

## **Planning and Licensing Committee**

**Tuesday, 03 September 2019 at 10:30**

**County Hall, West Bridgford, Nottingham, NG2 7QP**

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### **AGENDA**

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|---|--|----------|
| 1 | Minutes of the last Meeting held on 16 July 2019   | 3 - 8    |
| 2 | Apologies for Absence  |          |
| 3 | Declarations of Interests by Members and Officers:- (see note below)<br>(a) Disclosable Pecuniary Interests<br>(b) Private Interests (pecuniary and non-pecuniary) |          |
| 4 | Declarations of lobbying   |          |
| 5 | Approved Premises for Civil Ceremonies   | 9 - 18   |
| 6 | To Operate Asbestos and Clinical Waste Transfer Stations, Sandy Lane Industrial Estate, Worksop  | 19 - 56  |
| 7 | Proposed Amendments to the County Council's Code of Best Practice  | 57 - 96  |
| 8 | Development Management Progress Report   | 97 - 104 |

### **Notes**

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.

- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

- (3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Peter Barker (Tel. 0115 977 4416) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.

- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>

Meeting **PLANNING AND LICENSING COMMITTEE**

Date **Tuesday 16 July 2019 (commencing at 10.30am)**

**Membership**

Persons absent are marked with 'A'

Chris Barnfather (Chair)  
Jim Creamer (Vice-Chair)

Pauline Allan	Rachel Madden
Andy Brown	Tracey Taylor
Neil Clarke MBE	Keith Walker
Sybil Fielding	Andy Wetton
Paul Henshaw	Gordon Wheeler
John Longdon	

**OTHER COUNTY COUNCILLORS IN ATTENDANCE**

Jonathan Wheeler

**OFFICERS IN ATTENDANCE**

Pete Barker – Chief Executive's Department  
Rachel Clack – Chief Executive's Department  
Sally Gill – Place Department  
Derek Higton – Place Department  
Jonathan Smith – Place Department

**ALSO IN ATTENDANCE**

Dan Maher – Arc Partnership  
Asaad Raoof – Arc Partnership

**1. MINUTES OF LAST MEETING HELD ON 4<sup>th</sup> June 2019**

The minutes of the meeting held on 4 June 2019, having been circulated to all Members, were taken as read and were confirmed and signed by the Chair.

## **2. APOLOGIES FOR ABSENCE**

Councillor Gordon Wheeler replaced Councillor Harper for this meeting only.

## **3. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS**

Councillor Taylor declared an interest in Item 5, Sharphill Primary School, Edwalton – Erection of Primary and Nursery School, as Councillor Taylor is the Vice Chair of the Children and Young People's Committee, which did not preclude her from speaking or voting on that item.

## **4. DECLARATIONS OF LOBBYING OF MEMBERS**

No declarations of lobbying were made.

## **5. SHARPHILL PRIMARY SCHOOL, EDWALTON – ERECTION OF PRIMARY AND NURSERY SCHOOL**

Mr Smith introduced the report which related to an application for the erection of a 420 place Primary School with a 39 place nursery to be built in two phases on land west of Rose Way, Edwalton. Mr Smith informed Committee that the key issues related to the provision of community use, traffic impact on the highway network, design and landscape setting, and the relationship of the proposal to planned neighbouring development.

Mr Smith informed Committee that a local interest group, Sharphill Action Group, had submitted late representations and in common with some other objectors stated that the proposal fails to provide facilities within the site for shared daytime community use, especially for pre-school and senior citizens. The Group also requested that a separate community hall be provided. In response, Mr Smith informed Committee that the application did include a 39-place nursery and that whilst the local community may aspire to the provision of greater community facilities as part of the overall development, that fell outside the scope of this application which seeks to meet the requirements of the s106 agreement.

Mr Smith informed Committee that the Sharphill Action Group had also made late representations regarding highways impacts and whilst they supported the provision of a raised crossing point, hard paving of selected verges, road markings, signage and turning area, raised an objection to a lack of provision for parent drop-off and pick-up, stating that the demand for parking will exceed highway capacity and create considerable congestion and inconvenience to nearby residents. The Group suggested that lay-by provision should be provided adjacent to the highway beyond the School Zone.

Mr Smith further informed members that the Group's late representation also stated a need to make provision for the planned bus route including safe pedestrian access, bus lay-bys close to the school and provision of shelters, in order to reduce congestion and car dependence. In response, Mr Smith stated that the provision for buses is planned in the overall development, but that it will be a matter for Rushcliffe Borough Council in their determination of the planning



applications for the road and the details of proposed housing. Mr Smith informed Committee that he had discussed the representation with NCC Highways and that the width of the spine road should be sufficient for cars and buses to pass even if cars are parked on both sides of the road.

The representation from Sharphill Action Group also highlighted that the committee report acknowledges that vehicles will have difficulty in turning/reversing once they reach the school entrance on Rose Way, especially before the spine road is operational. In response, Mr Smith stated that on-site turning provision is proposed for operational traffic, and a suitable turning facility is to be provided on the extended public highway outside the operational school site, both of which have been confirmed as being acceptable following consultation with NCC Highways.

Mr Smith stated that the Sharphill Action Group had pointed out that the school did not connect to a planned cycle route to the west of the school, but informed members that the proposal did not yet have detailed planning approval. Mr Smith further stated that given the school would be cut into the hill, the gradient of paths that would be required would make access to the west impractical. Mr Smith informed committee that if the site were to be developed broadly as shown on the indicative site layout, the school would have good access to non-car routes through the development with paths provided to the north, west and south of the school site.

Mr Smith informed Committee that another late representation had been received from a resident who had already submitted other representations. Mr Smith informed Committee that the resident supported the provision of the school but:

- Considers the school is too large;
- Objects to the design in the context of Sharphill Wood;
- Considers that the appearance of the building could be enhanced through landscaping and providing the playing field to the east of the school building to reduce impact;
- Considers the proposal will impact on outlook, and result in the loss of view and privacy;
- Is concerned about noise impacts;
- Considers proposed changes to the highway to be unsightly, including on-street parking proposed outside residential property; and
- Objects to the proposed volume of traffic and considers the school would be better accessed from the north rather than from Rose Way.

Mr Smith stated that although the representation made suggestions about how the site could be developed differently in terms of the location of the playing field and the point of access, they did not form part of the submitted application brought to Committee for determination. Mr Smith informed Committee that the

other matters in the late representation did not raise new issues to those already considered in the report.

Mr Smith referred to Condition 25 which seeks to control noise levels at the school between the hours of 11pm and 7am. However, Mr Smith stated that given that the use of the school building cannot occur during these hours, as detailed in condition 21, it is considered that this condition is not necessary and so therefore does not meet the tests for conditions as detailed in the NPPF. Mr Smith consequently informed Committee that should it resolve to grant planning permission for the proposed development, it is recommended to remove this condition from the schedule of conditions attached to the planning permission.

Following Mr Smith's introductory remarks Derek Higon, for the applicant, Nottinghamshire County Council, was given the opportunity to speak and a **summary** of that speech is set out below:-

- Nottinghamshire County Council has a statutory requirement to provide enough school places to those that require them
- There is a clear and current demand in West Bridgford for a nursery and a primary school that cannot be met presently

There were no questions.

Councillor Jonathan Wheeler was then given the opportunity to speak and a **summary** of that speech is set out below:-

- The area needs a new school. The local schools are good but they are full.
- The design may not be award-winning but it is functional and not detrimental to the area. The asking for additional funds cannot be justified in the current financial climate.
- In terms of highway concerns, I have spoken to the officers David Marsh and Jan Witko. I am satisfied that a turning circle is required. I also understand the need for a drop off area and can report that work on the installation of bus stops is under way. Given the proximity of housing to the school, many of the journeys to the school will be on foot.
- I can understand Rushcliffe Borough Council's comments regarding community use, but it is up to them to provide that facility. There is no money to provide a hall on this site. Out-of-hours use of the school is welcomed.
- I support the Recommendations in the report – the school needs to be ready by September, houses are being built now and there is a need to provide school places.

There were no questions.

Members then debated the item and the following comments and questions were responded to:-

- The turning circle will be on public highway with security fencing around it.
- Consultees and the County ecologist are happy with the installation of bat and bird boxes despite the proximity of the wood to the school and they can be used as part of the children's education.
- There is scope to increase the number of electric charging points, as referred to in paragraphs 35 and 133 of the report, without the need for further earthworks. In effect the provision is future-proofed.
- Those that want to use the school at weekends and evenings will need to enter into an agreement with the school who will ensure that the building will be open when it is required.
- There will be 12 car parking spaces for visitors/parents as detailed in paragraph 58 of the report.
- The playing field will not be flood lit. The details of any security lighting will need to be approved.
- The render to be used on the school will match that on the nearby housing and the render and brick for the school will need to be approved.
- A flat roof has not been included in the design because of the proximity of deciduous trees. The barrel roof is lower than the similar roof used on the Rolls Royce site which means it should blend in to the surroundings.
- Design is a subjective matter and the project has to be delivered on budget which means compromise is inevitable. The building is of a high standard, designed to last for 40 – 60 years.
- The school will have separate toilets for girls and boys.
- The spine road is not intended to operate as a through route. Buses will have access and automatic number plate recognition (ANPR) will be in operation. Ultimately the use of the road is a reserved matter for Rushcliffe Borough Council to decide.
- This school was designed prior to the establishment of a corporate environmental strategy. Heat source pumps could be specified in future but this would increase the capital cost of building a new school. Sharpill has been a relatively expensive school to provide because of the levels on the site and costs exceed the S106 monies available. District Council colleagues negotiate the S106 agreements, NCC is allocated the land and has to work with what it has been given. The issue is a national one and national guidelines are required. Lobbying at a national level can be effective. Sustainable aspects of the project are detailed in paragraph 46

of the report. Details of tree and hedge planting are contained in paragraph 29 of the report. Condition 13 contains a programme for the provision of landscaping.

- All schools in Nottinghamshire have a problem with parking outside of the school. The Sharphill site is restricted and has already been extended to accommodate the school and grounds so options are limited in this case. Condition 19 does specify the need for a Travel Plan. The use of red lines at this site is unlikely for technical reasons but officers will consider their use at other sites. All parking restrictions at Sharphill are enforceable.

On a motion by the Chair, seconded by the Vice-Chair, it was:-

**RESOLVED 2019/019**

That with the exception of Condition 25 which is to be removed, planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992, subject to all other conditions set out in Appendix 4 of the report.

**6. DEVELOPMENT MANAGEMENT PROGRESS REPORT**

Mrs Gill introduced the report and confirmed that this was the usual regular report detailing which reports were likely to come before Committee.

Mrs Gill reminded members of the possibility of an additional meeting to be held on 17<sup>th</sup> September.

The Chair encouraged as many members as possible to attend the 2 proposed site visits to Sandy Lane, Worksop and Barton in Fabis.

On a motion by the Chair, seconded by the Vice-Chair, it was:-

**RESOLVED 2019/020**

That no further actions are required as a direct result of the contents of the report.

The meeting closed at 11.54am

**CHAIR**

**3 September 2019****Agenda Item: 5****REPORT OF THE SERVICE DIRECTOR PLACE AND COMMUNITIES****APPROVED PREMISES FOR CIVIL CEREMONIES****Purpose of the Report**

1. To provide an annual update and overview of the County Council's role in licensing premises for the solemnization of marriages and the registration of civil partnerships.

**Information and Advice**Background

2. This report provides an update and overview regarding the County Council's role in licensing premises for marriages and civil partnerships.

Approved Premises

3. Current legislation allows for the solemnization of marriages and the formation of civil partnerships to take place at venues other than register offices. Secular premises such as historic buildings, stately homes, civic buildings, sports stadia and hotels can all be licensed, provided there is no compromise of Parliament's intention to maintain the solemnity of the occasion. In order to be approved, a venue must be seemly and dignified, it must be a permanently immovable structure, comprising at least one room, or any boat or other vessel which is permanently moored. Premises outside this definition, such as the open air, a tent, marquee or any other temporary structure, and most forms of transport, are not eligible for approval. An approved venue cannot be a religious premise, other than for the formation of Civil Partnerships, and it must be regularly available to the public, which precludes a domestic home.
4. There are currently 69 Approved Premises in Nottinghamshire, which is the same number as last year. These are listed at Appendix A. There is one new premise (Willow Marsh Farm, East Leake) and one premise that did not renew their licence (Oscar's Lounge, Calverton). The fee for approval of a premise is included in the set of registration fees, which is reported annually for approval by the Communities and Place Committee.

Civil Partnerships in Religious Premises

5. The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011 allow civil partnership ceremonies to be conducted in places of worship in England and Wales. The Registration Services' role is to approve the premises. Nationally, the leaders

of Liberal Judaism, the Quakers and the Unitarians have all expressed interest in holding ceremonies. The procedure, and the basis on which approvals will be granted, is broadly the same as that which currently applies to secular premises. Once approved, a premise will be included in the list of approved venues for civil partnerships, indicating that they are a religious premise. However, at present there have been no applications for a religious building in Nottinghamshire to be licensed for Civil Partnerships.

### Procedures

6. The registration service procedures for approval of premises have been developed following 'The Registrar General's Guidance to Authorities for the approval of premises as venues for civil marriage and civil partnerships' (Sixth Edition, Revised June 2015). The premises are assessed for suitability, fire safety, and the need (or otherwise) for planning permission. Once granted, each approval lasts for three years.

### Law Commission Review on Marriage Reform

7. The legal position described in this report is expected to change in the coming years, subject to the outcome of a national consultation and the availability of parliamentary time. The Government announced a review of civil marriage legislation in 2018 and this has begun with the Law Commission publishing the principles and scope for a public consultation. Once this has been completed they will make recommendations to the Government on how the law can be reformed. The aim of the review is to reform wedding law to provide couples with greater choice, within a simple, fair and consistent legal structure that fits the needs of all couples and religious faiths.
8. The review will look at legal preliminaries, the content of a wedding ceremony, where weddings can take place, who can solemnize a marriage and how marriages should be registered. The Commission will also consider options for how marriage law could be extended to non-religious belief groups. The Government has said that a separate piece of work will explore what can be done to deliver interim reform within the existing system for certain civil ceremonies. In particular, the Government intends to consider if the regulations governing approved premises can be reformed to allow outdoor locations for civil ceremonies, whilst maintaining the requirement that venues be seemly and dignified.

## **Statutory and Policy Implications**

9. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Financial Implications**

10. There are no financial implications contained in this report.

## **RECOMMENDATION/S**

That members agree to receive an update report in the next 12 months and that this be included in the work programme.

**DEREK HIGTON**

**Service Director, Place and Communities**

**For any enquiries about this report please contact:**

Robert Fisher, Group Manager, Emergency Planning and Registration

Tel: 0115 977 3681, Email: robert.fisher@nottsc.gov.uk

### **Constitutional Comments (SG 29/07/2019)**

11. I confirm that the recommendation falls within the remit of the Planning and Licensing Committee by virtue of its terms of reference.

