land use issues

76. In accordance with the statutory requirements, this planning application must be determined in accordance with the Development Plan (read as a whole), unless there are material considerations which indicate otherwise.
77. The Development Plan in the context of this proposal comprises:
  - The Nottinghamshire and Nottingham Waste Core Strategy (2013)
  - The Nottinghamshire and Nottingham Waste Local Plan (saved chapter 3 policies) (2002)
  - The Newark and Sherwood Amended Core Strategy (2019), together with:
    - The Newark and Sherwood Allocations and Development Management Policies Development Plan Document (2013)
78. The following are material considerations which should be taken into account:
  - The National Planning Policy Framework (NPPF) and associated online Planning Practice Guidance (PPG);
  - National Planning Policy for Waste (NPPW).
79. The main matter to be decided is whether the proposed site extension is appropriate in planning policy terms, having regard to the principles of sustainable development. In particular there are specific concerns about the site area being located within the functional floodplain/washlands for the River Trent, as well as its countryside location. These issues will later require consideration against the operational and economic benefits which may arise.

80. The strategic and locational criteria for waste management developments are set out in Waste Core Strategy Policies WCS3, WCS4, WCS7 and, specifically for site extensions, Policy WCS8.
81. Policy WCS 3 provides the basis of the waste hierarchy into planning policy. It gives priority to the development of new or expanded waste recycling (and composting/AD) facilities over energy recovery, or lastly disposal solutions. This is in order to work towards to the plan's objective of an overall 70% rate for recycling or composting. As the proposal relates to an expansion of a recycling facility, there is no conflict with this policy, however there is also no clear support as the proposals would not expand processing capacity or throughput, merely improve the operation of the site according to the applicant, and therefore there would be no contribution to the objectives of this policy to expand recycling levels. Consequently Policy WCS3 is considered to be neutral with respect to the proposed development.
82. Policy WCS4 deals with the broad locations for waste management facilities so to ensure there is a network of facilities appropriately sized to serve different communities and areas. Primarily this is to guide new facilities, as opposed to site extensions, however the Strategy makes clear that all policies are to be read together. The policy supports the development of smaller to medium sized waste management facilities in, or close to, the County's built-up areas including that of Newark. It states that the development of facilities within the 'open countryside' will be supported only where such locations are justified by a *clear local need*, particularly where this would provide enhanced employment opportunities and/or re-use existing buildings.
83. In this case whilst the site is located close to the town, the Newark and Sherwood Allocations etc Development Plan Document (Part 2 of the Local Development Framework) establishes a defined Newark Urban Area into the Development Plan (as well as for certain other settlements). The NUA boundary runs up to (but not including) the Cattle Market roundabout, such that the land to the north starting with the low level pasture fields, the current scrap yard and the proposed site are deemed to be in the open countryside for the purposes of planning policy.
84. Taking the site as being within the open countryside for planning policy purposes, in addition to the 'clear local need' test within Policy WCS4, it is further noted that under Policy WCS7 (which deals with the locations for specific types of waste management facilities) metal recycling facilities are only supported on employment land and industrial estates and not in countryside locations.
85. Policy WCS8 deals with site extensions. It supports extensions where this would increase capacity or improve existing waste management methods, and/or reduce existing environmental impacts. The supporting text advises that, whilst extending facilities is likely to be more economic, and have less environmental impact than finding and building a new one, it states an extension may not always be the most sustainable option if an existing site is poorly located (such as where there is a heightened flood risk) or is close to sensitive uses.

86. All development proposals also need to demonstrate they would not lead to any unacceptable environmental impacts or impacts to local residents, or those working nearby, including cumulative effects, as required by Policy WCS13.
87. In the Newark and Sherwood Local Plan Documents, the approach of Core Policy 3 of the Amended Core Strategy and Policy DM8 of the A&DMP DPD, is to afford strict controls to development in the open countryside. Core Policy 3 states that uses will be restricted to those which require a rural setting. This is further expanded upon in Policy DM8 which states that development away from the main built up areas of villages, in the open countryside, will be strictly controlled and limited to a select form of development. These include agricultural/forestry, tourism/leisure, equestrian uses, certain dwellings and re-uses of existing buildings and rural diversification proposals which should be complimentary and proportionate in nature and scale to the existing business. Of relevance to this instance is paragraph 8 in relation to employment uses:
- “small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. Such proposals will not require justification through a sequential test.” [The sequential test here being un-related to the separate sequential test which seeks to direct development away from high flood risk areas].*
88. Taking stock and account of the above policy framework, Planning Officers consider the existing site and the proposed extension to be in the open countryside where strict planning controls apply.
89. Whilst there is some support for the proportionate expansions of rural businesses under Policy DM8 (where they can demonstrate an ongoing contribution to local employment) which this proposal pertains to meet (on the basis that the site would expand in area only, by aprox 35%, and would retain and grow employee numbers), this District-level policy needs to be read alongside and with the Development Plan as a whole which includes the Waste Core Strategy and Waste Local Plan. When seen in this context it is considered that there is not a particular need for the scrap yard or its proposed extension to be within the open countryside, and notwithstanding its long-time presence, it should be possible for local businesses to grow on to larger and more appropriate/sustainable alternative employment sites, including those provided locally and allocated by the Newark and Sherwood Local Development Framework. It is therefore considered not appropriate to set aside the sequential approach to site selection for this proposal and the strict control to land use should apply in order to protect the countryside and promote more sustainable locations.
90. With reference to Policy WCS8, as per the conclusion against Policy WCS3 above, it is noted that this proposal would not increase the site’s throughout of waste as limited by the current Environmental Permit (max 75,000 tpa), nor

would it change the accepted types of waste or improve their methods of processing. There is therefore no contribution towards the objectives of Policies WCS3 or WCS8 to expand recycling capacity.