### **Financial Comments (SES 29/07/2019)**

12. There are no specific financial implications arising directly from this report.

### **Background Papers**

The Registrar General's Guidance to Authorities for the approval of premises as venues for civil marriage and civil partnerships (Sixth Edition, Revised June 2015)

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

- All





### List of Approved Premises in Nottinghamshire

Premises name	Location
Arnot Hill House	Arnot Hill Park, Arnold
Beeston Fields Golf Club	The Old Drive, Wollaton Road, Beeston
Bestwood Lodge Hotel	Bestwood Country Park, Arnold
Blacksmiths	Town Street, Clayworth, Retford
Blotts Country Club	Adbolton Lane, Holme Pierrepont
Bridgford Hall	Bridgford Road, West Bridgford
Carriage Hall	Station Road, Plumtree
Chapel on the Hill	Knowle Hill, Kimberley
Clumber Park	The National Trust, Worksop
Clumber Park Muthu Hotel and Spa	Worksop
Cockliffe Country House	Burntstump Country Park. Nr Arnold
Cottage Hotel	Easthorpe Street, Ruddington
County House	Chesterfield Road South, Mansfield

<b>Premises name</b>	<b>Location</b>
Deincourt Hotel	London Road, Newark
East Bridgford Hill	Kirk Hill, East Bridgford
Eastwood Community Hall	Nottingham Road, Eastwood
Eastwood Hall	Mansfield Road, Eastwood
Forever Green Restaurant	Southwell Road, Mansfield
Full Moon Inn	Main Street, Morton, Southwell
Gilstrap	Castle Gate, Newark
Goosedale	Goosedale Lane, Bestwood Village
Grange Hall	Vicarage Lane, Radcliffe on Trent
Hazel Gap Barn	Budby, Ollerton
Hodsock Priory	Blyth, Nr Worksop
Holme Pierrepont Hall	Holme Pierrepont, Nottingham
Hostess	Sookholme Road, Mansfield
Kelham Hall	Kelham, Newark
Kelham House Country Manor Hotel	Main Street, Kelham, Newark

<b>Premises name</b>	<b>Location</b>
Kingsway Hall	Forest Town, Mansfield
Langar Hall	Langar, Nottinghamshire
Lion Hotel	Bridge Street, Worksop
Mansfield Manor Hotel	Carr Bank Park, Windmill Lane, Mansfield
Mill, Rufford Country Park	Ollerton, Newark
Mour Hotel	Lake View Drive, Annesley
Newark Castle	Castle Gate, Newark
Newark Town Hall	Market Place, Newark
Newstead Abbey	Newstead Abbey Park, Ravenshead
Norwood Park Country House	Southwell, Notts
Nottingham Forest Football Club	City Ground, Nottingham
Nottinghamshire County Cricket Club	Trent Bridge, Nottingham
Nottinghamshire Golf and Country Club	Stragglethorpe, Nottinghamshire
Old Vicarage	Park Lane, Elkesley, Retford
Old Vicarage Boutique Hotel	Westhorpe, Southwell

<b>Premises name</b>	<b>Location</b>
Papplewick Pumping Station	Off Longdale Lane, Ravenshead
Pheasantry Brewery	High Brecks Farm, East Markham, Newark
Portland College	Nottingham Road, Mansfield
Pumping House	Brake Lane, Boughton, Newark
Ramsdale Park Golf Centre	Oxton Road, Calverton
Retford Town Hall	Market Square, Retford
Riding Hall	Thoresby Park, Newark
Rowan Suite	Chancery Lane, Retford
Ruddington Grange Golf Club	Wilford Road, Ruddington
Rufford Park Golf and Country Club	Rufford Lane, Rufford, Newark
Saracens Head Hotel	Market Place, Southwell
Secret Garden	Lancaster Road, Gringley on the Hill
Sherwood Forest Oak Room	Edwinstowe, Mansfield
Southwell Racecourse	Rolleston, Nr Newark
Sutton Bonington Hall	Main St, Sutton Bonington, Loughborough

<b>Premises name</b>	<b>Location</b>
Swancar Farm Country House	Trowell Moor, Trowell
Thrumpton Hall	Church Lane, Thrumpton
Victoria Suite	Memorial Avenue, Worksop
Village Hotel Nottingham	Brailsford Way, Chilwell
Welbeck Hall	Welbeck Road, West Bridgford
West Retford Hotel	North Road, East Retford
Willow Marsh Farm	Loughborough Road, East Leake
Woodborough Hall	Bank Hill, Woodborough
Worksop Masonic Hall	Potter Street, Worksop
Worksop Town Hall	Potter Street, Worksop
Ye Olde Bell Hotel	Barnby Moor, Retford



**3<sup>rd</sup> September 2019****Agenda Item: 6****REPORT OF CORPORATE DIRECTOR – PLACE****BASSETLAW DISTRICT REF. NO.: 1/18/00628/CDM****PROPOSAL: TO OPERATE AN ASBESTOS WASTE TRANSFER STATION AND  
CLINICAL WASTE TRANSFER STATION.****LOCATION: C.W. WASTE SERVICES LIMITED, SANDY LANE INDUSTRIAL  
ESTATE, WORKSOP, S80 1TN****APPLICANT: C.W. WASTE SERVICES LIMITED****Purpose of Report**

1. To consider a planning application for the operation of an asbestos and clinical waste transfer facility on part of a larger waste processing site previously used as a waste transfer station. The key issues relate to the suitability of the site and the wider location for the development of a waste transfer facility, concerns relating to the safety and management of the site, particularly in the context of the planning history of the site, potential adverse impacts to surrounding land and property and traffic generation. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

**The Site and Surroundings**

2. The planning application site is located on Sandy Lane Industrial Estate, approximately 1km north-west of Worksop town centre which is accessed from Sandy Lane (A60) (see Plan 1).
3. The application site is surrounded by industrial uses. To the west is the existing MBA Polymers plastic recycling site. To the south are companies called Canning Conveyors (supplier of industrial conveyor belts) and Fabco (a steel fabrication company). To the north is a dilapidated building and open storage associated with the former Worksop Waste transfer station, beyond which are railway sidings and the Worksop to Chesterfield rail line which runs in an east to west direction. To the east is other land associated with the former Worksop Waste, land occupied by Canning Conveyors and Spire Facilities (decorative stone supplier) and other industrial storage land.
4. The nearest residential properties are located on Sandy Lane, approximately 130m south of the application site (see Plan 2).

5. The site incorporates part of a larger piece of land which was last used as a mixed waste recycling centre operated by Worksop Waste Limited. The boundaries of the planning application site have been drawn around the lower (southern) yard area (around 20%) of this larger site. The site has a road frontage of 40m and a site depth of 100m. It incorporates a single storey office building adjacent to the road frontage with a weighbridge at the side and a single storey garage/servicing building at the rear of the site. The site is surfaced with crushed stone with a small area of broken concrete hardstanding adjacent to the northern boundary. The site is enclosed by 1.8m high metal fencing.

### **Planning History (see Plan 3)**

6. Planning permission was granted in September 2005 (ref: 1/02/05/00101) for the use of the planning application site for the development of a materials recycling facility associated with the management of household, commercial and industrial waste.
7. Planning permission was granted in July 2010 (ref: 1/02/09/00388) for a northern extension of the waste transfer station, the construction of a waste transfer building and installation of a ramp between the two areas of land.
8. In the process of implementing this planning permission the operator extended the operations onto adjoining land. Planning permission was granted to regularise this development in December 2010 (ref. 1/02/10/00326) and permit its continued use for inert waste management including screening, crushing and recycling of hardcore and topsoil.
9. Subsequently, retrospective planning permission was issued in November 2013 (Ref: 1/13/01032/CDM) to regularise a series of non-compliance issues in respect of the original planning permission including the construction of a waste transfer building not in accordance with the approved plans and non-compliance with the approved operational plan for the site.
10. A series of planning enforcement and stop notices were served on the previous operators of the site, between November 2013 and September 2017 against various breaches of the planning conditions imposed on the operation of the site. These are summarised below:
  - Various issues of non-compliance with the planning permissions and their conditions were noted after the permissions were issued. A planning application (Ref: 1/13/01032/CDM) was submitted to regularise issues associated with the waste transfer permission (1/02/09/00388) but progress to determine the application was slow. In light of the ongoing issues two planning enforcement notices were served on the operator of the site, Worksop Waste Limited in October 2013 for breaches associated with both the waste transfer permission (1/02/09/00388 and the inert permission (1/02/10/0326) including the site layout, waste types and environmental controls.



- As a result progress was made on the outstanding application and planning permission was issued in November 2013 (Ref: 1/13/01032/CDM) to regularise a series of non-compliance issues in respect of the waste transfer planning permission including the construction of the waste transfer station not in accordance with the approved plans and non-compliance with the approved operational plan for the site. This superseded planning permission 1/02/09/00388.
  - Worksop Waste Limited subsequently failed to lay the site out in accordance with the new planning permission or address those issues subject to the enforcement notices served in October 2013. In early 2014 Worksop Waste Limited went into partnership with Trent Valley Recycling (TVR) to run the site jointly with a view to TVR taking over the site. Worksop Waste Limited went into administration and TVR took control of the site. TVR initially cleared the waste associated with the notice relating to general waste transfer site and started some works to comply with the inert waste enforcement notice. The activity at the site started to intensify but waste was confined to the permitted area. In 2015 there was a further marked scaling up of the throughput of waste and following the collection of evidence that the permitted hours were being breached enforcement and stop notices were served in October 2015 requiring the site to operate within the approved hours.
  - The hours were largely complied with after the notices were served, although alleged breaches continued to be reported to the Council but were not evidenced by visits. The operation of the site as a whole did give cause for concern in light of the apparent throughput of waste. In October 2016 TVR filled the site, (with the exception of the area of the current application) with waste over a very short period of time and went into administration leaving a large quantity of waste at the site.
  - The land subject to the current application is owned by a holding company and was leased to TVR and was not tipped by them prior to them going into liquidation. The other land was owned by TVR and was disclaimed by the liquidator. In such circumstances the land was passed to the Crown and held in escheat. The Crown will hold the land to sell on but will not manage the land in any way. At around this time a limited quantity of baled carpet and mattress waste was deposited on the land subject to the current application.
  - A fifth enforcement notice was served in September 2017 against various breaches of the planning conditions requiring waste stored outside the designated areas to be removed and the site laid out in accordance with the approved plans. This was aimed at securing the removal of the recently deposited carpet and mattresses and also to ensure that any potential purchaser of the other land was fully aware of the breaches of planning control and the actions which needed to be taken.
11. The applicants for the current application secured an interest in the land subject to this application. They carried out various works to tidy up the premises including the removal of the baled carpet and mattress waste and have since

been in discussions with Officers to move forward the current proposals. The remaining land continues to be in escheat and discussions have and continue to take place with various stakeholders to try to secure a mechanism to remove the waste from the land.

## **Proposed Development**

12. The planning conditions imposed on the existing planning permission permit waste transfer activities across the larger site with all waste processing restricted to the land and buildings immediately to the north, outside the boundaries of the current planning application site. The consented use of the current planning application site is limited to office accommodation, vehicular parking, fleet maintenance and skip storage ancillary to the use of the wider site for waste management. The proposed asbestos and clinical waste processing therefore could not be operated under the terms of the existing planning permission for the site.
13. Planning permission is therefore sought to use part of the former waste transfer station site at Sandy Lane to operate an asbestos and clinical waste transfer station. Planning permission was also originally sought to undertake inert waste processing at the site but this was withdrawn from the proposed development and no longer forms part of the application. The activities for which planning permission is sought are set out below and identified on Plan 2.

### Asbestos Waste Transfer Station

14. Asbestos waste would be managed from an area of hardstanding located adjacent to the northern boundary of the site. The existing hardstanding area would be overlaid with concrete to create an impermeable pad measuring 15m x 11.5m. Two secure lockable waste skips would be sited on this hardstanding, each measuring 3.84m in length by 1.81m in width and 2.18m in height and providing 12.2 cubic metres of storage capacity, equating to approximately 300 bags of asbestos waste. The hard standing would also incorporate space for the parking of vehicles delivering asbestos waste.
15. The hardstanding would be constructed to contain potential accident or spillage utilising impermeable concrete and 200mm perimeter kerb/bund. Surface water from the concrete pad would discharge to a drainage tank installed below surface level. This tank would filter the water through a catch pit filter and collect any asbestos fibres. The filter would be inspected and cleaned each week. Filtered water would discharge by soakaway to the underlying ground. The ground underlying the proposed drainage tank has been tested for the presence of contamination. The results demonstrate that the soil is clean and therefore water flows from the tank would not mobilise any pre-existing ground contamination.
16. All asbestos delivered to the site would be 'double bagged' by wrapping it in two plastic bags to ensure compliance with industry standard and minimise risk of air borne emissions of asbestos fibres. Delivery vehicles would enter the site and drive over the weighbridge prior to being directed to the asbestos bunded

area for unloading on the fully bunded area. Bagged asbestos would be placed directly into skips. All users of the facility would be required to wear appropriate personal protective equipment including overalls and face mask. There would be no processing of asbestos waste at the site, with activities limited to storage, bulking and onward transfer within the lockable skips. After unloading, vehicles would be re-directed over the weighbridge where they would be issued with a duty of waste transfer note and a hazardous consignment note.

17. In the event of an asbestos spillage, fibre suppressant and a H type vacuum (a high-hazard vacuum cleaner incorporating a filter conforming to BS EN 1822 suitable for the safe removal of asbestos-containing materials) would be used to clean up any debris and extra class 9 asbestos bags would be kept in the bunded area.
18. It is anticipated that the site would receive approximately 48 tonnes of asbestos per week (around 2,500tpa), brought to site in small commercial vehicles such as transit vans or similar utilising approximately 60 vehicle deliveries each week. This represents a reduction in the level of throughput from the original submission which identified 10,000tpa. CW Waste may instigate their own collection service which would form part of the aforementioned throughput. The containers would be removed from the site utilising 2- 4 roll on/off HGV deliveries per week.
19. In a supporting letter the applicant states that they are appropriately qualified and licensed to manage asbestos. The applicants also confirm that they have obtained an environment permit from the Environment Agency for the asbestos waste transfer activities to be undertaken at the planning application site.

#### Clinical Waste Transfer Station

20. Clinical waste transfer activities would be carried out within the existing building at the rear of the site. This building was previously used for garaging/fleet maintenance. The interior of the building has a concrete floor and a roller shutter door to its front elevation. It is proposed to accommodate a 12.2 cubic metre container and 8 1,100 litre 'Euro' bins within this building.
21. Clinical waste would predominantly be brought to site in small commercial vehicles such as transit vans or similar. It is anticipated that the site would receive approximately 3 tonnes of clinical waste utilising approximately 30 vehicle deliveries per week. CW Waste may instigate their own collection service which would form part of the aforementioned throughput. 1-2 Cargo type vehicles per week would be utilised to remove the wheeled containers from the site.
22. Clinical waste would be delivered to the site in yellow bags, typically containing incontinence pads, nappies and sanitary waste. It would not incorporate any body parts. Waste carriers would deposit the yellow bags into the lockable Euro bins. There will be no processing of the clinical waste on the site and when full skips would be transported to incinerator/landfill for treatment.

23. In the event of spillage extra yellow bags are stored in the clinical waste area as well as body fluid disposal kits.

#### Operation of Site - General

24. Operation working hours for the site are proposed between 07.30 to 17.00 Monday to Friday and 07.30 to 12.00 on Saturdays. The site would not be operational on Sunday or Bank Holidays. When the site is fully operational it could potentially employ 10 full time and 10 part time staff, but initially staffing levels are likely to be half this.
25. The business would utilise the existing building at the frontage of the site as an office and amenity facility to manage the operation of the business. The site is secured by 1.8m high palisade steel fencing and 24hour CCTV surveillance. Floodlighting and CCTV coverage would be provided to maintain 24-hour site security. Operational plant will be limited to a fork lift truck or bowser type plant.
26. With the exception of the asbestos operating pad, the development would not change the existing drainage arrangements at the site which incorporate a soakaway system for roof water run-off, infiltration through the existing crushed stone surfaces on the open areas of the site, and mains foul water connection for the drainage originating from the office building.

#### **Consultations**

27. Consultees were requested for their observations on three separate occasions coinciding with the initial receipt of the planning application and on two later occasions following the receipt of revised documents. The summary of consultation responses identifies where consultees have changed their position following the receipt of the additional information.
28. Bassetlaw District Council: *Object to the planning application. The District Council acknowledges that the site has a history of concerns connected with its operation in connection with waste processing. Whilst waste is not something that the District Council would object to, it is important that the site is operated in compliance with legislation and regulation going forwards. As such, the quality of information contained within the original planning application submission is not sufficiently detailed or of satisfactory quality to enable proper consideration or comment to be made. Matters of concern relate to the lack of detail regarding clinical waste processing and potential risks from vermin and flies, the noise survey does not appear to accurately assess the magnitude of impact from inert processing activities, the supporting statement does not set out all the potential waste streams which the site would deal with and therefore a reasonable assessment of impact cannot be made. The submitted information is not robust enough to assess impact to air quality, noise, litter, odours, land contamination, dust, vermin and insects. The Council's Environment Health department consider the development of the site for waste related development is not consistent with future aspirations for the area.*

29. *Bassetlaw's Environment Health Officer has re-assessed the planning application following the submission of the supplementary planning documents. They state the documents are considerably more detailed and enable a more considered appraisal of the application to be made. The EHO makes the following observations:*
- *Air Quality, extraction, ventilation, noise, lighting, contaminated land, food hygiene, health and safety - no comments*
  - *Pollution prevention and control – The site will be regulated by an Environmental Permit. Any concerns surrounding release of asbestos fibres, or odours from clinical waste storage would be adequately controlled through permit conditions.*
  - *The EHO has previously commented on the un-desirability of this site for ongoing waste handling and these comments still stand.*
  - *Vermin – There is potential for vermin from site operations. Rodent and insect control is relatively straightforward and should be put in place by the operator.*
  - *Noise - The hours of operation together with the character of operations should ensure that nearby residents would not experience any significant negative impacts from the proposed development.*
  - *Drainage – A connection to the foul drainage system is recommended to avoid potentially contaminated water percolating through contaminated soils and leading to contamination of groundwaters.*
30. Environment Agency: *Raise no objections subject to the imposition of planning condition to require the submission of a scheme to deal with the disposal of surface water.*
31. *The Environment Agency have responded to the third consultation by confirming that they have issued a 'standard rules' environmental permit on the 19<sup>th</sup> July 2018 for the operation of an asbestos waste transfer station at the site. Under this permit, the only permitted hazardous waste is insulation materials or construction materials containing asbestos. These wastes must be double-bagged except where waste will not fit into a bag when it must be securely wrapped. Bagged or wrapped waste must be stored within secure, lockable containers. These rules do not permit the treatment or repackaging of asbestos or the separation of recyclable materials, or the burning of any wastes, either in the open, inside buildings or in any form of incinerator. These standard rules do not allow any point source emission into surface waters or groundwater. Liquids from waste storage areas may be discharged into a sewer (subject to a consent issued by the local water company), taken off-site in a tanker for disposal or recovery, or discharged directly to surface waters, or to groundwater by seepage through the soil via a soakaway if first passed through a filter capable of removing asbestos fibres. Clean surface water from roofs, or from areas of the site that are not being used in connection with storing waste, may be discharged directly to surface waters, or to groundwater by seepage through the soil via a soakaway. The permit limits the amount of asbestos waste which may be deposited at the facility to 10 tonnes per day and no more than 10 tonnes at the site at any one time.*



32. NCC (Lead Local Flood Authority): Raise no objections subject to it being satisfactorily demonstrated that run-off from waste handling areas does not result in pollution and site drainage from rainfall does not result in increased flooding to surrounding land.
33. The flood authority has subsequently confirmed that they have no objections to the application as subsequently revised.
34. NCC (Highways): Do not object to the planning application. The Highway Authority queried the accuracy of the traffic numbers supplied within the original planning submission but were satisfied that the vehicular movements were not significant. These concerns were addressed in the revised design and access statement which provides a detailed breakdown of vehicle movements which equates at an average of approximately 2 vehicles per hour over the suggested 9.5-hour day. Planning conditions are recommended to limit the maximum number of HGVs and LGVs accessing the site, to ensure that delivery drivers are instructed to enter and leave the site from the west via the A57 and thus avoid trafficking through Worksop, and all vehicles transporting waste being sheeted/covered.
35. Via (Noise Engineer): Raise no objection. Concerns were originally raised in connection with potential noise emissions from inert waste crushing and screening activities and that these issues had not been formally assessed as part of a noise assessment. Following the amendment to the planning application including the omission of inert crushing and screening, no objections are raised on noise grounds on the basis that the asbestos and clinical waste activities would not utilise any operational processing plant and therefore noise emissions from the activity would be low.
36. Via (Reclamation): Given the site's development history as a scrap yard and more recently as a waste management and recycling facility there is the potential for ground contamination issues at this location. It is understood that the only intrusive building works proposed on-site are for an underground water storage tank near the hardstanding area proposed for asbestos storage. It is therefore recommended that samples of the proposed area of excavation for the water tank are analysed to screen for a broad spectrum of contaminants.
37. The additional information incorporates a soil analysis which indicates that the soil beneath the proposed drainage tank is uncontaminated. The excavation of the site for the installation of the drainage tank and subsequent outfalls of filtered water from the drainage tank through the ground strata would not increase pollution risks from the site.
38. Network Rail Civil Engineering: Raise no objections
39. Cadent Gas Limited, Western Power Distribution, Severn Trent Water Limited: No representations received. Any representations received will be orally reported.

## Publicity

40. The application has been publicised by means of site notice, press notice and neighbour notification letters sent to the occupiers of surrounding businesses and the nearest residential properties on Sandy Lane in accordance with the County Council's adopted Statement of Community Involvement.
41. 17 letters of representation have been received raising objections on the following grounds:
- (a) Further waste development at the site is undesirable.
  - (b) There is a school and housing nearby. The facility should be developed in a non-residential area away from the general public.
  - (c) The management of 10,000 tonnes of asbestos at the site is a concern and could have serious implications to local residents and surrounding businesses. Asbestos fibres should be encapsulated at all times and contained in a sealed unit. There is no guarantee that the handling of the asbestos would be 100% safe. Asbestos is proven to cause health conditions including cancer. A local resident reports they have breathing problems which the facility would exacerbate.
  - (d) The perception of risk will affect the ability of adjoining businesses to attract and retain staff and would deter present and potential customers from visiting their premises to do business, thus adversely affecting surrounding businesses.
  - (e) It is questioned whether the handling and safety arrangements at the site will be subject to independent supervision.
  - (f) The clinical waste would attract flies and vermin and would harbour hazardous bacteria. The waste could contain body parts.
  - (g) Concerns were raised about the inert waste processing facility originally proposed at the site in respect of noise and dust emissions.
  - (h) The increased traffic associated with the development would have a negative impact on local traffic conditions. Sandy Lane is already a busy road, but it is not of a suitable standard for heavily loaded lorries, the speed limit is frequently ignored, and safety concerns are raised, particularly in respect of pedestrians including children walking to school. It is very unlikely that all vehicles will access the site from the west.
  - (i) The site has inadequate parking for cars and lorries.
  - (j) The traffic would affect the foundation of nearby houses which were built early 1900.
  - (k) There is no drainage system on the site, will one be installed?
  - (l) Concerns are raised over dust, smells, fire risk and HGV traffic. Dust suppression is inadequate, and residents are concerned that previous

dust issues associated with the operation of the site will re-occur. The development would result in further detriment to the local residential neighbourhood, the nearby school and local football ground.

- (m) What experience does the company have with waste management? Is the company appropriately qualified and trained to manage the site?
  - (n) What guarantees are there that the company will not go bankrupt and leave another mess in the area?
  - (o) The planning submission omits sufficient detail in respect of the development proposals, in particular questions are asked about how the asbestos will be maintained.
  - (p) The previous waste facility at the site did not sheet all their vehicles and a resident's vehicle was hit by falling debris from a haulage lorry. It also generated large numbers of vehicle movements including queues onto Sandy Lane.
  - (q) A spoil heap is still on the adjacent site from the last waste company which operated the site and went bankrupt. The land is in a disgusting and hazardous condition and has created several hazards including flies and vermin and should be removed prior to any new development of the site.
  - (r) A similar planning application in Kirklees was withdrawn due to concerns relating to health risks.
42. Local residents have been re-consulted on two further occasions in connection with the revised and supplementary information that has been provided in support of the planning application. This has resulted in a further 6 letters of objection being submitted. These letters reiterate the concerns outlined above in respect of noise pollution, vehicular traffic and congestion, health and safety, the location of the site and its proximity to surrounding property, impact to surrounding businesses, composition of clinical waste, fire risk, concerns regarding dust, devaluation of property and a request for committee members to inspect the site prior to making their decision.
43. John Mann MP raises objections to the planning application, raising the following concerns:
- (a) The location is in the heart of the town, close to housing, employment units, sports provisions and future food use is inappropriate and unacceptable.
  - (b) The site should no longer be designated as a waste site and the authority should work with its partners to ensure an alternative use that benefits the community.
  - (c) The set up of the site is unacceptable.



44. Councillor Sybil Fielding and Councillor Glynn Gilfoyle have been notified of the application.
45. Cllr Gilfoyle raises concerns regarding the quality of the submitted drawings which are more suited to an outline rather than full planning application. A lack of detail as to the size of structures, car parking spaces and level of throughput are a real worry. Concern is also expressed that the applicants have started to construct the concrete bases which does not bode well in light of the history of the site and previous breaches of planning control.
46. The issues raised are considered in the Observations Section of this report.

## **Observations**

47. The proposed asbestos and clinical waste transfer station would provide a local facility for the management of these waste streams, enabling the waste to be deposited and bulked prior to it being transferred to an appropriately licensed waste disposal/incineration facility for final treatment. The waste transfer station would serve both the applicant's existing business as well as the wider community of Worksop and its surrounding areas, enabling the waste to be managed in an appropriately permitted facility and assisting in reducing the distance that potentially small loads of waste would need to be transported.
48. In the context of waste planning policy, the facility is supported in principle by WCS Policy WCS3: Future Waste Management Provision which aims to provide sufficient waste management capacity to manage a broadly equivalent amount of waste to that produced within Nottinghamshire. The development is also supported in principle by WCS Policy WCS11: Sustainable Transport which seeks to minimise the distance travelled in undertaking waste management.

### Bassetlaw District Council Development Plan Policy

49. The Bassetlaw Core Strategy and Development Management Policy DPD (BCS) was adopted in December 2011. It incorporates strategic policies and prioritises new development to the existing settlements in the District including Worksop. The plan does not incorporate any specific site allocation policies. The planning application site is within the urban boundary of Worksop.
50. BCS Policy CS2: Worksop gives support to economic development proposals within the urban area of Worksop, in line with other material considerations and planning policy requirements.
51. BCS Policy DM7: Securing Economic Development states that all vacant former employment sites will be protected for economic development purposes.
52. Bassetlaw District Council commenced the preparation of a site allocations document and published a preferred options consultation in February 2014. The plan identified that the industrial units at Sandy Lane, including the application site were on land within the urban boundary of Worksop, but with no specific land allocation. The District Council aborted preparation on the draft site

allocations plan in December 2014 and therefore it was never adopted. No weight therefore can be given to the proposed policies or allocations which were to be incorporated in the draft plan.

53. Bassetlaw District Council published a Draft Bassetlaw Local Plan in January 2019. This draft plan includes strategic policies which will guide development if the plan is adopted. The preparation of the plan is at an early stage, but upon adoption it will replace the 2011 Core Strategy and Development Management Policies Development Plan Document. The draft Local Plan includes draft policies and two strategic sites which are proposed to deliver two new garden villages. The outcome of the consultation will refine the strategic direction of the draft Bassetlaw Local Plan. It will also inform the next iteration of the Plan, which will include more detailed development management planning policies and site allocations. It is anticipated this next stage of the plan preparation will be published for consultation in late 2019. Because this plan is still at an early stage of its preparation, and it does not incorporate any specific site allocations or detailed development management policies, the weight which can be given to it in this planning decision is limited. However, it is noted that the plan does not identify any change to planning policy relating to the industrial land at Sandy Lane.
54. Overall, it is concluded that BCS policy CS2 and DM7 are supportive of further economic development at the planning application site. There is nothing in the adopted BCS or draft emergent plans which indicate any change in land use policy for the Sandy Lane area, and the development plan does not support the view held by Bassetlaw's Environmental Health Officer that the development of the application site for waste related development would not be consistent with future aspirations for the area.

#### Nottinghamshire and Nottingham Waste Core Strategy Locational Policies

55. The Nottinghamshire and Nottingham Waste Core Strategy (WCS) was adopted in December 2013 and sets out strategic waste planning policy for assessing waste related development within the County.
56. WCS Policy WCS4 (Broad locations for waste treatment facilities) provides a spatial policy which promotes a pattern of appropriately sized waste facilities in the areas where they are most needed. The policy references table 8 of the plan which identifies that the facility should be assessed as a small-scale waste transfer station in the context of the level of throughput proposed for the facility. WCS Policy WCS4 states that the development of small-scale waste transfer facilities are appropriate in all locations where they help to meet local needs and fit in with local character. The policy therefore is supportive of the location of the proposed development, subject to it fitting into the local character.
57. WCS Policy WCS7 (General Site Criteria) sets out the general characteristic of sites which are suitable for waste management. It identifies that derelict, previously developed and employment land is most suitable for the development of new waste transfer stations, and therefore lends support to the development that is proposed at Sandy Lane.

58. It is therefore concluded that the WCS is supportive of the development of an asbestos and clinical waste transfer facility on industrial land at Sandy Lane, subject to the operation of the facility having an acceptable environmental impact.

#### Assessment of Environmental Effects

59. WCS Policy WCS13: Protecting and enhancing our environment provides support for new waste management facilities subject to it being demonstrated that there would be no unacceptable impact to any element of environmental quality or quality of life of those living or working nearby.
60. The Council has received a significant number of objections from the local community which raise concerns about potential impacts to environmental quality and residential amenity. These matters are assessed within the following sections of the report.

#### Process emissions and their effect on health

61. Concerns have been raised that the processing of asbestos has potential to release microscopic fibres which if breathed in can cause long term and life-threatening damage to lungs and also concerns of bacteria releases from the management of clinical waste.
62. The unregulated management of the proposed waste streams has potential to result in some very serious health impacts. The concerns expressed by the local community in respect of potential adverse impacts to health are therefore understandable.
63. Paragraph 183 of the NPPF states that:

183. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

64. The policy within the NPPF is clear. The control of emissions from the operation of the site is a matter for the pollution control authorities, which in this case is the Environment Agency through the Environmental Permit. It is not a function of the planning system to consider potential health impacts in planning decisions when an activity is regulated by environmental permit.
65. The Environment Agency confirm that the operation of the site would require an Environmental Permit. A permit has been granted for the asbestos processing activities, but it is understood a permit has not yet been sought for the clinical waste processing at the site.

66. The purpose of the environmental permit is to regulate process emissions to air, land or water to minimise and avoid their potential impact to human health and ecological systems. The permitting system requires the operator to demonstrate that Best Available Technique (BAT) has been applied to the site design which would necessitate consideration of alternative options for treatment. The Environmental Permit therefore would regulate all emissions from the asbestos and clinical waste aspects of the development and ensure that potential impacts to human health are safeguarded.
67. The responses from the local community identify a series of concerns in relation to potential pollution and health issues, including health risks associated with asbestos and flies, vermin and bacteria associated with the management of clinical waste. Whilst the control of these matters ultimately falls to the Environment Agency through the waste permit, the planning submission is supported by a working plan which explains how the site would be operated and the controls that would be put in place to minimise pollution risk. The working plan acknowledges the potential for pollution and health risks from asbestos and clinical waste streams and seeks to control the level of risk by managing the potential pollution pathways, primarily by ensuring all waste managed at the site is bagged to control atmospheric release of waste materials and carefully controlling the handling, storage and transfer practices used on the site. The working plan identifies procedures to be put in place in the event of accidental spillage. The applicant has also demonstrated that they are appropriately qualified to safely manage asbestos waste.
68. Planning decisions should assume that the permitting regime operates effectively and should not re-examine pollution control issues when making planning decisions whose function is to determine whether a development is an acceptable use of land, having regard to the policies of the development plan and other material considerations.
69. The concerns expressed by the local community regarding potential health effects of asbestos and clinical waste materials are understandable. However, these waste materials would be managed within a regulated process whose primary aim is to avoid potential pollution and health risks. Planning decisions should assume that the permitting regime operates effectively and should not re-examine pollution control issues when making planning decisions. It is therefore concluded that a refusal of planning permission for the development could not be supported on the grounds of adverse health impacts from the development. Subject to compliance with appropriate pollution control, there is no reason to refuse planning permission for the development due to its proximity to neighbouring land including nearby residential properties, business properties, schools and sports facilities.

#### Transport

70. WLP Policy W3.14 (Road Traffic) states that planning permission will not be granted for a waste management facility where the vehicle movements likely to be generated cannot be satisfactorily accommodated on the highway network or would cause unacceptable disturbance to local communities.

71. Traffic data supplied in support of the planning application states that the operation of the facility would generate approximately 90 light good vehicle deliveries per week comprising 60 vehicles associated with asbestos delivery and 30 vehicles associated with clinical waste delivery and a maximum of 6 HGVs to remove the bulked waste from the site. This would amount to approximately 2 vehicles per hour over the suggested 9½ hour day not taking into account staff movements. This is not assessed as being a significantly high number of vehicles in the context of existing traffic flows on Sandy Lane which is designated as the A60. Traffic counts show that there are around 15,000 vehicle movements each day on Sandy Lane including around 500 HGVs. The site is located within an industrial area with established vehicular access to Sandy Lane. The development is not dissimilar in character to the previous consented use of the site. It is concluded that this level of traffic which represents a very small percentage of overall traffic flow on Sandy Lane can satisfactorily be accommodated on the highway network without significant detriment to road safety, adversely impacting highway capacity, or causing structural damage to surrounding properties.
72. Off-street car parking is proposed for 5 vehicles and a planning condition is recommended to ensure this parking is provided and thereafter made available to users of the site. The site layout incorporates adequate space for delivery vehicles to manoeuvre and park clear of the public highway. It is therefore concluded the site has satisfactory off-street parking and manoeuvring facilities.
73. Residents have raised concern that the vehicle movements associated with the development could adversely impact the amenity of the residential properties, notably the properties located directly opposite the Sandy Lane Industrial Estate road junction. These properties already experience a level of traffic noise from the existing vehicular traffic on Sandy Lane. The level of increase in vehicle movements proposed in this planning application is comparatively low and in practice residents would observe the passage of any additional vehicles associated with this development in the context of this existing baseline flow rather than as isolated transport movements. On this basis it is considered the vehicle movements associated with the development would be largely imperceptible in the context of these existing background flows. Significant adverse impact to the amenity of nearby residential properties from vehicular movements is therefore not anticipated subject to the hours of deliveries into the site being restricted to coincide with the hours sought for the operation of the main site (07.30 to 17.00 Monday to Friday and 07.30 to 12.00 on Saturdays, closed Sunday and Bank Holidays), thus avoiding disturbance from vehicular traffic at unsociable hours of the day. It is therefore concluded that the development is compliant with WLP Policy W3.14.
74. WLP Policy W3.15 encourages the use of planning conditions to require the posting of site notices and/or the issuing of instructions to lorry drivers detailing any routes to be avoided or followed. Sandy Lane provides access between the A57 Worksop bypass to Worksop town centre. The Highway consultation has identified it is preferable for HGVs to access the site directly from the A57 rather than through Worksop town to the east and have requested a planning condition in accordance with WLP Policy W3.15 to require this route to be followed by HGVs by the issuing of instructions to drivers and erection of signage.