91. The extension may improve existing waste management methods, through a partial reorganisation of the site layout and through the new circulatory access arrangements. The creation of the new storage areas may also be considered to improve waste management methods through better segregation of materials, however it is not immediately apparent that the proposal would reduce any existing environmental effects. For example, there is no commitment to reduce the heights of the existing stockpiles, which are consistently visible at this gateway location and in fact the provision of a large and conspicuous concrete wall would be necessary to reduce noise towards the nearby properties to the north, including a day nursery, which are sensitive to noise, dust, odour and such impacts. The proposal does not entail the re-use of existing buildings and amounts to a change of use of rural land and the engineering and tipping to raise levels out of the floodplain. The expansion and building up of the land would not reduce flooding impacts and may in fact likely raise these risks. This raises fundamental sustainability questions as later considered.
92. Consequently officers consider that this is an inappropriate location for expansion and contrary to the approach of planning Policies WCS4, WCS7, WCS8 and Core Policy 3 and Policy DM8, which seek to restrict development in the open countryside and other unsustainable locations, having regard also to the site's situation in the functional floodplain and proximity to nearby dwellings. The issue of flood risk and other matters arising are further considered in more detail below.

#### Impacts from/to flooding

93. Policy WCS14 (Managing Climate Change) requires all new or extended waste management facilities to be located, designed and operated so to minimise any potential impacts on, and increase adaptability to, climate change. The supporting text makes clear that inappropriate development in the floodplain should be avoided including waste management proposals, noting that these also pose a potential pollution risk from flooding and storm events. Detailed impacts are controlled through the framework of saved policies from the WLP and relevant policies from the District's Local Development Framework and also guided by national planning policy.
94. WLP Policy W3.5 states that planning permission will not be granted for a waste management facility where there is an unacceptable risk of pollution to ground or surface waters or where it affects the integrity or function of floodplains, unless the harm can be mitigated by engineering measures and/or operational management systems. Allied to this are Policies W3.6 (water resources - planning conditions) and W3.13 (Flood Defences) both of which start from the position of where planning permission is granted, that planning conditions will be imposed to protect such interests such as requiring sealed drainage systems

and impermeable surfacing. The weight given to these 'permissive' policies needs to be tempered as they predate national planning policy on flooding within the NPPF.

95. NSDC CS Core Policy 10 (Climate Change) seeks to steer new development away from those areas at highest risk of flooding, applying the sequential approach to its location. This links with A&DMP Policy DM5 (Design) which states (para 9) that new development will be steered away from areas at highest risk of flooding and that proposals within Flood Zones 2 and 3 will only be considered favourably where it constitutes "appropriate development" and it can be demonstrated that there are no reasonably available sites in lower risk Flood Zones (the Sequential Test). Where development is necessary within areas at risk of flooding, the Exception Test will also need to be satisfied by demonstrating it would be safe for the intended use and would not increase flood risk elsewhere.
96. Policies CS10 and DM5 are in line/up to date with the NPPF on this matter, including NPPF para 150, which states that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change, and para 155 which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) but where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
97. NPPF para 159 states that where it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance. Para 160 states for the exception test to be passed it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
98. Para 163 of the NPPF also seeks to ensure that flood risk is not increased elsewhere. It states that:

*development should only be allowed in areas at risk of flooding where, in the light of [a site specific flood risk assessment] (and the sequential and exception tests, as applicable) 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.*

99. The Planning Practice Guidance provides further advice on the appropriateness of different land uses and developments according to their vulnerability to flood risk. It maps these vulnerability classes against the Flood Zones 1 to 3b to indicate where development is considered appropriate and where it is not. Together with the sequential approach, this aims to steer new development to areas of lower flood risk – Flood Zone 1 and then Flood Zone 2 if no reasonably available sites are in Zone 1. Only where there are no reasonably available sites within zones 1 and 2 should sites within zone 3 be considered and this should take into account the vulnerability class of the proposed land use and applying the Exception test as required by the guidance.

100. The PPG also sub classifies flood zone 3 (high risk) into 3a and 3b. The latter is considered the functional floodplain where development is further restricted. Only 'essential infrastructure' and 'water compatible' uses are appropriate in this most at risk flood zone and after considering the sequential test, the exception test as appropriate, and meeting further criteria, namely that development:

*“should be designed and constructed to:*

- *remain operational and safe for users in times of flood;*
- *result in no net loss of floodplain storage;*
- *not impede water flows and not increase flood risk elsewhere.*

101. Table 3 from the PPG is reproduced 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.

102. The extent of the functional floodplain is set by strategic flood modelling and is generally land which would naturally flood or is designed to flood and is thereby providing an important function in making space for flood water and taking pressure off rivers and local settlements.
103. In this case the wide area between Newark, Kelham and South Muskham is a well-known flood plain largely comprising low level farm land, former gravel pits as well the sugar factory complex. The Great North Road is carried over this area on a raised causeway incorporating a series of brick viaducts engineered by John Smeaton on the instruction of the Duke of Newcastle in 1770 and later widened. This still survives and ensures this road is kept free from flooding as was shown most recently in February, when the surrounding floodplain was submerged, including the nearby A617.
104. The existing scrap yard can be clearly seen as an 'island' of elevated made ground surrounded by the natural floodplain. To the immediate south and west this comprises low level meadow grassland, whilst to the north, the land remains at a lower level (despite evidence of some recent raising) and appears to have been used as private amenity land. The group of properties to the north appear slightly elevated, but still in a vulnerable location. Topographic surveying of the site shows the Great North Road and the central and eastern areas of the current scrap yard to be at or around 12m AOD, whereas the extension area is currently between 9.3m to 10.7m AOD. This fall in levels is clearly visible at the current boundary fence line.

105. The applicant states that the proposed site/area did not flood in the most recent major flood this last February. Aerial photographs taken by the Environment Agency and seen by the WPA would appear to at the very least question that belief. But arguing whether it did or did not flood is not the critical question. Instead the question should be *will* or would the land flood in the future (without the proposed development), taking into account the effects of climate change and strategic flood modelling. This strategic flood modelling then assigns it a level or flood risk from Flood Zone 1 (low risk) to 3b (highest risk), and then the proposed use can be considered for its appropriateness or compatibility with that level of flood risk.
106. The Environment Agency considers the area for the proposed extension to be the functional floodplain (Zone 3b), based on the latest up to date modelling information available.
107. The applicant's Flood Risk Assessment (FRA) includes some site-specific flood modelling in an attempt to refine the Environment Agency's flood mapping (which is typically undertaken at a larger resolution across a floodplain). The results of the modelling appear to confirm what is already known and does not appear to challenge the 3b flood zone designation head on.
108. Specifically, it confirms the site is situated in an island floodplain created by the two branches of the River Trent at Kelham/ Muskham and the navigable section through Newark; the application site itself is situated in 1 in 20 year floodplain; there are numerous historic records of it flooding; part of the site area would be inundated during a 5-year storm event and the remainder during a 20 year storm event. The site is therefore at a high risk of flooding. The FRA and modelling itself states:
- 'The Flood Zone 3b designation of the area intended for development will pose a potential planning restriction under the National Planning Policy Framework (NPPF). However, this hydraulic review has been commissioned to assess the impact of the proposed development assuming that the planning restriction can be overcome.'*
109. The FRA does not include any sequential site analysis to determine whether sites at lower risk are available. It is not obvious that there are other options in terms of direct extensions to this current site, given its situation.
110. The proposed 'mitigation' is to raise the ground levels above the worst case flood scenario (factoring in climate change). This would be achieved through the importation and tipping of 4,500 m<sup>3</sup> of inert waste materials and surfaced with impermeable concrete in order to build up the levels to meet that of the existing elevated scrap yard. However this would result in the loss of storage capacity and remove the ability of this area to hold flood water as part of the wider functional floodplain, compromising its very important planning function to make space for flood waters so to protect the town of Newark and the surrounding properties and communities. (As already noted, the properties to the immediate north along Kelham Lane are already in an extremely vulnerable situation).

111. In turn the FRA considers whether mitigation could be provided for the loss of the floodplain by providing an equivalent lowering/excavation of an area of land in the applicant's ownership. The FRA looked at excavating a large pond on the grasslands to the south of the current yard. However this was ruled out as it was found that this would be ineffective and may raise flood risks to the nearby sugar factory. In any event Planning Officers note that such an excavation would largely destroy what is a Local Wildlife Site for its meadow grassland interest.
112. The applicant therefore relies on the belief that the loss of a small part of land from the floodplain would not make any material difference to its wider function or significantly increase the risk to other properties/land. It also considers that it is not necessary to provide compensatory provision (and which would not be effective) and that the development can be raised safely above the worst case flood levels whilst on-site surfacing and drainage provision would be capable of dealing with any pollution in surface waters and control the rates of clean water run off/discharge.
113. This overall approach as set out in the FRA fundamentally dismisses the primary question that is central to this issue; that is of the *appropriateness/compatibility* of this type of development in the highest risk flood area, as guided by planning policy and the Planning Practice Guidance in particular. It is against this matter that the Environment Agency object to the application in the clearest terms. It also focuses overly on designing an extension which is adequate and flood resilient for its lifetime and dismisses the principle of maintaining the integrity of the functional floodplain, where development should be steered away from.
114. In considering the compatibility of different land uses within the flood zones, the PPG provides pertinent advice which should be followed for making planning decisions. It categorises waste management facilities as 'less vulnerable' to flooding or 'more vulnerable' in the case of hazardous waste management installations. (Whilst it is noted the Environment Agency suggests this would be a less vulnerable use, Planning Officers note the existing site deals with hazardous wastes from the End of Life Vehicle dismantling, thus it could be argued the proposed extension could be deemed to fall under a 'more vulnerable use'.) However, as the site falls within Flood Zone 3b (the functional floodplain), the guidance advises that both 'less vulnerable' and 'more vulnerable' uses are not appropriate and should not be permitted. (See table 3 extract above). It makes no allowance for any Exception test to be applied in these instances. Only 'water compatible' development and 'essential infrastructure' are deemed potentially appropriate (and only after passing the sequential and exception tests as appropriate). Planning Officers do not consider the proposed development to fall within these categories and so there is no requirement to reconsult the EA as suggested in its consultation response as detailed in para 30 above.
115. On the basis of the proposed development being considered a 'less vulnerable' use, the Environment Agency raise their clear and unambiguous objection. The proposed extension should not be permitted given its land use classification and

position in the functional floodplain. This would also compromise an important floodplain and water storage area, which has long-served to protect the town and surrounding communities. Its importance is only going to increase with the effects of warmer, wetter winters, as shown by the applicant's flood modelling which shows deeper flood levels over time. On principle matters it is not considered appropriate for such waste management facilities to be sited in high flood risk areas, where the potential for pollution to the environment is heightened, as noted in the Waste Core Strategy.