### Noise

75. WLP Policy W3.9 (Noise) identifies that the primary source of noise at waste management sites originates from the operation of mobile plant and waste processing plant. To minimise adverse impacts from noise emissions WLP Policy W3.9 encourages potentially noisy facilities to be located remote from noise sensitive properties and also to impose controls within planning conditions to minimise the potential impact from noise, including the restriction of operating hours.
76. Planning permission was originally sought to use the site for inert waste processing as well as asbestos and clinical waste transfer activities. The initial appraisal of this planning submission identified that the crushing and screening of inert waste had potential to be intrusive to the residential properties on Sandy Lane and therefore this part of the planning application was withdrawn from the submission.
77. The planning application now concerns itself solely with asbestos and clinical waste transfer activities. There would be no processing of waste on site and activities would be limited to the unloading of bags of waste from vehicles into containers/skips and the subsequent haulage of these skips from the site. These activities would generate minimal noise emissions and it is concluded they would not be intrusive at the nearby residential properties on Sandy Lane.
78. With respect to noise from vehicles servicing the site, waste imports would predominantly utilise light goods vehicles with heavy goods deliveries limited to one or two each day. These vehicles would travel past residential properties on Sandy Lane to access the site. Sandy Lane is an 'A' class road which serves other commercial premises in the local area and therefore these vehicle movements would merge with the existing flow of traffic with minimal additional noise impact.
79. A planning condition is recommended to regulate the hours of operation of the site and associated deliveries to between 07.30 to 17.00 Monday to Friday and 07.30 to 12.00 on Saturdays. Subject to this control it is concluded that the potential for noise complaint arising from the operation of the site is very limited, and the development therefore is compliant with WLP Policy W3.9.

### Dust

80. Planning policy concerning dust control at waste facilities is incorporated within WLP Policy W3.10 (Dust). The policy seeks to control dust through the identification of sites that are remote from dust sensitive neighbours and implementing dust suppression management controls at waste sites, regulated by planning condition, to minimise the generation of dust.
81. The previous occupiers of the site operated a mixed waste and inert processing facility including inert waste crushing and screening. Complaints were received that these activities generated dust emissions and enforcement action was taken by the County Council against dust nuisance.



82. The level of potential dust risk from the proposed activities is much lower. This is because the asbestos and clinical waste streams delivered to the site would be fully wrapped in bags, bulked in sealed skips prior to removal from the site and there is no processing of the waste proposed. None of these activities therefore would generate any significant dust emissions.
83. It is recommended that planning conditions are imposed to regulate dust emissions from the operation of the site and ensure that all waste deliveries arrive in sealed bags, are placed directly into covered skips and not processed. Subject to compliance with these planning conditions it is concluded the activities sought planning permission are low risk in terms of potential for dust emissions and the development is compliant with WLP Policy W3.10.

#### Mud

84. WLP Policy W3.11 (Mud) seeks to prevent nuisance from mud being spread onto the adjoining public highway. The policy identifies that unmetalled site haul roads and plant areas can become very muddy and site traffic can spread this mud onto the public highway, unless precautions are taken.
85. Nuisance from mud is not anticipated from the development. The waste materials managed by the site would not generate mud and the existing site is surfaced with crushed stone thus ensuring delivery vehicles would not pick up mud on their wheels. Wheel wash facilities are therefore not required in this instance. The development therefore is compliant with WLP Policy W3.11.

#### Visual Impact

86. WLP Policy W3.3 and W3.4 seek to minimise the visual impact of waste management developments by minimising the amount of built development and external storage as far as practicable.
87. There are no new buildings proposed as part of the development with new external structures limited to the two lockable containers which would be used for the storage of asbestos waste and the parking of vehicles associated with the development.
88. It is concluded that visual impacts as a result of the development would be minimal and the development therefore is in accordance with WLP Policies W3.3 and W3.4.

#### Litter

89. WLP Policy W3.8 seeks to minimise impacts from litter associated with the operation of waste management facilities by controlling site activities through planning conditions so as to prevent litter escaping from the site.
90. The operational procedures to be implemented at the site require all waste to arrive in sealed bags and to be placed directly into lockable containers in the case of asbestos waste, or covered skips sited within the building in the case of

clinical waste. These controls can be regulated by planning conditions and ensure that waste is not stored on the open areas of the site thus satisfying the requirements of WLP Policy W3.8. It is therefore concluded that potential nuisance from litter would be minimal.

#### Vermin

91. The planning submission identifies a series of operational controls including the bagging and use of sealed skips for the storage of clinical waste and the frequent removal of skips from the site. These controls ensure that waste is not stored in locations where it would be accessible to vermin thus ensuring that site activities are not attractive to vermin and minimising potential risk of nuisance from vermin.

#### Odour

92. WLP Policy W3.7 seeks to minimise odour emissions from waste processing facilities by locating potentially odorous waste management facilities away from sensitive receptors, particularly residential properties and imposing planning conditions to reduce the potential for the release of unpleasant odours.
93. Asbestos materials are not odorous and therefore their management in a waste transfer facility would not result in any potential odour emissions. Clinical waste does have some potential to release odour however, site management controls proposed in the planning submission, including the bagging of waste and its storage in sealed skips, would minimise the level of odour release. The operator proposes to maintain a watching brief for odour. In the event that odour is detected it is proposed to eliminate the odour by using a masking deodoriser and the removal of the waste from the site at the earliest practicable opportunity. It is recommended that the carrying out of these odour controls is regulated through planning conditions to ensure that odour levels are satisfactorily controlled and ensure compliance with WLP Policy W3.7.

#### Drainage and pollution control

94. WLP Policy W3.5 (Environment Pollution and Health Risks – Water Resources) states that planning permission will not be granted for waste management facilities where there is an unacceptable risk of pollution to ground or surface water, unless the harm can be mitigated by engineering/management solutions. WLP Policy W3.6 identifies a series of control measures which can be imposed on waste sites to limit pollution.
95. The drainage strategy has been designed to specifically minimise pollution risks from the operation of the site.
96. Within the uncovered asbestos waste management area an impermeable concrete base with kerb edges would be constructed. This would capture any potentially contaminated run-off from the pad as well as any rainwater that falls on it and drain it to a new underground water settlement tank which would filter



run-off to the underlying ground to remove any potential asbestos contamination. Soil surveys have been taken to ensure that the ground underlying the drainage tank is clear from contamination and thus ensure that outfall flows would not mobilise any pre-existing contamination which may be present in the ground.

97. All waste transfer activities within the clinical waste transfer station would be undertaken on the existing covered impermeable concrete base. Drainage flows from this area are likely to be negligible because it would not be influenced by rainwater and therefore any liquids would be limited to accidental spillages which would be managed through spill kits to avoid any wider contamination issues.
98. Other parts of the site would retain the existing drainage infrastructure. The site utilises soakaways for the roof water, ground infiltration for the crushed stone vehicular manoeuvring areas, and foul drainage for the toilets and sinks within the main building at the site.
99. It is concluded that these drainage arrangements satisfactorily control pollution risks that may occur from the proposed operation of the site. Planning conditions are recommended to ensure the drainage facilities are installed in accordance with the submitted specification, and the filtration system from the underground tank taking liquid discharge from the asbestos transfer area is periodically cleaned.

#### Other Issues

100. The planning consultation responses from the local community have identified a number of concerns which are considered below.
101. In terms of the concerns raised regarding the perception of risk and how this affects the ability of adjoining businesses to attract and retain staff and visiting customers, these concerns are capable of being material planning considerations, but for them to carry significant weight within this planning decision there would need to be reliable evidence to suggest that perceptions of risk are objectively justified, i.e. that the operation of the facility actually does pose an actual risk. The applicant's planning application submission incorporates information to explain how the site would be operated and the controls that would be put in place to safeguard against environmental risk. The operation of the site would be regulated by an environmental permit issued by the Environment Agency. The planning authority can be satisfied in this instance that the operation of the site would be appropriately regulated to ensure that it meets air quality, pollution and health controls. Taking into account the advice in the NPPF the planning authority must assume that the pollution control regime will operate effectively, and therefore a refusal of planning permission on grounds of a perception of risk relating to such environmental impacts could not be substantiated.
102. The concerns raised by the local community in respect to breaches of planning control by the previous waste business which occupied the site and the condition they left the site are understandable. Operating in this manner has

undermined confidence with the local community and the local ward member in any future proposals for waste related development at the site. Officers take the previous breaches of planning control very seriously and have issued a series of enforcement and stop notices to remedy the breaches of planning controls. However, this application is not connected in any way to the previous waste operators of the site and it would not be reasonable to refuse planning permission for this development simply on the basis that a previous tenant of the site operated it unscrupulously. The assessment of this planning application identifies that satisfactory environment controls can be put in place through the recommended planning conditions and Environmental Permit issued by the Environment Agency to ensure the site operates in an environmentally acceptable manner.

103. When the former business ceased trading they left a large quantity of waste materials on the land to the immediate north of the planning application site. As part of the bankruptcy procedures this site was disclaimed by the liquidator, passed to the Crown and held in escheat. The Crown will hold the land with a view to selling it on. Discussions have and continue to take place with various stakeholders to try to secure a mechanism to remove the waste from the land. The current planning application relates to a separate parcel of land and it would be unreasonable to refuse planning permission for a new use of this separate land purely on the basis that there have been previous breaches of planning control on an adjacent site, undertaken by an unconnected company.
104. The solvency of the applicant's business is not a material planning consideration. There is no evidence in front of the Council which indicates that there are any issues of insolvency within the applicant's business.
105. The concerns raised regarding potential fire risk are a matter for the Environmental Permit.

### **Other Options Considered**

106. The report relates to the determination of a planning application. The planning application originally sought planning permission for inert waste processing at the application site in addition to the asbestos and clinical waste transfer, but this aspect of the planning application was withdrawn following concerns regarding environmental impacts. The County Council is under a duty to consider the planning application as now proposed.

### **Statutory and Policy Implications**

107. 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

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

### Data Protection and Information Governance

109. 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

110. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the operation of the site. The proposals have the potential to introduce impacts such as increased traffic nuisance and adverse impacts from the handling of waste materials upon the occupiers of surrounding land and property. However, these potential impacts need to be balanced against the wider benefits the proposals would provide in terms of waste management provision and the working practices that would be put in place to minimise and avoid adverse impacts. 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

111. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty and there are no identified impacts to persons/service users with a protected characteristic.

### Implications for Sustainability and the Environment

112. These have been considered in the Observations section above,
113. There are no financial, human resource, safeguarding of children and adults at risk and service users.

### **Conclusion**

114. The proposed asbestos and clinical waste transfer station would provide a local facility for the management of these waste streams, enabling the waste to be deposited and bulked prior to it being transferred to an appropriately licensed waste disposal/incineration facility for final treatment. The development is supported by WCS Policy WCS3: Future Waste Management Provision which

aims to provide sufficient waste management capacity to manage a broadly equivalent amount of waste to that produced within Nottinghamshire. It would also assist in reducing the distance that potentially small loads of waste would need to be transported and is therefore supported in principle by WCS Policy WCS11: Sustainable Transport.

115. BCS policies CS2 and DM7 are supportive of further economic development at the planning application site which is industrial in character. WCS Policy WCS7 (General Site Criteria) sets out the general characteristic of sites which are suitable for waste management. It identifies that derelict, previously developed and employment land is most suitable for the development of new waste transfer stations, and therefore lends support to the location of the development.
116. WCS Policy WCS13: Protecting and enhancing our environment provides support for new waste management facilities subject to it being demonstrated that there would be no unacceptable impact to any element of environmental quality or quality of life of those living or working nearby.
117. It is acknowledged that a significant number of objections have been raised by the local community regarding potential environmental impacts from the development. These concerns have been examined within the observations section of the report where it is concluded that there would be no significant harmful impacts subject to the site operating as set out in the planning application submission which is regulated by the recommended planning conditions set out within appendix 1 of this report, and the Environmental Permitting system regulated by the Environment Agency.

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

118. 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. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **RECOMMENDATIONS**

119. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

**ADRIAN SMITH**

**Corporate Director – Place**

## **Constitutional Comments SLB 05/08/2019**

Planning and Licensing Committee is the appropriate body to consider the content of this report.

## **Financial Comments [RWK 05/08/2019]**

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

## **Background Papers Available for Inspection**

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

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

Worksop West      Councillor Sybil Fielding

Report Author/Case Officer

Mike Hankin

0115 9932582

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

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## **RECOMMENDED PLANNING CONDITIONS**

### **Commencement**

1. The development hereby permitted shall be begun within 3 years for the date of the date of the permission.

*Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.*

2. The Waste Planning Authority shall be notified in writing of the date of commencement at least seven days, but not more than 14 days prior to its commencement.

*Reason: To enable the WPA to monitor compliance with the conditions of the planning permission.*

### **Approved plans**

3. The development hereby permitted shall only be carried out in accordance with the following plans and documents, except where amendments are made pursuant to other conditions below or through the approval of non-material amendment to the permission.
  - a. Revised planning application form received by the WPA on 06/06/2019.
  - b. Revised location plan (O&S based extract with red line) received by the WPA on 27/03/2019.
  - c. Revised Site Layout Plan Scale 1:200 received by the WPA on 29/03/2019.
  - d. Elevations and floor plan received by the WPA on 02/05/2018, with the exception of the drainage storage tank to serve the internal floor area of the clinical waste storage area which has been omitted from the scheme.
  - e. Layout of asbestos storage area received by the WPA on 27/03/2019.
  - f. Revised layout of parking, clinical and asbestos waste operating areas received by the WPA on 12/06/2019.
  - g. Revised supporting statement received by the WPA on 06/06/2019.

*Reason For the avoidance of doubt as to the development permitted.*

### **Waste transfer activities permitted at the site**

4. Planning permission is provided for waste transfer activities associated with the management of asbestos and clinical waste only. All incoming loads shall be inspected to ensure compliance with these consented waste types. Any loads

which fall outside those permitted shall be rejected and immediately removed from the site.

*Reason: To ensure that waste management facilities provided on the site are appropriate to ensure that the development does not adversely impact on any element of environmental quality or the quality of life of those living and working nearby in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Waste Local Plan.*

5. No more than 48 tonnes of asbestos and 4 tonnes of clinical waste shall be imported to the site in any 7-day period. Written records of waste inputs identifying the type and quantity of waste being imported to the site shall be kept by the operator, these records shall be made available to the WPA within seven days of a request.

*Reason: To ensure that vehicle movements are limited to an appropriate level and ensure site activities do not adversely affect the free flow of traffic on surrounding roads in compliance with the requirements of Nottinghamshire and Nottingham Waste Local Plan Policy W3.15.*

### **Hours of operation**

6. Except in case of emergency where life, limb and property are in danger, which shall be notified to the WPA in writing within 48 hours of its occurrence, the site shall not be operated except between the following permitted hours:

- 07.30 to 17.00 Monday to Friday; and
- 07.30 to 12.00 on Saturdays.

Outside of these hours including Sundays, Public or Bank Holidays, the site shall be closed for the receipt, movement and transfer of waste and operation of any associated machinery. With the exception of movement sensitive security lighting which shall be timed to switch off after a maximum 5 minutes illumination time, floodlighting shall not be illuminated at the site outside the times specified above. For the avoidance of doubt, the office accommodation may be operated outside these hours.

*Reason: In the interest of the amenity of nearby occupiers and to accord with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan and Policy WCS13 of the Nottinghamshire and Nottingham Replacement Local Plan – Part 1 – Waste Core Strategy.*

### **Noise**

7. Machinery operated at the site shall be restricted to delivery vehicles, fork lift truck, bowser plant and handheld tools unless agreed in writing with the WPA.



*Reason: To minimise noise associated with the operation of the site, and in the interests of local amenity to accord with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan and Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan-Part1- Waste Core Strategy.*

8. All mobile plant and vehicles under the control of the operator shall employ white noise (broadband) reversing alarms.

*Reason: To minimise noise associated with the operation of the site, and in the interests of local amenity to accord with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan and Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan-Part1- Waste Core Strategy.*

### **Vehicle Movements**

9. The number of waste carrying vehicles accessing the site shall not exceed the following limits:

- 90 light goods vehicles (vehicles with a gross vehicle weight of no more than 3.5 tonnes) per week associated with the delivery of asbestos or clinical waste.
- 6 Heavy Good Vehicles per week to remove the bulked asbestos or clinical waste from the site.

A written record shall be kept by the site operator of the number of waste carrying vehicles entering and leaving the site and the type of waste being carried by the vehicle. The written record shall be made available to the WPA in writing within 7 days of a written request from the WPA.

*Reason: To ensure traffic and associated impacts are limited, so not to create an unacceptable disturbance to local communities in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy and Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

10. Signs shall be erected at the site and shall be maintained for the life of the development, and instructions shall be provided to all drivers of waste carrying vehicles to request them to access and leave Sandy Lane and the application site from via Sandy Lane and the Sandy Lane/A57 roundabout to the west and thus to avoid travelling through Worksop Town Centre. The instructions provided to all drivers shall include details of the penalties which the company shall impose on drivers for not abiding with the routeing arrangements and include provisions to restrict/ban any drivers who are caught not abiding by the routeing arrangements on more than one occasion.

*Reason: To minimise disturbance to residential communities associated with the movement of delivery vehicles in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy and Policy W3.15 of the Nottinghamshire and Nottingham Waste Local Plan.*

11. The off-street car parking spaces and waste carrying vehicle manoeuvring areas identified on the site elevation plan received by the WPA on 2<sup>nd</sup> June 2019 shall be made available for staff/customer parking and vehicle manoeuvring and kept clear of obstructions at all times.

*Reason: To ensure adequate facilities are provided for off-street parking and manoeuvring in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy and Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Site Security**

12. The site boundaries shall be maintained in such a manner to secure the site.

*Reason: To ensure waste transfer activities are undertaken safely in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

### **Operational controls relating to the transfer of asbestos waste**

13. Prior to the importation of asbestos waste to the site, the existing 15m x 11.5m hardstanding area shall be improved to provide an impermeable concrete base with 200mm high perimeter kerb edgings and drainage falls engineered to provide discharge to a new filtered drainage tank designed to collect any asbestos fibres prior to water soaking into the underlying ground in accordance with the details identified on Drawing: Layout of asbestos storage area received by the WPA on 27/3/2019 and set out in the revised supporting statement received by the WPA on 6/6/2019. The operator shall provide written certification from an appropriately qualified engineer to confirm that the tank has been installed as approved. The impermeable pad and drainage system shall be retained throughout the operational life of the site and the asbestos filter system shall be inspected and cleaned every week, written records shall be maintained of these weekly inspections, and a copy of this record shall be made available to the WPA within seven days of a request.

*Reason: To prevent pollution of the water environment in accordance with Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

14. All asbestos waste transfer activities shall be undertaken from the 15x11m bunded impermeable concrete pad and no other parts of the site. Asbestos delivered to the site shall:

- Be inspected prior to unloading to ensure that it is wrapped and sealed in two polythene bags. Any asbestos waste that does meet this criterion shall be rejected and not permitted to be unloaded at the site.
- All unloading of asbestos waste from delivery vehicles shall be undertaken on the impermeable concrete pad. During the transfer of bagged asbestos waste the air shall be dampened by a misting system.
- Asbestos waste shall be placed directly into the lockable container skips sited within the bunded concrete hardstanding area. The polythene bags shall not be opened at the site and there shall be no processing of asbestos waste at the site.
- The asbestos waste containing skips shall be locked shut at all times except during periods when asbestos waste is being placed into the skips.
- No asbestos waste shall be stored in the open air, outside the lockable skips at any time.

*Reason: To ensure the asbestos transfer activities are undertaken safely and do not endanger occupants of surrounding land in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

15. In the event that an asbestos containing polythene bag becomes split during the delivery process then the operator shall immediately clean up the spillage utilising a fibre suppressant and a H type vacuum, the underlying area would be dampened/washed down to remove any asbestos fibres which may have settled on the ground.

*Reason: To ensure the asbestos transfer activities are undertaken safely and do not endanger occupants of surrounding land in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

### **Operational controls relating to the transfer of clinical waste**

16. All clinical waste transfer activities shall be undertaken within the existing building at the site in accordance with the details set out within the supporting statement. Clinical waste delivered to the site shall:

- Be inspected prior to unloading to ensure that it is wrapped and sealed in polythene bags. Any clinical waste that does not meet this criterion shall be rejected and not permitted to be unloaded at the site. The site shall not receive any body parts.

- All unloading of clinical waste from delivery vehicles shall be undertaken on the impermeable concrete pad within the building.
- Clinical waste shall be placed directly into skips stored in the building. The polythene bags shall not be opened at the site and there shall be no processing of clinical waste at the site.
- The clinical waste containing skips shall be covered at all times, except during periods when clinical waste is being placed into the skips.
- No clinical waste shall be stored in the open air outside the skips, at any time.

*Reason: To ensure the clinical waste transfer activities are undertaken safely and do not endanger occupants of surrounding land in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

17. Clinical waste spillage kits shall be provided at the site at all times. In the event of a spillage of clinical waste, the operator shall immediately clean up the spillage utilising the spill kit.

*Reason: To ensure the clinical waste transfer activities are undertaken safely and do not endanger occupants of surrounding land in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

18. The operator shall carry out odour vermin and fly monitoring on a daily basis, recording the results of the monitoring within a written log. In the event that odour, vermin or fly issues are detected at the site, either through the monitoring regime or during inspections made by the WPA, then the operator shall investigate and identify the source of the nuisance and neutralise it by use of masking deodoriser and vermin/fly control measures. The problematic waste shall thereafter be removed from the site within 24 hours. Prior to extended closure periods associated with weekends and Bank Holidays the operator shall ensure that the minimum amount of clinical waste is stored on the site, any full skips of clinical waste shall be removed from the site for disposal/incineration prior to closure on these days. The written monitoring records shall be kept by the operator and made available to the WPA within seven days of a request.

*Reason: To ensure the clinical waste transfer activities are undertaken safely and do not endanger occupants of surrounding land in accordance with Policy WCS13 of the Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1- The Waste Core Strategy.*

## **Management of potential ground contamination**

19. If during the development, contamination not previously identified is found to be present, no further works shall be carried out in the area of identified contamination until a remediation strategy to deal with unsuspected contamination has been submitted to and approved in writing by the WPA. Development shall thereafter be carried out in accordance with the approved details.

*Reason: To ensure that any ground contamination that may be discovered during the course of the development is remediated to an appropriate standard and therefore avoid risks from pollution, in accordance with Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

20. With the exception of works associated with the installation of the drainage tank to serve the asbestos processing area, the existing surface of the site shall not be excavated and the underlying ground exposed without the prior written agreement of the WPA

*Reason: To ensure that any ground contamination that may be discovered during the course of the development is remediated to an appropriate standard and therefore avoid risks from pollution, in accordance with Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

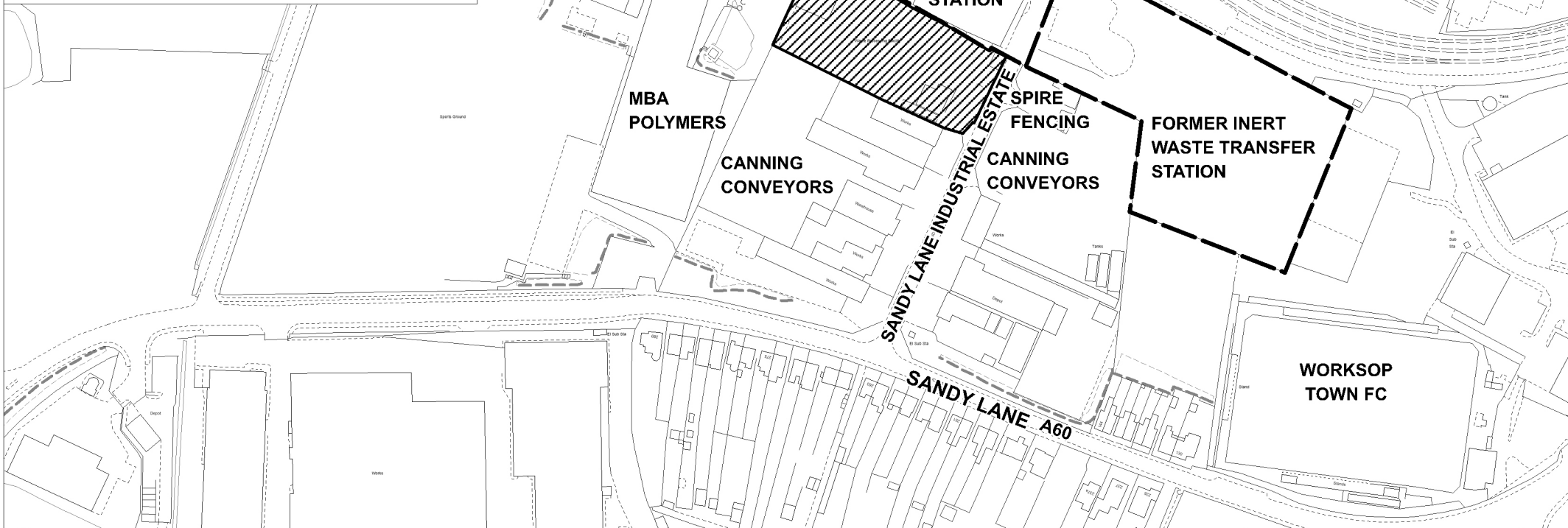
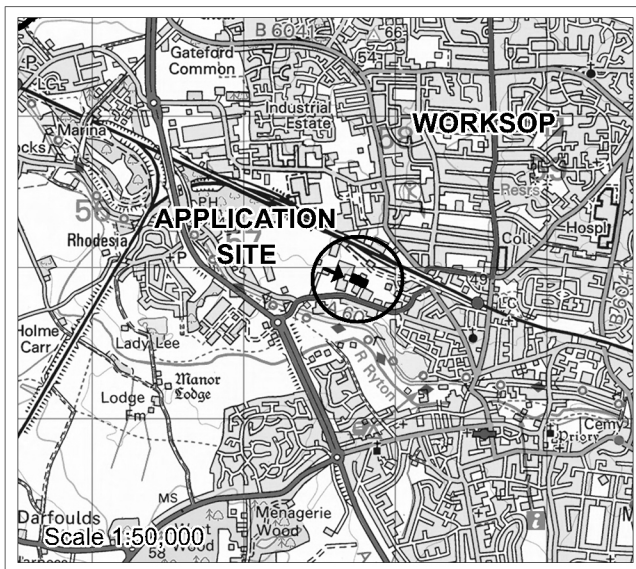
### **Notes to applicant**

1. Any operation of the proposed facility would require an environmental permit, which would be granted and regulated by the Environment Agency. To obtain advice on applying for an environmental permit, we would direct the applicant to the following website address, to complete the Environmental Permit Pre-application Advice Form.

<https://www.gov.uk/government/publications/environmental-permit-pre-applicationadvice-form>







**Nottinghamshire  
County Council**

To operate an asbestos waste transfer station and clinical waste transfer station.  
C.W. Waste Services Limited, Sandy Lane Industrial Estate, Worksop, Nottinghamshire.  
Planning Application No. 1/18/00628/CDM

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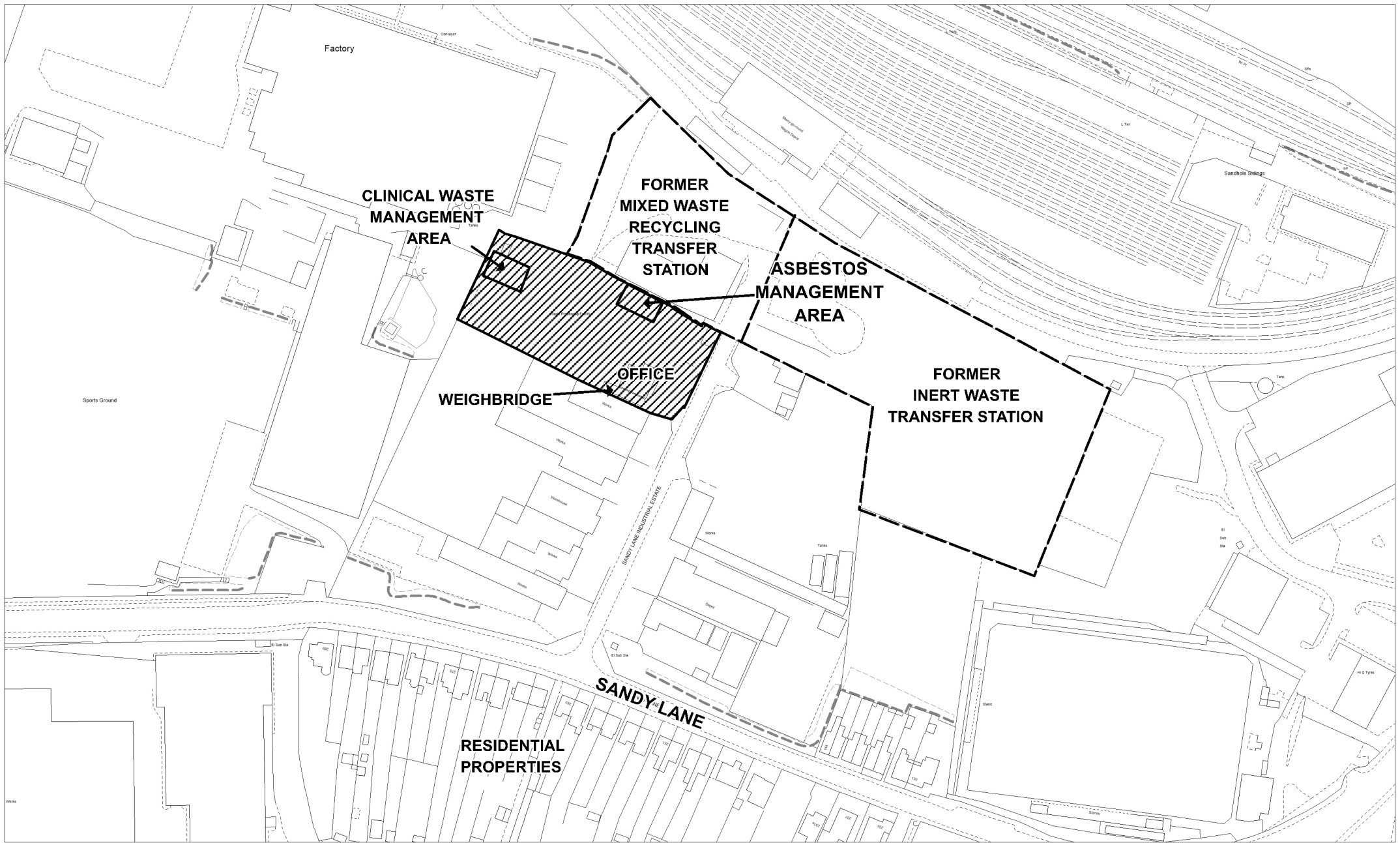
Date: SEPT 2019



**PLAN 1**







**Nottinghamshire  
County Council**

To operate an asbestos waste transfer station and clinical waste transfer station.  
C.W. Waste Services Limited, Sandy Lane Industrial Estate, Worksop, Nottinghamshire.  
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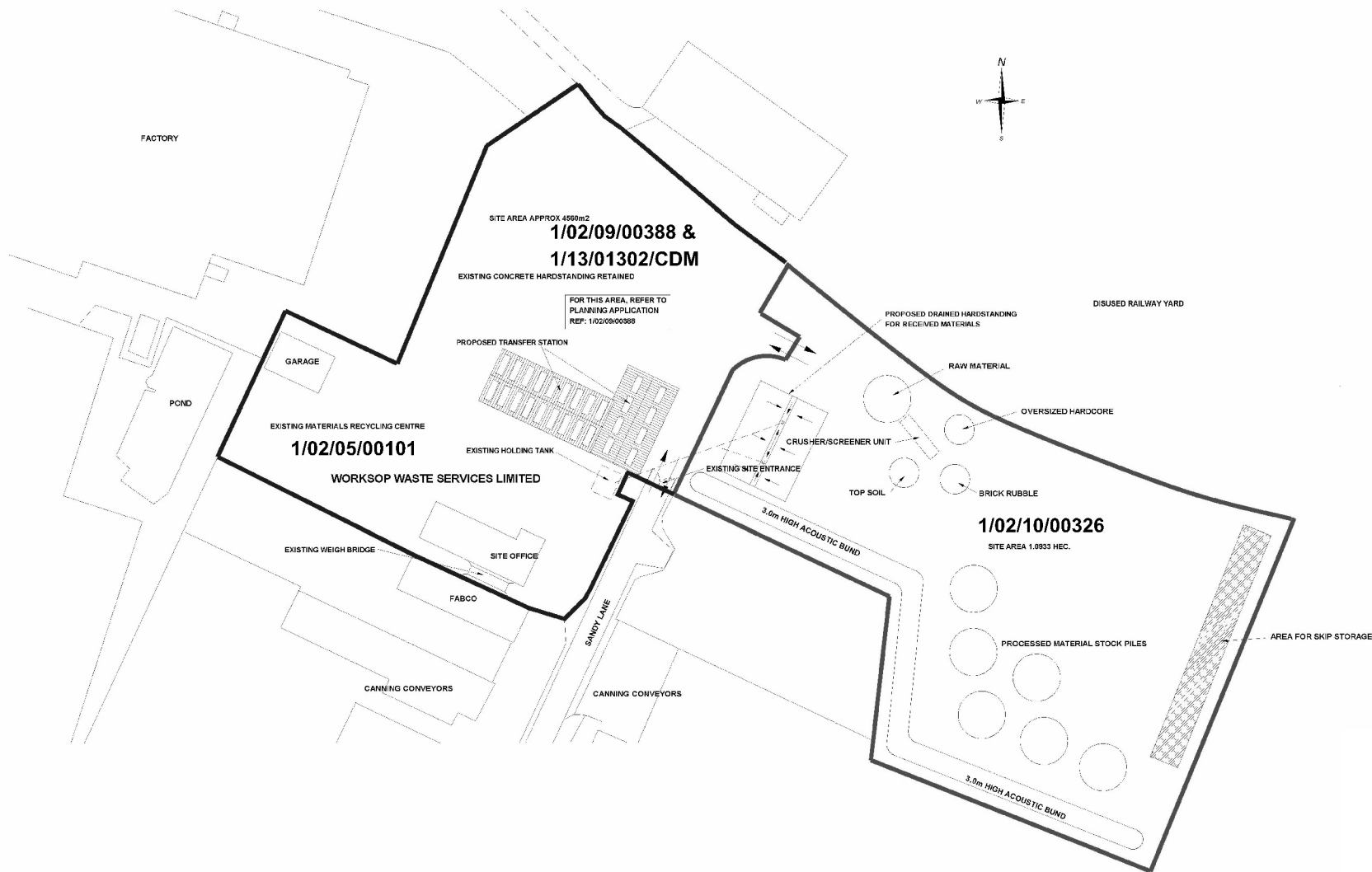
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**PLAN 2**





**Nottinghamshire  
County Council**

To operate an asbestos waste transfer station and clinical waste transfer station.  
C.W. Waste Services Limited, Sandy Lane Industrial Estate, Worksop, Nottinghamshire.  
**Page 56 of 104**  
Planning Application No. 1/18/00628/CDM

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**PLAN 3**





**3 September 2019**

**Agenda Item: 7**

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

### **PROPOSED AMENDMENTS TO THE COUNTY COUNCIL'S CODE OF BEST PRACTICE RELATING TO PUBLIC SPEAKING PLANNING AND LICENSING COMMITTEE**

#### **Purpose of Report**

1. To seek Members' approval of amendments to the existing Planning and Licensing Committee Code of Best Practice with respect to public speaking arrangements at committee and in particular arrangements for special presentations for major and/or controversial applications.