116. It is accepted that there is already an authorised and licensed scrap yard in and surrounded by a high flood risk area and in many instances site extensions can be a practical and sustainable solution to improving or enlarging such businesses and their operations. However, the current yard exists there as a fact of longstanding history and the present planning system attaches much greater importance to flooding matters and rightly so, acting in the greater public interest, and in order to deliver sustainable development when the effects of climate change are already starting to be seen. The Waste Core Strategy identifies that an extension may not always be a sustainable or acceptable option.
117. In an attempt to justify the proposed development the applicant draws attention to a recent nearby development for the expansion of the lorry park, off the Cattle market roundabout, involving some building up of levels as part of the surfacing. Permission was granted by Newark and Sherwood District Council. However it is noted that that area is at lower risk of flooding (Zone 2) and the proposed use was compatible/appropriate development under the PPG. An extension to that existing site, as opposed to a relocation, was therefore deemed acceptable against planning policy by the local planning authority. Citing this example does not help the applicant's case because the present application site is at much greater risk of flooding.
118. The other instance cited is at British Sugar where the WPA in 2018 granted permission for an additional soil conditioning area. The land there is at a similar level of flood risk to the application site being in Flood Zone 3b, however in granting that planning permission, the WPA accepted the development as sequentially appropriate and the development was subject to the provision of a flood compensation area. Notably the 'waste' materials there are inert, natural soils which arise from the seasonal processing of sugar beet. In both cases the EA raised no objection or no comment.
119. In accordance with the approach of the policies and guidance, the proposed extension is deemed not appropriate in this situation. Officers therefore consider it unnecessary to require the applicant to undertake a sequential analysis of alternative sites in order to justify the application site, and nor does this lead to the Exception Test, or consideration of any mitigation measures by condition. A proper application of the sequential approach would instead redirect this proposal elsewhere to areas at lower risk of flooding. Short of a wholesale relocation, potentially the applicant could consider the provision of a local satellite site in a more sustainable and sequentially preferable location elsewhere. It is noted that the applicant already has a second site in Mansfield

and so there appears no reason why a further site could not be found in the Newark area, perhaps for additional storage purposes which appears to be the main driver of the application. This might then free up space in the current yard and thereby improve the vehicle manoeuvring and turning space which is required.

120. The proposed site extension is clearly not sustainable or appropriate on flood risk grounds and is considered contrary to Policies WCS14, W3.5, Core Policy 10, Policy DM5, Paras 150, 163 of the NPPF and the PPG on flood risk.

#### Highways, access and parking

121. WLP Policy W3.14 states that planning permission will not be granted for a waste management facility where the vehicle movements cannot be satisfactorily accommodated by the highway network or would cause unacceptable disturbance to local communities.
122. The NPPF seeks to ensure that developments have safe and suitable access, including opportunities to promote sustainable travel depending on the type of development and location (para 108). Proposals should also allow for the efficient delivery of goods, and access for emergency services (para 110).
123. Newark and Sherwood Policy DM5 also requires safe and inclusive access as well as adequate parking provision.
124. The facility is directly served from the A616 Great North Road which is a 'class 1' county road, with a 50 mph speed limit. It is a straight run from Muskham bridge to the Cattle market roundabout but can be subject to peak period congestion outside of the site on its approach to the roundabout.
125. Waste is accepted via individual trade and customer's vehicles and the applicant also has use of their own vehicles and HGVs to transfer waste. There are no planning restrictions controlling associated vehicular or HGV movements. The only restriction is the Environmental Permit which allows up to 75,000 tpa to be processed, though in reality the site is operating at around 60,000 tpa. The application states that between 20 and 30 HGVs typically visit the site per day (40 and 60 two-way movements) and in addition there can be between 40 and 70 other vehicle types (80 to 140 two-way) per day as well as some staff cars.
126. The applicant states that throughput would not increase as a result of the development proposal, but even if did, this is already allowed by the Permit up to its upper limit. Apart from 2-3 additional staff cars there are therefore no additional traffic loading issues or turning movements to consider. Additional storage capacity might potentially enable greater bulking and thus efficiencies in associated vehicle movements, but this is not clearly demonstrated.
127. The main issue is the limitation/inadequacy of the current single point of vehicular access which is not wide enough for HGV traffic to arrive and leave simultaneously. The application explains how this arrangement and the lack of space generally within the site is leading to impacts out onto the public highway

with HGVs being at times unable to enter the site (such as when there is a queue at the weighbridge or when giving way to a vehicle exiting the site).