#### **Background information**

2. The Planning and Licensing Committee Code of Best Practice sets out how the County Council deals with those matters which come within the remit of the Planning and Licensing Committee, the role of the Committee, how the Committee operates and the respective responsibilities of councillors and officers. The Code of Best Practice was subject to a comprehensive review in July 2017 when matters relating to public rights of way were brought back under the remit of Planning and Licensing Committee. Further amendments were made to the Code more recently with respect to which planning applications the Committee delegates authority to officers to determine and which need to come before Committee.

#### **Public speaking at Planning and Licensing Committee**

3. The provision for members of the public; applicants; district, borough and parish councils; and elected County Councillors to address Planning and Licensing Committee on planning applications which they have an interest is long established. This also extends to rights of way matters and the Code of Best Practice sets out the details of how public speaking is facilitated. With the exception of the local Member, who can speak for 10 minutes, speakers are allowed to speak for three minutes either in support or opposition of an application.
4. In exceptional circumstances, a planning application which has significant technical, legal or policy implications, or which is subject to exceptional levels of public interest, can be subject to 'special presentation' arrangements which allow groups or organisations with an interest in that application to make 10-minute presentations whilst also making visual presentations using PowerPoint or similar. These arrangements have most recently been used for planning applications for shale gas exploration which were considered by committee in 2016 and 2017.
5. Details of the arrangements for 'special presentations' at committee were previously included in an appendix to the Code of Best Practice but, due to a drafting error, they have been inadvertently removed. This report simply seeks to reinsert what was previously in the Code of Best Practice for special presentations, with confirmation of these arrangements set out in an additional paragraph 18.2 of the Code. The revised Code of Best Practice is attached as an

appendix to this report with the details relating to special presentations in Appendix B of the Code.

### **Monitoring of the Code of Best Practice**

6. As is the case with the list of planning applications which Committee delegates authority to officers to determine, arrangements for committee speaking will continue to be monitored and, where necessary, amended to ensure that they are fit for purpose. Any changes to the Code of Best Practice would be brought back to committee for consideration.

### **Statutory and Policy Implications**

7. 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.

### **Human Rights Implications**

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

## **RECOMMENDATIONS**

It is recommended that:

1. Members approve the changes to the Planning and Licensing Committee Code of Best Practice detailed in paragraph 5 of this report.

### **ADRIAN SMITH**

#### **Corporate Director - Place**

#### **Constitutional Comments [RHC 21/8/2019]**

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

#### **Financial Comments [CSB 16/08/19]**

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

### **Background Papers Available for Inspection**

- None

### **Electoral Divisions and Members Affected**

- All

**For any enquiries about this report please contact:**

Report Author  
Jonathan Smith  
0115 9932580

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







## Planning and Licensing Committee

### Code of Best Practice

(incorporating Public Speaking Protocol)

#### Introduction

- 1.1 This Code of Best Practice is designed to set out how the Council deals with those matters which come within the remit of the Planning and Licensing Committee. It sets out the role of the Committee, how Committee operates and the respective responsibilities of Councillors and officers.
- 1.2 This Code should be read in conjunction with the County Council's Constitution (incorporating the Codes of Conduct for Councillors and Officers, the Code on Councillor and Officer Relationships and the Council's Procedure Rules for meetings). This Code was last revised on 23<sup>rd</sup> April 2014 taking into account the Localism Act 2011, changes to the Council's Codes and Rules, and taking into account "Openness and Transparency on Personal Interests" (Department for Communities and Local Government, 2012).
- 1.3 This Code has also been revised to take account of the changes to the Council's committee structures which has resulted in Rights of Way matters being brought under the remit of Planning and Licensing Committee.
- 1.4 The Council is committed to the highest standards of ethical behaviour and probity by its Councillors. As such, this Code applies to members of the Committee at all times in relation to planning and rights of way matters and includes both decision-making meetings of the Committee as well as less formal occasions, such as site visits and meetings with the public, officers, or consultative meetings.
- 1.5 If Councillors do not abide by this Code of Best Practice, they *may* put the Council at risk of proceedings on the legality or administration of a decision; and may put themselves at risk of complaint. Following the Code should reduce the risk of successful challenge to the legality of decisions and of complaints.
- 1.6 Full Council and Policy Committee are responsible for determining policy in relation to the Committee's functions. Otherwise, Part 4(A) of the County Council's Constitution sets out the current terms of reference of the Committee:-
  - 1.6.1 Much of the Committee's work relates to discharging functions relating to development management, as well as dealing with some of the Council's licensing and registration functions. The work of the Committee revolves mainly around determining planning applications concerned with mineral extraction and

processing, waste disposal and waste management (“County Matters”) and also applications on behalf of the County Council itself such as schools and libraries (“County Council Development”). More general development proposals are determined by the relevant District / Borough Council. The preparation, approval and adoption of Development Plans is the responsibility of the Communities and Place Committee and Full Council. Providing observations on behalf of the County Council in its capacity as County Planning Authority, on plans and proposals within other authorities is also within the remit of Communities and Place Committee.

1.6.2 The Committee also has responsibility for functions relating to public rights of way, and for determining applications for the registration of land as common land and as town or village greens. Non-regulatory matters for the management, maintenance and promotion of the rights of way network, including responsibility for the budgetary matters, are the responsibility of the Communities and Place Committee.

1.7 The exercise of these functions can be very contentious so it is important that decision-making in these areas is seen to be open and impartial, consisting of sound judgments made for justifiable reasons.

1.8 This Code therefore covers the following areas:

2. The Work of the Committee
  - 2A) Planning, development management, licensing and registration functions
  - 2B) Public Rights of Way, Common Land, and Town or Village Green functions
3. Committee Administrative Procedures
4. Taking the Decision
5. Decisions against Officer Advice
6. Challenges & Complaints
7. The Role of Committee Members
8. Acting as the Local Member
9. Dual Membership of Local Authorities / other statutory bodies
10. Predetermination and Predisposition
11. Contact with the Media
12. Lobbying
13. Councillors’ Interests
14. Councillor Conduct – Disclosure and Hospitality
15. Discussions with Applicants
16. The Role of Councillors not on Committee
17. The Role of Officers
18. Public Speaking Arrangements
19. Site Visits
20. Councillor Training
21. Review of this Code of Best Practice

## **The Work of the Committee**

- 2.1 The relevant legislation is complex and supplemented by Government Circulars, guidance, case law and advice issued by the Planning Inspectorate. Good decision-making relies upon ensuring that Councillors and officers act in a way which is both within the legal framework, and is clearly seen to be fair, open and impartial.
- 2.2 A brief overview of each of the types of Planning matters with which the Committee is concerned can be found below, with the equivalent for Public Rights of Way, Common Land and Town or Village Green matters at **Appendix D**.
- 2.2.1 The County Council also has a monitoring and enforcement role, and this Code of Best Practice applies equally to that role, although, for Planning matters, a separate Local Enforcement Plan is in operation, adopted in May 2015 (a copy of which can be found at:  
<http://www.nottinghamshire.gov.uk/media/1708/local-enforcement-plan.pdf>).
- 2A) *Planning, development management, licensing and registration functions*
- 2A.1 For Planning matters, the Statement of Community Involvement sets out the County Council's approach to public consultation in the determination of planning applications, including both statutory and non-statutory publicity and consultation requirements. The original Statement of Community Involvement was adopted in 2007 with a review adopted in 2013. A further review is expected to commence in the near future.
- 2A.2 While a number of functions are reserved to the Committee, many are delegated to officers as operational decisions. The exercise of the Committee's functions will therefore operate so that a full report will be taken to Committee for:
  - a) Applications for new minerals or waste sites involving a site area greater than 25 hectares or extraction/input in excess of 30,000 tonnes per annum.
  - b) Section 73 variations on existing minerals or waste sites which involve increasing the rate of extraction/input by more than 30,000 tonnes per annum.
  - c) New built development with a floor space in excess of 1,000 square metres.
  - d) Applications involving a departure from the Development Plan and which meet the criteria for applications being referred to the Secretary of State before granting planning permission. Departure applications which do not meet the criteria for referral to the Secretary of State will only be determined under delegated powers with the prior agreement of the Local Member(s).

- e) Applications to which a \*statutory consultee has made an objection. [\*as defined by the Town and County Planning (Development Management Procedure) (England) Order 2015 and any subsequent amendments].
- f) Applications accompanied by an Environmental Impact Assessment.
- g) Applications which have financial implications for the County Council such as:
  - Section 106 agreements/obligations/restoration bonds;
  - Review of minerals permissions (ROMPs) and revocation orders where compensation is likely to be payable;
  - Applications subject to a Planning Performance Agreement.
- h) Applications which have received material planning objections, in writing, from the District/Borough or Parish Council or local County Councillor(s) within the statutory consultation period or within an extended period as agreed by the County Council.
- i) Applications which have been referred to Committee by the Chair and/or Vice Chair of Planning and Licensing Committee and/or by the local County Councillor(s).
- j) Applications which have received 4 or more material planning objections within the statutory consultation/publicity period (or other such period as agreed with the County Council) from non-statutory consultees or members of the public which remain unresolved following amendments to the scheme or through the imposition of planning conditions and where the objections have not been withdrawn in writing.
- k) Applications which are submitted by Place Department (or any subsequent Department following any future restructuring where the applicant is in the same Department as the Development Management Team) where these are the subject of any material planning objections.
- l) Applications which raise issues of regional or national importance or relate to proposals involving emerging technologies.
- m) Applications for variations (Section 73 applications) to planning permissions which involve the variation or removal of a condition which Members of Planning and Licensing Committee requested be brought back to committee for determination.
- n) Irrespective of whether any of the criteria above are met, any application which is recommended for refusal unless the refusal is on the grounds of insufficient information.

2A.3 The report to Committee will include all relevant material including any relevant comments made by supporters of, or objectors to, any application, and the officer's recommendation(s). Additionally, Committee members will need to

take into account any relevant comments made at Committee itself, should that application be the subject of public speaking (as set out in paragraph 18 below).

- 2A.4 Councillors need to be aware that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan will set out a series of policies against which each proposal is tested. The Development Plan comprises adopted planning policy documents prepared by both the County Council (with regard to minerals and waste) and the District / Borough Councils (all other planning matters). The report will detail the issues raised by the proposal in respect of these policies, but the full policy and its accompanying text will not necessarily be set out in the report. All individual policies can be viewed online or made available upon request.
- 2A.5 It is impossible to give a precise list of what is or is not 'a material consideration', and such matters are often influenced by case law. Issues raised which are not material, such as impacts on property prices and loss of view, will be highlighted in the officer's report. The starting point is always the Development Plan, and all relevant policies will be examined in relation to the application before Committee. There would need to be very compelling reasons why a development should not go ahead if it was consistent with those relevant policies in the Development Plan.
- 2A.6 All operational decisions within the remit of the Planning and Licensing Committee are also delegated to the relevant Corporate Director so as to enable the system to deal with straightforward applications as expeditiously as possible. The corresponding Scheme of Delegation to Officers is set out in Part 4(B) of the Constitution and the Committee will receive regular updates on these operational decisions.
- 2A.7 Any Councillor may request that an application within their electoral division be considered at Planning and Licensing Committee rather than by officers. The matter will then be brought to the next practicable meeting, giving those who have made valid representations the opportunity to speak under the arrangements for public speaking.
- 2A.8 Reports coming forward for a decision will recommend either approval, usually subject to conditions and sometimes a planning obligation, or refusal with the reasons for refusal clearly set out.
- 2A.9 Recommendations for approval will normally be accompanied by a series of conditions, and these will be set out in an appendix to the report. Occasionally (if a particular matter has been the subject of debate, for example) the Committee will be asked to give officers authority to conclude the exact wording of a condition after the Committee meeting has concluded. This shall be done in consultation with the Committee Chair and Vice Chair. The report will explain the reasoning for the decision and, where refusal is recommended, this will always be accompanied by planning-related reasons.
- 2A.10 Periodical progress reports on operational matters and on matters following a

decision of the Committee will be reported to Committee regularly.

#### Departure from the Development Plan

2A.11 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

*“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*

2A.12 Where an application is considered to be a departure from the Development Plan and requires referral to the Secretary of State (even if there are no objections) this will be brought before the Planning & Licensing Committee so that the Council’s formal views can be made known to the Government. If the recommendation is to support the proposal, Committee will be asked to authorise the relevant officer to issue the Decision Notice, should it not be ‘called in’ for determination by the relevant Secretary of State.

#### Applications accompanied by an Environmental Statement

2A.13 Those applications accompanied by an Environmental Statement will always be reported to Committee given the complex nature of the applications and the wide range of issues that need to be considered in the officer’s report.

#### Applications accompanied by / requiring a Planning Obligation

2A.14 A Planning Obligation, either in the form of a unilateral undertaking or a legal agreement (usually under Section 106 of the Town and Country Planning Act 1990), is a way of securing some additional benefit or means of control which cannot be dealt with through the permission itself or by conditions imposed. Because of their complexity and legal implications, applications recommended for approval subject to a Planning Obligation will be brought before Committee for determination. Normally the main provisions will be set out in the report. In such cases, Committee will be asked to resolve their support for the application, with authority being given to officers to issue the decision notice, once the Agreement or unilateral undertaking is signed and sealed. A time limit of three months is usually given from the date of the resolution to conclude the obligation, unless an extension of time has been agreed in consultation with the Committee Chair and Vice-Chair.

#### 2B) Public Rights of Way, Common Land, and Town or Village Green functions

2B.1 While a number of functions are reserved to the Committee, many are delegated to officers as operational decisions. In the case of Public Rights of Way, Common Land, and Town or Village Green functions, those delegated to officers are listed in **Appendix E**, Table A with those reserved to Committee listed in Table B. The exercise of the Committee’s functions will therefore operate so that a full report will be taken to Committee where (other than for



Definitive Map Modification Orders (which are covered at 2B.6.4. below)):

- (a) the County Council proposes to exercise a Table B function which consists of deciding whether to make an order, and at the pre-order consultation stage objections or adverse comments are received (but only where conditions c, d, or e below are met);
  - (b) the County Council proposes to exercise a Table B function which is something other than the making of an order (for example the creation of a bridleway by agreement, or the registration of land as a village green);
  - (c) the County Council proposes to exercise either a Table A or Table B function which has been referred to Committee by the local Member and such referral has been agreed to by the Committee Chair;
  - (d) the County Council proposes to exercise either a Table A or Table B function which is considered by the case officer to be exceptionally sensitive or controversial;
  - (e) where the Committee Chair requests that an officer not exercise their delegated power in any particular case (in which case a report will be brought to the next available meeting of the Committee for consideration).
- 2B.2 The report to Committee will include all relevant material including any relevant comments made by supporters of, or objectors to, any application, and the officer's recommendation(s). Additionally, Committee members will need to take into account any relevant comments made at Committee itself, should that application be the subject of public speaking (as set out in paragraph 18 below).
- 2B.3 Where Committee authorises that an order be made under 2B.1(a) above, and no objections are made to that order during the statutory period after it has been made, officers will proceed to confirm the unopposed order without referring the matter back to Committee.
- 2B.4 Except where it falls within paragraphs 2B.1(c) or 2B.1(d) above a Table 1 function is delegated to the Corporate Director (Place). This will enable 'day-to-day' / operational matters including those requiring prompt attention, such as enforcement matters, to be dealt with outside the usual Committee cycle. A progress report updating Committee members as to current or completed enforcement action and other operational matters will be brought to Committee regularly.
- 2B.5 Except where it falls within paragraph 2B.1 above, a Table 2 function is delegated to the Corporate Director (Place). This will enable unopposed matters where the County Council engages in a process of pre-order consultation to gauge the views of a number of different parties including Parish and District Councils, local elected Members, user groups and utility companies, to be dealt with outside the usual Committee cycle. While there is no legal requirement to do so, it also consults the owner and / or occupier of any of the affected land at this stage, and the absence of any objections or

adverse comments from any party at the pre-order stage is a useful indication that a proposal is likely to be widely / universally supported.