128. The WPA is itself aware of HGVs and other vehicles associated with the yard parking on the opposite shared footpath and cycleway causing an obstruction to these users. This may partly be down to the internal congestion issues, or lack of space being made within the site for parking. It may also be down to driver behaviour.
129. Part of the rationale for the proposed extension therefore is to create additional HGV circulation space and a new exit onto Great North Road just to the north of the current access, which in turn would become the site entrance. A second weighbridge would be sited before the exit. Thus a clockwise system of entrance, loading and unloading, and exit would be created.
130. The new access would be formed after the land levels in the area have been raised using imported materials and would entail the removal of circa 20m of the existing roadside hedgerow (this loss is further considered in the report). Also in order to provide the necessary junction visibility it would be necessary to trim back further lengths of the hedgerow and ensure this is maintained thereafter. A poor quality street tree located very close to the corner of the proposed access also appears that it might need to be removed.
131. Changes to the highway drainage gully and the relocation of a lighting column would also be required as part of the highway works. The new system would be clearly signed and both accesses would be able to satisfactorily accommodate turning for the applicant's largest articulated HGVs (bulk carriers).
132. Following provision of further information, the Highways Authority is satisfied with the proposal subject to conditions requiring the provision of and thereafter maintenance of the junction visibility. It is also noted that the surface would need to be agreed as part of the works which would need a separate agreement under the Highways Act.
133. The new access system would clearly help to address the existing site congestion and access difficulties, through deconflicting traffic arriving and departing and providing additional internal circulation space which would be helpful to maintaining site safety. Whilst the plans do not provide additional queuing space on entry to the site, as the current weighbridge (to become the inbound weighbridge) would stay in its current position, the additional space within the site generally would aid the onward movement of HGVs within the yard, thus with good site management a HGV would be able to move straight off the weighbridge to a given loading or unloading area, or around on the new circulation space.
134. The importation of the material needed to create the raised extension would result in a short term (4 weeks) increase in heavy traffic accessing the site (by the existing entrance). The operation would entail approximately 25 HGV loads a day on average (25 in 25 out) and where possible these would be timed to

avoid peak periods. This would equate to two loads per hour. There is no objection to this temporary and specific increase in HGV movements.

135. The new access, whilst slightly nearer to the residential properties to the north, is unlikely to affect standards of amenity in terms of noise or disturbance. Such noise issues are further considered below.
136. Overall the new access arrangement would provide a benefit to the safety and operation of the public highway outside of the site (as well as within the site) and is therefore supported by Policies W3.14, DM5 and the NPPF. It would facilitate the efficient delivery and transfer of goods and waste materials and improve the waste management methods and operations at this site. As such the proposed extension would also gain some support from Policy WCS8 (site extensions) on this one issue, however the conclusion on compliance with this policy and/or the weight which should be afforded to this benefit needs to be considered in the final planning balance after taking into account all relevant matters including the identified flood risk issues above.

#### Local and residential amenity

137. WCS Policy WCS13 supports proposals for waste management development where it can be demonstrated that there would be no unacceptable impact on the quality of life of those living or working nearby, including cumulative effects.
138. Waste Local Plan Policies W3.7, W3.9 and W3.10 seek to ensure associated odour, noise and dust are appropriately controlled and mitigated.
139. National planning policy (NPPF) advises that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Decisions should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life (para 180).
140. There is very little in the way of planning control or restrictions on the current facility. It is primarily regulated under an Environmental Permit. An objector has noted that the proposed extension could lead to increased impacts to the nearby residences to the north and this concern is possibly being heightened by a major fire at the site last year. Planning Officers also note the presence of the day nursery, its outdoor spaces and its close proximity to the proposed site.
141. Potential noise impacts to the nearby properties have been considered through a Noise Impact Assessment submitted with the application. This has been revised during the application which has led to the proposed height of the new external wall being increased from four metres to five or six metres in order to provide sufficient mitigation to these receptors.

142. The local noise climate is dominated by traffic noise and some noise from the sugar factory. The NIA considers the existing scrap yard noise to form a legitimate part of the background noise.
143. Whilst no additional processing is proposed on the proposed site extension, noise would be extended closer to the properties as a result of the handling and storage of scrap metal in the extension area, the operation of mobile plant, and also the movement of HGVs around the new circulatory system and the new site exit. The character of much of this type of noise would be 'impulsive' i.e. crashing and clacking noise, as opposed to the continuous character of the prevailing road traffic noise.
144. The NIA considers that the existing nearby occupiers might be expected to have some pre-existing tolerance to the effects of noise from the existing scrap yard operations. It demonstrates to the satisfaction of the County Council's noise consultant, that noise can be adequately controlled and would not lead to 'noise creep' from the expansion of the site, subject to a number of recommendations, the main one being the provision of a higher wall/enclosure in order to provide a barrier to noise. This should be 6m high as recommended. The wall would also assist to some degree in controlling other emissions from the site.
145. Residual impacts to local amenity, including during the land raising and construction stage could be expected, but are unlikely to be significantly detrimental to amenity given the existing context. Mitigation measures could be subject to planning conditions and such conditions could also be applied to the wider site for the first time i.e. the existing and proposed site, in order to be effective.
146. Subject to the provision of the recommended 6m high wall and other mitigation measures in relation to mobile plant and vehicles, the proposal is not considered to result in unacceptable impact to local/residential amenity.

#### Visual impact, design and landscaping

147. Saved Policies W3.3 and W3.4 of the Waste Local Plan seek to limit the visual appearance of waste management facilities and their associated plant, buildings and storage areas and requires the provision or maintenance of screening and landscaping. All plant, buildings and storage areas should be located so to minimise impact to adjacent land, kept as low as practicable, utilise appropriate cladding or treatment and where possible grouped together to prevent sprawl. Screening and landscaping should retain, enhance, protect and manage existing features of interest and value for screening and further measures such as fencing, walling or landscaped bunds may be required to reduce a site's visual impact.
148. WCS Policy WCS15 seeks to ensure high quality design and landscaping is employed in the development of new or extended waste management facilities. This is in line with the NPPW which seeks to ensure that waste management

facilities are well-designed, so that they contribute positively to the character and quality of the area in which they are located.

149. NSDC policy DM5 (Design) considers a range of impacts including visual amenity, landscape, local character and trees. NSDC core policy 13 (Landscape Character) states that new development should positively address the implications of the relevant landscape Policy Zone(s), consistent with the conservation and enhancement aims for that area.
150. The current scrap yard is visible in passing from Great North Road and some taller elements such as stockpiles, processing plant, and sheet fencing are relatively prominent, particular from the south at the cattle market roundabout. On the southern boundary there is evidence of encroachment/expansion where there is a clear open view across the low-level grassland from the elevated road. The regular storage of plant/machinery and parts outside of the authorised site and in front of the landscaping bund presents a poor visual appearance at that gateway location on the edge of the town.
151. The northern field which is relevant to the proposed extension is more enclosed in nature and defined by the mature roadside hedgerow which provides a good degree of screening of the application site area due to it currently lying at a lower level to the highway. The area is further enclosed by a dense tree line which screens the area from the properties to the north and north-west. A number of self-set trees alongside the current sheet metal boundary also provide some softening of the existing scrap yard and of the structures and buildings within it.
152. The roadside hedgerow, both on this and the opposite side of the road are supplemented by numerous trees and give the Great North Road a continuous soft and verdant edge on its approach to the town. When travelling outbound this then transitions to the open views out across the expanse of the surrounding arable fields and flood plain to the north. Whilst the sugar factory complex is obviously a significant feature in the area, it is set back from the road and except for its access, it maintains a successful green fringe to the road.
153. The proposed extension would entail the raising of part of the northern field area, the removal of part of the roadside hedgerow in order to form a new access (and cutting back of the remainder) and the erection of a substantial concrete sectional or block wall along the new northern boundary and the eastern return leg behind the hedgerow up to the new access. The self set trees along the current boundary would also be removed, although the applicant plans to remove these in any event due to their encroaching onto the yard and its buildings. The applicant has planted a number of new trees in the field to the north just outside of the application site and the application proposes that additional planting and screening could be provided along the outside face of the proposed new boundary wall.
154. Planning officers have concerns over the visual appearance of the proposed extension in this context and in particular the planned new concrete wall. Similar concerns have been raised in comments from Via (Landscape). Owing

to the need to contain noise and other emissions from the site in order to safeguard the nearby residences and day nursery, this wall would now have to stand some 5 to 6m in height as measured from the new, raised level to tie into the existing yard and highway levels. In effect this wall would be 8m high when measured from the existing lower ground levels to the north. The roadside hedgerow would only screen the lower third of this substantial wall and it would stand as a very conspicuous and unattractive feature next to the highway where it would have its return leg along the eastern boundary. Furthermore any new planting (even if provided at the higher level) on the outside face of the wall would be ineffective and would take considerable time to mature. There is also the potential for any planting to cause structural damage to the wall and so care would need to be taken in terms of species selection and location. There may be the option of colour washing or painting the wall, however this would do little to address its overall scale and visual presence which would only draw unwelcome attention to the facility.

155. Officers also have concerns that, along with the removal of a circa 20m section of the hedgerow in order to create the new site access, the remaining length would be under continuous pressure and stress from it needing to be cut back (possibly quite harshly) in order to provide and then maintain the junction visibility which is a requirement of the Highways Authority.
156. Overall the proposal is considered to be harmful to the visual amenity of the area which lies on one of the main outer approaches to the town and where the existing pattern of development is transitioning and reflective of the countryside setting. The combined visual impact would act to further industrialise the local landscape character. The large wall would not contribute positively to the character of this area and it would interrupt and jar with the verdant nature of the mature hedgerows and trees which line both sides of the Great North Road at this point. Any existing or proposed landscaping or external treatment is unlikely to be effective given the position and scale of the proposed wall. The existing hedgerow is also likely to be harmed in order to provide junction visibility.
157. Consequently officers consider that the proposed development would fail to provide the high quality design and landscaping and would be visually harmful at this edge of town/countryside location. The proposals would not retain, enhance or protect the existing landscaping and any additional landscaping would not satisfactorily reduce the visual impact. The increased visual impact would also further erode the local landscape character. The proposal is considered contrary to Policies WCS15, W3.3, W3.4 and DM5 and CP11.

#### Benefits to local business and circular economy

158. Core Policy 6 of the Newark and Sherwood Amended Core Strategy seeks to strengthen the local economy including through maintaining and enhancing the employment base of towns and settlements by providing a range of suitable sites to meet the needs of traditional and emerging business sectors. It seeks to support small and medium-sized enterprises, including through the allocation of sites for mixed-use development incorporating housing and employment, as

part of the Allocations & Development Management DPD. These include starter units, live-work units, and 'grow on' graduation space so that small firms can be established, expanded and retained within the District. Significant new employment land is identified as part of the strategic sites and further site allocations are within the Allocations DPD. In rural areas, diversification that would support tourism, recreation, rural regeneration and farming is supported. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact.