- 2B.6.1 In the case of Definitive Map Modification Orders only, should no objections or adverse comments be made at pre-order stage, but objections or adverse comments only made once the order is made then the matter will be included in the periodical progress report brought to this Committee, but would not normally be the subject of a specific report to committee seeking a decision.
- 2B.6.2 Should objections be made to any other order during the statutory period after it has been made then unless those objections are withdrawn, a full report will be brought to Committee to determine whether to refer the order to the Secretary of State seeking its confirmation.
- 2B.6.3 The reason for the above distinction is that for orders other than Definitive Map Modification Orders the Council has a discretion as to whether to seek confirmation of the Order by the Secretary of State, and it is therefore appropriate that, should objections be received, a report be brought to Committee for a decision to be made. By contrast, if objections are received to a Definitive Map Modification Order then, unless the objections are withdrawn, the Council is required by law to refer the Order to the Secretary of State. In the absence of new information which may substantively affect Committee's view, there is therefore no decision for the Committee to make. Where any relevant new information is presented / discovered, a report will be brought before the Committee for a further decision.
- 2B.6.4 In the case of Definitive Map Modification Orders only, a report will only be brought to Committee for a decision where:-
- a) the Committee Chair requests it;
  - b) the matter has been referred to Committee by the local Member and such referral has been agreed to by the Committee Chair; or
  - c) the relevant case officer considers the matter to be exceptionally sensitive or controversial.

### **Committee Administrative Procedures**

- 3.1 Very late representations cannot properly be considered. Any material information received after the written report has been published but more than 24 hours before the start of the Committee meeting will be presented orally by officers. Information received within 24 hours of the start of the meeting will only be presented if it is brief and can be readily conveyed to the Committee. If highly significant **relevant new** information comes to light within the above timescale, the Committee Chair may, after consultation with the appropriate officer, defer the item to a later meeting.



- 3.2 Generally, those items where public speaking is involved will be dealt with first and the order of the agenda may be altered to facilitate this.
- 3.3 Officers will introduce each report, noting any relevant late information that is not in the papers. This will be followed by any permitted public speaking on that item, followed by any officer clarification; after which the matter is open to debate by Committee members.
- 3.4. Officer Recommendations will be moved and seconded for discussion before they can be debated. This is a procedural requirement to enable debate and does not imply that the mover or seconder of any such Recommendation has formed a particular opinion.
- 3.5. Having debated the item, the Committee Chair will ask Councillors to vote in the normal way. The decision taken will be minuted, and the draft Minutes will normally be presented to the next available meeting for approval as a true record.

### **Taking the Decision**

- 4.1 Matters deliberated by the Committee should be determined in an open and fair manner, in which Councillors taking the decision will take account of all the evidence presented to them before arriving at a decision. It is important for Councillors to demonstrate that they have not committed themselves one way or another before hearing all the arguments.
- 4.2 It is essential to bear in mind that complaints and challenges can be made not just about the decision itself, but also about the way a decision has been reached.

### **Decisions against Officer Advice**

- 5.1 Councillors may be minded to make a decision contrary to the recommendation in the Committee report. In those circumstances, it is essential that steps are taken to ensure that decisions are legally sound and robust enough to withstand legal challenge.
- 5.2 It may sometimes be prudent for the meeting to be adjourned for a short time for Councillors to receive legal or other advice before they make a decision contrary to the recommendation. At the discretion of the Committee Chair, the public may be excluded from the meeting room while this takes place.
- 5.3 Should the recommendation be to refuse an application, and Councillors are minded to approve the application, Committee may wish to defer the final decision on the matter to receive additional specific information, or they may resolve to accept the application, authorising officers to implement the decision subject to officers either:
  - 5.3.1 preparing such conditions as officers consider appropriate, so as to

control the development and ensure adequate protection of the environment and local people (in the case of Planning matters); or

- 5.3.2 investigating particular points and concluding that they would not materially affect Committee's decision (in the case of Public Rights of Way and Common Land and Town or Village Green matters).
- 5.4 This can be done solely by officers, or, should Committee so resolve, in agreement with the Committee Chair and Vice-Chair.
- 5.5 Where a decision is made contrary to officer recommendation the Committee **must** provide relevant reasons for their decision **in full**.
  - 5.5.1 In relation to Planning matters, where the officer recommendation is to approve an application, and Councillors decide to refuse it, reasons for refusal must be given. It will be for Councillors to specify what their planning reasons are and these need to be translated into the Decision Notice. Again, such wording will not have been prepared in advance, and so it is recommended that the minutes reflect in general terms the reasons for refusal, and that after the meeting officers finalise the detailed reasons which will appear on the Decision Notice. This should be agreed with the Committee Chair and Vice-Chair before the Notice is issued.
- 5.6 In relation to Public Rights of Way and Common Land and Town or Village Green matters, adjournment of the meeting for a short time for Councillors to receive legal or other advice before they make a decision contrary to the recommendation is advised. At the discretion of the Committee Chair, the public may be excluded from the meeting room while this takes place. In most situations it will be preferable for the matter to be deferred. Such steps are essential due to the quasi-judicial nature of decisions and will enable the Council to justify its position in any challenge to that decision.

## **Challenges & Complaints**

- 6.1 Any decision to refuse a County Matter planning application is challengeable on appeal, so reasons for refusal must be clear and robust and based on solid planning or policy criteria.
  - 6.2.1 Specifically in relation to rights of way matters, where the Council decides not to make an order, or to confirm an unopposed order, there is a right of appeal against that decision. Where an order is made and receives objections, the Council cannot confirm it unless the objections are withdrawn. Should they not be withdrawn, the order can only be confirmed by the Secretary of State for Environment, Food and Rural Affairs (to whom the order must be sent for determination, even if the Council does not seek confirmation). These matters are processed through the Planning Inspectorate, and are inevitably heard at a local hearing or public inquiry or dealt with by submission of written representations.

- 6.2.2 If Committee members have decided contrary to the officer's recommendation, it could weaken the Council's case at public inquiry if the officer who made the original recommendation (or an officer involved in the production of the original report) was asked to present the Committee's case. In these circumstances, either the Committee Chair or another Committee member will speak in support of the Council's case at any public inquiry or hearing, or alternatively they will instruct a third party to present the case for them. Officers would, however, provide administrative assistance and support to Committee members in such a position.
- 6.3 Any decision that is made is also open to challenge through the courts, although any such challenge would have to be on a point of law ('Judicial Review'). The Council can be liable for the costs of proceedings if the Council is found to have acted unreasonably. Unreasonable behaviour might be a failure to follow various procedural or legal steps, or to either fail to take into account relevant information / policy statements (in the case of Planning matters) or to give such information inappropriate weight. This might, for example, be the case where an application has been refused for reasons that are not related to policy but for other reasons (in the case of Planning matters) or where an application has been decided for reasons not within the prescribed / relevant legal test/s (in the case of Public Rights of Way and Common Land and Town or Village Green matters).
- 6.4 This is not to say that any decision against officer advice will always be open to challenge. In making decisions, Councillors can come to whatever decision they feel is appropriate provided that their decision is based solely on sound Planning / Public Rights of Way, Common Land and Town or Village Green considerations, as appropriate.

### **Respective Roles of Committee Members and Officers / Probity in Planning – The Role of Councillors in dealing with Planning Applications, Declarations of Interest, Lobbying, and Relationships with Officers**

#### **The Role of Committee Members**

- 7.1 Members of the Committee, in making decisions on items reported to them, must:
- Act fairly and openly
  - Approach each item with an open mind and on its own merits
  - Carefully consider the grounds for a decision
  - Carefully weigh up all the material considerations
  - Ensure that reasons for decisions are clearly stated.
- 7.2 Committee members also have a role on behalf of their electoral division to represent local views, but Councillors must make it clear when they are acting in that 'local Member' role. The decision-making role and its impartiality must not be prejudiced by any such action.

### **Acting as the Local Member<sup>1</sup>**

- 8.1 Committee Members need to recognise that they can only wear one hat at a time, be that as a member of the Committee or as the local elected representative:
- 8.2 Where a matter is of particular concern to residents of a Committee Member's electoral division they may wish to put the concerns of their electorate forward by speaking as the local elected representative at Committee. In order that they may strongly put forward the views of their electorate a Committee Member may consider it best to 'stand down' from the Committee for that date and not take part in the decision making process. Instead, another Councillor would be appointed in their place on the Committee for that meeting.
- 8.3 Alternatively, if a Councillor wishes to take part in decision-making regarding a matter in their electoral division, they can advise those members of the public who seek their support that they have been appointed to the Committee for the purposes of determining matters as a member of the County Council, and not solely to voice the concerns of their electorate. Councillors on the Committee can, of course, advise those members of the public to put their views in writing and send those to the relevant case officer.

### **Dual Membership of Local Authorities / other statutory bodies**

- 9.1 Councillors may be elected to both the County Council and to a District / Borough Council and, in the case of Planning matters, may be members of the regulatory planning committee for both authorities. Councillors may also serve on a Parish Council. Councillors can, therefore 'wear more than one hat', but they may only wear one hat at a time!
- 9.2 Matters to be decided by the County Council may well be discussed in other forums such as at a district / borough / parish council, (or at the Local Access Forum in the case of Public Rights of Way matters), even though it is the County Council's Committee which is the decision making authority. There is no reason why such 'dual membership' Councillors should not be a party to the decision at County level, or involved in the debate leading up to the decision, provided that they retain an open mind when considering the application at County level.

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<sup>1</sup> 'local Member': a County Councillor whose electoral division is affected by the item under consideration

### **Predetermination and Predisposition**

- 10.1 It is almost inevitable that Councillors, whether lobbied or not, may form some kind of prior view about the merits of a particular proposal. Committee members may be *predisposed* towards a view one way or the other, but the law draws a clear distinction between a Councillor having expressed an intention to vote in a particular way before the meeting ('predetermination') and merely having a predisposition to an initial view. Where the Councillor demonstrates that they will

listen to all the material considerations presented at the Committee before deciding on how to exercise their vote, this is acceptable. 'Predetermination', however, is not acceptable and would leave the decision open to challenge.

- 10.2 If a Committee member does express their views for a particular outcome prior to the meeting, by campaigning for or lending support to a particular cause, or by speaking for or against it in another forum, they must be very clear that in order to take part in decision making at County level they must have regard only to those considerations which are material to the County Council's decision-making role, and must have an open mind. Ultimately, the decision as to whether to vote or partake in the debate has to be made by the individual Councillor concerned. There may be some situations where involvement in a campaign is so strong that the Councillor should consider whether it would be preferable to speak openly at the meeting in favour of, or against the proposal (as the local Member (per paragraphs 8.1-8.2 above)) rather than taking part as a member of the Committee.
- 10.3 Bearing in mind the advice that Councillors should come to Committee "with an open mind", it is plain that it would be contrary to that principle if Councillors acting as a particular political affiliation had met in advance to decide how to vote. Political Whips / Business Managers must, therefore, not be used to influence the outcome of a matter before the Planning & Licensing Committee.
- 10.4 It is each individual Councillor's responsibility to consider whether their involvement with a particular matter / people / group, or their past conduct leading up to the decision making stage is such that it could give rise to a public perception that the Councillor might not have an open mind. **If in any doubt, early advice should be sought as far in advance of the meeting as possible.** A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer would find it difficult to believe that the Councillor had a fully open mind before the committee meeting, bearing in mind the local significance of the matter. Not only must Councillors attend committee with an open mind, but must be aware of the need to demonstrate this throughout all parts of the process, including when coming to their individual decision in committee.

### **Contact with the Media**

- 11.1 Committee members may be approached by the media for a comment about a particular proposal. The general advice as to predetermination and predisposition above holds for such approaches.

### **Lobbying**

- 12.1 Once a proposal is in the public domain, interested parties may seek to persuade Committee members, to either approve or refuse an application. Lobbying is a normal and perfectly proper part of the political process. Indeed it was stated in the Nolan Report in relation to Planning matters: "*It is essential for the proper*

*operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the elected representatives, the councillors themselves".* However, unless care and common sense is exercised by all parties, lobbying can lead to the impartiality and integrity of a Committee member being called into question.

- 12.2 If approached about a particular matter, Committee members must take great care to avoid giving the impression that they have already made up their mind before they have been informed of all the relevant information in the committee report, in written or oral information given to them after the committee papers have been published (including clarification and arguments raised in debate during the relevant Committee meeting). Committee members should restrict themselves to giving factual advice about procedure, and should try to avoid expressing any opinion on the merits of a proposal. They should advise those members of the public who seek to lobby or persuade them to put their views in writing and send those to the relevant case officer.
- 12.3 In the event that applicants or other interested parties wish to discuss matters with Councillors at any stage, meetings may involve those Councillors acting in their role as the local elected representative. Where a Councillor is a Committee member great care should be taken to avoid compromising their position before they have received all the relevant information, evidence and arguments about a matter.
- 12.4 Therefore, where Committee members do choose to meet relevant parties, or are approached by them directly, either in writing or verbally, they should:
- Not express an opinion which could be taken as firm support or opposition to a proposal
  - Not organise support or opposition for a proposal or lobby other Councillors
  - Inform lobbyists or objectors of the importance of their views being submitted in writing to the Council
  - Advise the Committee Chair or the Monitoring Officer if any party appears to be trying to apply undue or unreasonable pressure on them or other County Councillors.
- 12.5 Where Committee members have held discussions or meetings with applicants or interested parties, this should be declared at the relevant Committee meeting.
- 12.6 It is for Committee members to decide whether they have been lobbied. A general discussion about a particular matter, during which the relative merits or disadvantages of a particular proposal are **not** raised, would not constitute lobbying. However, if the merits or otherwise of a scheme are raised with a Councillor, then this could be declared as lobbying. Lobbying may also include any approaches from Councillors who are not members of the Committee.
- 12.7 At the start of each committee meeting, Committee members are asked to declare whether they have been lobbied about any item on the Agenda, and this will then be recorded in the Minutes of the meeting.



- 12.8 The practice of permitting a developer to make a 'special presentation' to Committee before a planning application is submitted has been discontinued. However, where a developer holds a public pre-application exhibition, members of the Committee may wish to attend. Should they do so, Councillors must not debate the merits or otherwise of the proposal(s) at that stage or express an opinion, but must reserve comment until the appropriate committee meeting at which the decision is to be made.

### **Councillors' Interests**

- 13.1 Councillors must not use their powers improperly to secure either a personal advantage or an advantage for some other person. This could be relevant to committee matters in a number of ways, such as through personal business interests, or by using their position to discuss an item which may affect their property personally when other members of the public would not have the opportunity to do so. Likewise, Councillors must not use their position to seek preferential treatment for friends or relatives, or for any business or organisation with which they are connected. Should a Councillor have an interest in respect of an item brought before Committee, they must abide by the provisions of the Code of Conduct for Councillors and co-opted Members and the Council's Procedure Rules for meetings.
- 13.2 Each Councillor is personally responsible for deciding whether s/he has an interest that should be declared, although initial advice should be sought **in advance** from the Monitoring Officer, or from the relevant Legal or Democratic Services Officers. **Councillors are reminded that the meeting should not be delayed while a Councillor is advised.**

### **Councillor Conduct – Disclosure and Hospitality**

- 14.1 The Council's Code of Conduct for Councillors sets out the standards that are required from Councillors, which financial interests they need to formally register, which interests they need to declare in meetings and how this will affect their participation in meetings. Whilst there is no specific reference to hospitality, thought should be given to the public's perception of Councillors' actions in relation to any particular matter if some form of hospitality is accepted.

### **Discussions with Applicants**

- 15.1 Dialogue and meetings with applicants at various stages is essential, but will normally only involve officers, and occasionally the local Councillor(s).
- 15.2 Members of the Committee may wish to ensure that they are accompanied by the case officer if they are to meet with applicants / interested parties.
- 15.3 Where meetings take place at a preliminary stage it must be made clear that:

- Only officers' initial and provisional views can be given, based upon the provisions of the legislation;
  - No decisions can be made which would bind or otherwise compromise the final decision of the Council.
- 15.4 Notes of the discussions at all meetings will be taken and will be placed on the case file. Any follow-up correspondence will also be placed on the file. Should Committee members be approached directly by applicants (or potential applicants) or interested parties they should, in all cases, alert the relevant case officer who, can arrange a meeting if appropriate (with the relevant case officer(s) present so that a formal written note of the discussion can be made.
- 15.5 Case files will be available for public inspection subject to the provisions of access to information legislation such as the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

### **The Role of Councillors not on Committee**

- 16.1 The role of Councillors as locally elected representatives is an important part of the process. Subject to the Councillors' Code of Conduct, local Members will be given the opportunity in respect of matters falling within the remit of the Committee to fulfil that role within their electoral division by:
- Responding in writing to officers on the merits of a matter;
  - Attending any Committee site meetings for matters within their electoral division; and
  - Making representations to the Committee.
- 16.2 Councillors can expect officers to give them all due help and assistance in answering questions relating to matters falling within the remit of the Committee, though they should not give instructions to officers, nor should they place pressure on officers in order to secure a particular outcome to a matter.