159. More generally the Waste Core Strategy recognises the business and economic opportunities from growing the waste management and materials recycling sector.
160. The National Planning Policy Framework (para 80) states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
161. Specifically in relation to rural economic growth, the NPPF states planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Planning decisions should recognise that sites required to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. (para 84)
162. As noted above the proposed site extension would not contribute to increasing recycling capacity, but it would enable greater storage and segregation of metals, and allow the applicant business to take advantage of peaks in scrap metal prices to a greater degree. In turn this may lead to a small rise in employee numbers and could support cash flow and investment into the business. No case has been made as to the viability of the business if the proposed extension did not proceed and it is not obvious that the proposal is essential to maintaining the current facility and its workforce.
163. In terms of other benefits, the improved site access and circulation arrangements have already been noted above, which would improve site safety for employees and visitors.
164. The planning system acts to support the growth of the local businesses, but development still needs to be sustainable. The site's location in the functional floodplain, which is at the highest possible risk of flooding, is a major concern. The local plan provides a range of more appropriate and sustainable sites which

businesses can move onto and grow. The proposed expansion could be provided on such sites, either as a satellite facility or to enable the relocation of the facility. The applicant has not sought to investigate alternative and more sequentially appropriate sites. Allocated and vacant employment land exists in the Newark area and it is to these types of sites which the Waste Core Strategy seeks to locate waste management facilities of this type.

165. Overall the benefits of the proposed site extension to the business and its contribution to growing the local economy is considered slightly beneficial and whilst significant weight should be afforded to the need to support the economic recovery. This is balanced against the inappropriate and unsustainable site selection and the provision of appropriate employment land and allocations elsewhere in the local area.

### Biodiversity

166. WLP Policy W3.22 states that where a waste management facility would harm or destroy a species or habitat of County importance, permission will only be granted where the need for the development outweighs the local conservation interests. Conditions can be imposed to require suitable mitigation and/or compensatory measures such as provision of alternative habitats which can be taken into account in the assessment of any harm.
167. The overarching environment Policy WCS13 supports proposals where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities.
168. Newark and Sherwood Core Policy 12 seeks to conserve and enhance biodiversity including through expecting proposals to take into account the need for continued protection of the District's ecological, biological and geological assets.
169. No ecology survey has been undertaken to support the application and whilst the County Ecologist advises it would be prudent to undertake one, it is evident that the application site does not form part of the grasslands which lies to the south and west of the yard and which have a Local Wildlife Site designation for their botanic interest. Instead the area to the north of the yard appears to have been used as general private amenity land, with evidence of some recent ground disturbance and possible raising.
170. Planning officers consider the limited removal of vegetation, comprising part of the roadside hedgerow and some self-set trees along the existing site boundary (if not already removed by the applicant) can be controlled by planning conditions with appropriate timing and methodologies. New planting could also be provided in front of the proposed extension/wall using appropriate native species, however this would take time to provide habitats and any visual screening.

171. Overall it is considered that there are no significant ecological constraints to the proposed development, and replacement tree planting could be required as part of a detailed landscaping scheme through a planning condition. There is no conflict with the planning policies on this matter.

#### Drainage and pollution prevention

172. WLP Policies W3.5 and W3.6 require measures to protect surface and ground water resources from pollution. Newark and Sherwood Policy DM10 requires proposals involving hazardous materials or which have potential for pollution, to take account of and address their potential impacts, including ground and surface waters and the wider environment.
173. Whilst Planning Officers consider the site usage to be incompatible within the flood plain setting, the application sets out how the proposed site extension would be designed and engineered to prevent any surface water pollutants or spillages from leaving the site. The yard extension would be surfaced with an impermeable concrete floor, with levels created so to direct all surface/yard waters towards the central drainage system. This in turn would intercept such pollutants and only clean waters would be permitted to discharge off site.
174. A planning condition could require further details to be submitted to ensure the existing system can accommodate, or be upgraded to deal with the additional surface water volumes which would need to be collected. Typically this would involve the use of underground storage/attenuation tanks and oil/fuel/silt interceptors, along with a controlled outflow where clean water could be discharged. However a more appropriate response to the potential pollution issues would be to site the development elsewhere, outside of the highest flood risk area.

#### Archaeology/Heritage

175. The proposed extension and new access would not affect any of the surviving sections of 'Smeaton's Arches' which are Grade II listed and carry the Great North Road above the floodplain. Nor would there be any indirect impact in terms of affecting the setting of these heritage assets as confirmed by the County Council's Conservation Officer.
176. The area does have archaeological potential being part of the Trent Valley, and there are also remains/records of Civil War fortifications and encampments across 'the island' between Kelham and Newark. As part of the proposed land raising it might be necessary to first excavate the existing soils, which could hold archaeological evidence. Whilst it is a relatively small area, the County Archaeologist recommends a planning condition to require a scheme of investigation to guide the works.

### Overall planning balance and conclusion

177. The report considers the proposed site extension to be contrary to Waste Core Strategy Policies WCS4, WCS7, WCS8 and Newark and Sherwood Core Policy 3 and Policy DM8 owing to its situation outside of the urban area, in the countryside, where proposals of this nature are not supported. Whilst extensions to existing facilities are often appropriate, in this instance it is considered inappropriate and unsustainable owing to its location in the functional floodplain (Flood Zone 3b) and the general incompatibility of this type of waste management facility in this high risk flood area, having regard to the Planning Practice Guidance. The capacity of this part of the floodplain would also be removed as the extension would entail the raising of the land levels, without compensation. The proposal is therefore also considered contrary to Policies WCS14, W3.5, Core Policy 10, DM5, and national planning policy with respect to inappropriate development in the floodplain. Significant and considerable weight should be afforded to this harm and to the need to maintain the integrity of the floodplain, particularly in light of the increasing effects of climate change.
178. The report has also considered that there would be visual harm to the character of the Great North Road from the introduction of a substantial new concrete wall at the raised level, along with impact to the mature hawthorn hedgerow. This would be an incongruous and poor form of design and appearance and any landscaping mitigation is unlikely to be effective for a number of years. The report therefore identifies conflict with Policies WCS15, W3.3 and W3.4 and DM5 and CP11 on this matter and moderate weight should be afforded to this identified impact.
179. Impacts to ecology, heritage and residential amenity are neutral considerations and could be subject to planning conditions if permission was granted.
180. The provision of a new site access and in/out circulatory system would result in benefits to the safety and operation of the existing facility and this would consequently provide benefits to the safety and free flow of the adjacent public highway by addressing the current difficulties of managing HGVs entering and leaving the site by the existing single, sub-standard access. This public benefit is supported by Policies W3.14 and DM5 along with national planning policy and should be given moderate weight in favour of the proposed development.
181. The additional storage space and other operational space would support the existing business and enable it to take advantage of any improved prices on the metals market. This in turn would enable investment in the business and the employment of some additional staff. Substantial weight should be afforded to these economic benefits as required by national planning policy.
182. Planning decisions need to be made in accordance with the Development Plan when read as a whole, unless other material considerations indicate otherwise. This legal requirement is not changed by the introduction of the presumption in favour of sustainable development in national planning policy, but the policies in the Development Plan must be considered according to their degree of

consistency with national policy. In this case all relevant considerations have been considered in the context of the development plan and relevant material considerations, including national planning policy and guidance.

183. In weighing up these matters, officers consider there is a clear case for refusing planning permission. The application is clearly contrary to the Development Plan and the material considerations, in terms of the identified benefits, do not provide a sufficient basis for departing from the development plan strategy which seeks to safeguard the countryside along with the vital function of its functional floodplain in protecting nearby communities from the increasing risk of seasonal flooding. The expansion of this business at the cost to these interests would not be sustainable development (and is contrary to Policies WCS1 and WCS13), is not supported by national planning policy and should be refused planning permission. The applicant should consider the availability of alternative, more appropriate locations in order to facilitate its business plans and the WPA stands ready to offer any pre-application advice on such proposals.

#### Legal Agreement

184. If planning permission was to be granted, the applicant would also need to enter into an agreement with the Highways Authority under section 278 of the Highways Act, relating to the creation of the new access from the public highway.

#### **Other Options Considered**

185. 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**

186. 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

187. If permitted the development would form a secure extension to the existing metal recycling yard, which has on site security measures.

### Data Protection and Information Governance

188. Any member of the public who has made representations on this application has been informed that a copy of their representation, including their name and address, is publicly available and is retained for the period of the application and for a relevant period thereafter.

### Human Rights Implications

189. 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. The proposals have the potential to introduce impacts such as additional noise and airborne emissions upon the nearby properties to the north, which includes a children's day nursery. These potential impacts need to be considered in the planning balance alongside other impacts, which include the loss of part of the flood plain, and the potential benefits the proposals would provide such as the operational improvements to the existing facility and improved site access. 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 including Safeguarding of Children

190. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty.
191. The proximity of an established day nursery has been noted. Its rear grounds/gardens are used for outside play and learning and the proposed extension to the scrap yard would be adjacent to the bottom corner of the grounds/gardens which could lead to increase noise and airborne emissions. However there is a mature tree line providing some separation and the proposed new boundary wall would act to contain emissions and impacts.

### Implications for Sustainability and the Environment

192. These have been considered in the Observations section above. The proposed site extension would be in the functional floodplain and result in loss of part of its ability to store water in times of flooding. The location is not considered appropriate, sequentially acceptable or sustainable for the use proposed, taking into account relevant matters including the effects of climate change on future flooding events. Some loss of trees and hedgerow would also be required, although replacement planting could partly mitigate this loss. The extension would provide some operational benefits which could assist with the safe and effective recycling operations, however Officers consider these are not so obvious or forceful to outweigh the clear conflict on flood risk grounds and the

additional storage capacity could be delivered at an alternative, more sustainable site or satellite facility.

193. There are no financial implications or any implications for human resources, or for County Council service users.

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

194. 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; identifying issues of concern and entering into discussion with the applicant to explore the possibility of suitably resolving such matters. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

### **RECOMMENDATIONS**

195. It is RECOMMENDED that planning permission be refused for the reasons 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 [RHC 30/9/2020]**

Planning & Licensing Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

### **Financial Comments (SES 29/09/2020)**

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**

Farndon & Trent- Councillor Mrs Sue Saddington

Report Author/Case Officer

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