### **The Role of Officers**

- 17.1 In respect of matters to be determined by the Committee, Officers will:
- Provide professional and impartial advice
  - Ensure that all information necessary for a decision to be made is given, including the views of those consulted and the substance of any objections
  - Set the matter in the context of any other considerations
  - Provide a clear and accurate written analysis of the issues
  - Be responsible for carrying out the decisions of the Committee
- 17.2 Whereas Officers must comply with the Council's own Code of Conduct for Officers, they are also guided by their own professional Codes of Conduct. In



relation to Planning matters, most of the planning officers will be chartered members of the Royal Town Planning Institute. In relation to Public Rights of Way, Common Land and Town or Village Green matters, most officers will be members of the Institute of Public Rights of Way and Access Management.

- 17.3 Under the terms of such codes of professional conduct, officers must, amongst other things, act with complete competence, honesty and integrity, and fearlessly and impartially exercise their independent professional judgement to the best of their skills and understanding. Officers must not make or subscribe to any statements or reports which are contrary to their own *bona fide* professional opinions and shall not knowingly enter into any contract or agreement which requires them to do so.
- 17.4 Furthermore, in relation to Planning matters, officers who are members of the RTPI working in local government must take all reasonable steps to ensure that all town planning matters in the Council are conducted in accordance with that code, whoever undertakes the work.

### **Public Speaking Arrangements**

- 18.1 The Council considers that there are benefits in allowing public speaking in appropriate matters at Planning and Licensing Committee meetings. In order that those who wish to speak gain the most benefit from allowing public speaking at Committee, there has to be a clear and well publicised system, easily understood by all who wish to partake of this service. This gives an opportunity for applicants and objectors, and other interested parties, such as parish councils, to make presentations to the Committee. Details of how the system operates for the majority of planning applications and for all Rights of Way matters are set out in **Appendix A** to this Code. Equal opportunity will be given to objectors and supporters of a proposal. In relation to County Council Development, this could be a Chief Officer from the relevant department or their representative.
- 18.2 In exceptional circumstances, and with the approval of Committee or at the discretion of the Chairman, a 'special presentation' may be given to Committee members on planning applications which are of such a complex technical or legal nature and where there are significant policy implications, or where the nature of public interest is so high as to warrant such an approach. These 'special presentation' arrangements do not apply to Rights of Way matters and details of the arrangements are set out in **Appendix B** of this Code.

### **Site Visits**

- 19.1 All sites are inspected / visited by officers as part of their preparations and investigations, and meetings involving officers, applicants and consultees may be held on site as part of the consultation and negotiation process prior to the matter coming before the Committee for a decision.

- 19.2 If it may be helpful for Committee members to have a site visit, the procedure is laid out in **Appendix C**. In relation to determining Definitive Map Modification Orders based on historical documentary evidence, no site visit will be appropriate as the physical situation on-site today is irrelevant.

### **Councillor Training**

- 20.1 Planning and Licensing Committee will deal with a wide range of complex legislative issues, and Committee members need to understand what issues they should or should not consider, before coming to a decision.
- 20.2 **Committee members must undergo training sessions before they can speak and vote on the Committee.** Sessions will cover the relevant legislation, and what factors Committee members may or must consider when making decisions.
- 20.3 Occasionally information reports will be brought to Committee advising of new legislation, policy guidance, and best practice or procedural matters and presentations may be made on particular aspects of general interest. Site visits for training purposes may also be arranged.
- 20.4 General information is also available on the Council's website, including information about the progress of various orders in the system. Committee members also have the guidance on Rights of Way in their training packs and the Councillors' intranet pages.

### **Review of the Code of Best Practice**

- 21.1 This Code of Best Practice will be reviewed periodically, and a report brought to Committee to advise of any suggested changes, and to report on the operation of particular arrangements, such as those for public speaking or site visits.

**PROTOCOL FOR PUBLIC SPEAKING AT PLANNING AND LICENSING COMMITTEE**

**Introduction**

This Public Speaking Protocol will be reviewed on a regular basis. The protocol is published on the Council's website and updated as necessary.

**What happens if there is a dispute?**

In the event of any dispute regarding the procedures or this protocol, the Committee Chair's decision shall be final.

**Part A – General public speaking arrangements Who may speak?**

- A1.1 Speakers may be either in favour of the proposal, or in opposition to it, and a maximum of three speakers will be entitled to speak in opposition to a proposal, and three in support. Organisations and bodies who have made a formal representation on a rights of way, common land or town or village green matter may speak as one of the three allocated slots either for or against a proposed course of action. Additionally to those individuals or groups, a representative of the Local Access Forum will be allowed to speak for three minutes on rights of way matters.
- A1.2 Anyone who has made a valid written submission in connection with an item to be determined at Committee (including by e-mail) and has informed the County Council of their wish to be notified of the date of the meeting at which the application is to be considered, will be given an opportunity to register to speak at the relevant committee meeting, and an invitation to apply for a slot will subsequently be sent to persons who have registered such an interest when notifying them of the date of the relevant meeting. Please note that any written submission **must** have been received by the time the papers for the meeting are prepared – being no later than ten clear working days in advance of the meeting.
- A1.3 Public speaking is only allowed where the matter is being referred to Committee for a decision, (e.g. to grant or refuse permission in relation to Planning matters, or to make or not make an Order in relation to Public Rights of Way matters). **No public speaking is allowed in respect of other reports.**
- A1.4 For the avoidance of doubt, no public speaking will be permitted in the case of applications for registration of town or village greens (or common land) where a separate forum (e.g. a public inquiry) has been or will be employed for the application to be fully explored, as there is an opportunity for supporters and objectors to be heard at that forum.

**How a request to speak must be made**

- A2.1 Anyone who has made a valid written submission and wishes to speak at a particular Committee must, having received their invitation to register under A1.2

above, first register their wish to speak with the relevant officer. Such registration must take place no later than two clear working days before Committee – for example if Committee were to meet on a Tuesday, the registration to speak must be with the relevant officer by 4:00pm on the preceding Thursday.

- A2.2 Currently, such registration may be made on the official form supplied by the County Council, by telephone or by e-mail. Details of how to register a request are also posted on the Council's web site:

[Follow this LINK to register to speak in relation to Planning matters](#)

[Follow this LINK to register to speak in relation to Rights of Way matters](#)

- A2.3 Anyone wishing to speak will be chosen strictly on a "first come, first served" basis (see paragraph A2.1 above) so early registration is encouraged. Those registering to speak will be asked to supply contact details in case they need to be advised of any changes to arrangements.
- A2.4 Where a group of representatives wish to speak, they should nominate a spokesperson to address the Committee on their behalf and that person should register their wish to speak as soon as possible.

### **How does the scheme operate on the day?**

- A3.1 Should a speaker not be able to attend in person, or is unable to speak for themselves for whatever reason, they can nominate, in writing, someone to speak on their behalf.
- A3.2 If a registered speaker does not attend the meeting, Committee will continue to consider the matter on the basis of any written submission made by that person.
- A3.3 Although it is not necessary for local residents to employ specialists or lawyers to speak on their behalf, they are permitted to do so. Similarly other groups may choose to employ someone to speak on their behalf if they so wish.
- A3.4 Those persons who are confirmed as speakers must make themselves known to the relevant officer at the relevant building's Reception 30 minutes before the start of the Committee, so that they can be given instructions on procedure. Prior to the start of the meeting, all public speakers should hand to the relevant officer a written summary or transcript of the points they will be making, solely to assist in the production of the Committee Minutes. These summaries **will not** be circulated to members of the Committee at the meeting.
- A3.5 Those allowed to speak may not make additional written submissions to the Committee, nor will they be allowed to hand out any further documentation such as photographs or plans either before or during the meeting. **All** information or representations should have been made to the Council sufficiently in advance. The use of overhead projectors, slide projectors or PowerPoint displays by public speakers is not allowed.

### **What happens in the meeting?**

- A4.1 The Committee Chair will introduce the item, and ask the relevant Officer to

present the item, who will highlight any key points and add any further information relevant to the report.

- A4.2 Each speaker listed under A4.3a-g below, whether speaking as an individual or on behalf of a group, will have a maximum of **three minutes**. Speakers will be advised when the final minute of their allotted time has been reached, so that they may conclude their presentation ensuring all relevant points are made to Committee. They will be asked to end their speech once the three minute period has been completed. Before speakers begin their address to Committee, they will be asked to say who they are, where they live and who they represent.
- A4.3 The Committee Chair will invite public speakers to address the Committee in this order:
- a) Those speakers who have been properly registered to speak in opposition to the matter under debate (up to a maximum of 3 speakers);
  - b) Those speakers who have been properly registered to speak in favour of the matter, including applicants and/or their agents (up to a maximum of 3 speakers);
  - c) A representative from directly affected or adjoining Parish Councils;
  - d) A representative from directly affected or adjoining District / Borough Councils;
  - e) A representative from another County or Unitary authority which adjoins the area within which the item under discussion is located;
  - f) The Member of Parliament for the constituency within which the item under discussion is located;
  - g) In relation to Public Rights of Way matters only: The Local Access Forum.
  - h) If a 'local Member' (i.e. the County Councillor whose electoral division is affected by the item under consideration) wishes to speak on the matter under debate, they may, with the consent of the Committee Chair, be given an opportunity to speak at this point and can speak for a maximum of ten minutes. (Subject to A6.3 below)
- A4.4 If a speaker, including an elected Member, from a Parish, Borough, District, or other County Council or Unitary authority is speaking on their own behalf as a private individual or on behalf of a group of local residents and is not speaking as the formal representative of an authority mentioned above, they should register to speak in the normal way as a private individual (A4.3 a) and A4.3 b) above) having first made a written submission. In the case of Planning matters, this must be a **valid** written submission.
- A4.5 Members of the Committee may request the speaker to clarify any particular point, although it is emphasised that Councillors must not enter into debate with the speakers on the merits or otherwise of the proposals at that point of the

proceedings.

## A5 [NOT USED]

### **County Councillors**

A6.1 Where a Nottinghamshire County Councillor is not on the Committee but considers that the item may have a significant impact on their Division, they may address Committee in line with the Council's Procedure Rules which allow Councillors to speak with the consent of the Committee Chair.

A6.2 Where the local Member is a member of the Committee, but wishes to speak on behalf of their electoral division, they may do so, and the procedures for this are set out in the Committee's current Code of Practice. The local Member may choose to leave the meeting room at the conclusion of the public speaking. Similarly, they may consider that it would not be appropriate to take part in the decision-making process for that item.

A6.3 Where the local Member speaks as the local Member representing local views they will be permitted, with the consent of the Committee Chair, to speak for a maximum of 10 minutes. Councillors should advise the Committee Chair or Democratic Services Officer well in advance of the meeting of their wish to speak as the local Member.

### **What can and cannot be said**

A7.1 Speakers must address only issues relevant to the matter in hand and its determination by the Committee:

A7.1.1 For planning matters, this will include the effects of the proposal on the environment and impact on them as local residents. Speakers must not refer to non-material issues such as property rights, any covenants relating to land, competition, moral or personal issues, loss of view or property value.

A7.1.2 For rights of way matters, speakers must restrict themselves to elaborating on the evidence either for or against a proposed course of action, and what will be relevant will depend on the type of proposal under consideration.

A7.2 Speakers are not allowed to ask questions of Councillors, officers or other speakers.

A7.3 If any speaker behaves inappropriately or in any way behaves so as to disrupt or delay the work of Committee, the Committee Chair has discretion to curtail the speaking opportunity and may ask one or more speakers to leave the room, or, in extreme circumstances may adjourn the meeting for any period considered necessary.

### **What happens next?**

A8.1 Following the public speaking and speeches by non-Committee members, the Committee Chair may ask the relevant officer to comment on any matters of fact arising from what has been said. At the sole discretion of the Committee Chair, the relevant officer may, where the Committee Chair considers it would be helpful,

be asked to comment / clarify following individual speakers rather than at the conclusion of the public speaking.

- A8.2 Members of the Committee will then debate the matter, and will reach a decision without any further public involvement.
- A8.3 Speakers may remain in the room, but are not allowed to join in with the debate, unless specifically requested by the Committee Chair to clarify a matter that has arisen during debate, and which cannot be dealt with by officers.
- A8.4 Once the decision is made, speakers may remain in the room but usually choose to leave before the next item on the agenda.
- A8.5 In any event, the Committee's decision will be published on the County Council's website and anyone who has made a valid written representation will be notified of the decision where they have previously so requested.

**What happens if the matter is deferred or postponed?**

- A9.1 Should the matter be deferred for a site visit or for any other reason following debate at the meeting, no further opportunity for public speaking will be allowed unless a period of six months or more has elapsed since such deferral.
- A9.2 Only in exceptional circumstances will additional public speaking outside of the above arrangements be allowed, and that shall only be with the agreement of the Committee Chair. This may be when new evidence or information has come to light, or where substantial changes have been made to a proposal, which renders it significantly different from what had been previously considered. The test will be whether further public speaking will assist members of Committee to come to a more well-informed decision.
- A9.3 Should the item have been deferred before the public speaking period had commenced (or had been withdrawn from the agenda entirely, i.e. 'postponed'), those registered to speak will be notified of the date when the Committee will consider the matter and given the same opportunity to speak at the later meeting.



**PROTOCOL FOR SPECIAL PRESENTATIONS AT PLANNING AND LICENSING COMMITTEE (PLANNING APPLICATIONS ONLY)**

- B1 In exceptional circumstances, and with the approval of Committee or at the discretion of the Chairman, a 'special presentation' may be given to Committee members. This may be where the matter is of such a complex technical or legal nature and where there are significant policy implications, or where the nature of public interest is so high as to warrant such an approach.
- B2 Normally a request for a special presentation will come from a group or organisation either in support of, or in opposition to, a particular proposal. Where approval is given for a special presentation, the group or organisation who has requested such an opportunity will be notified in writing that their request has been granted, and opportunity will be given for other organisations and groups to give a presentation within an equal time frame.
- B3 The scheduling of the presentation will be decided by Committee or by the Chairman but it would normally be at the same meeting at which the planning application to which it relates is to be determined, as an additional part of the normal public speaking arrangements. The local Member(s) in whose area the proposal is situated will be invited to attend for the presentation.
- B4 No more than three organisations or groups in opposition to the proposal will be allowed to give a special presentation to Committee, and no more than three organisations or groups in favour of the proposal will be allowed to give a special presentation. Anyone wishing to speak will be chosen strictly on a "first come, first served" basis so early registration is encouraged. Those registering to speak will be asked to supply contact details in case they need to be advised of any changes to arrangements.
- B5 The maximum time allowed for each presentation shall be ten minutes.
- B6 The content of each presentation must be related to the application, and must only contain material pertinent to the consideration of the planning merits of the proposal.
- B7 A written transcript of the presentation must be given to the relevant officer at least three clear working days before the date of the special presentation; for example if Committee were to meet on a Tuesday, the written transcript must be with the relevant officer by 4:00pm on the preceding Wednesday.
- B8 Any handouts or photographic material that is intended to be distributed to Councillors must also be given to the relevant officer at least three working days before the presentation. A minimum of 15 copies of each document must be provided.



- B9 Should it be intended to use a computer based presentation with PowerPoint or similar systems, a copy of that presentation must be given to the relevant officer at least three working days before the date of the presentation. The presentation may be on either CD or memory-stick. Responsibility for the proper working of the CD or memory stick rests with the person giving the presentation and in the event of any technical problems which prevents the presentation using electronic media then no delay to the Committee meeting or special presentation shall be permitted. In these circumstances the person giving the presentation will rely solely on any verbal presentation.
- B10 Unless these instructions are complied with, the Committee Chairman reserves the right to refuse the use of such support material, and to direct that the presentation continues without their use so as not to delay consideration of the matter.
- B11 Once the public speaking has been opened, those giving special presentations will be called forward in the order of objectors first, with supporters to follow.
- B12 The presentation may be given by more than one speaker. Speakers will be advised when there is only one minute remaining so that they may conclude their presentation. When the maximum ten minutes have elapsed, speakers will be required to end the presentation irrespective of whether the speaker has reached the end of the presentation.
- B13 Through the Chairman, Committee members may ask speakers for clarification on any point raised during a presentation but there shall be no debate on the merits or otherwise of the proposal at that point in proceedings.
- B14 At the completion of the special presentations, the normal public speaking arrangements will resume as set out in paragraphs A4.2 and A4.3 above.
- B15 Officers may be requested to clarify or comment on any points raised in the presentation or normal public speaking session, and thereafter the Committee will continue to debate the item in the normal way.

## **SITE VISITS**

### **Informal Site Visits**

1. Individual Councillors can visit a site themselves in advance of the Committee meeting, though Committee members wishing to visit sites on their own should seek advice from officers. If the site cannot be seen from existing public highway or other public land and involves going on to private land, Councillors should first contact the relevant case officer who can liaise with the applicant or landowner. In relation to Public Rights of Way, while a landowner's permission is not required to visit rights of way already on the Definitive Map, permission from landowners should be obtained to inspect proposed routes or application areas whether unaccompanied or with an officer.
2. Ideally, Councillors should always be accompanied by the case officer, even on informal site visits. If Councillors wish to visit a County Council property (e.g. school, elderly persons' home, library etc.) they should always report first to its reception.
3. Any information obtained from a site visit should be reported back to Committee by the Councillor involved so other Councillors have the same information. Any discussions or lobbying that may occur during a site visit should be reported in accordance with the procedures described earlier in this Code.

### **Formal Site Visits**

4. Formal site visits will be held only when they provide a material benefit, for example, to understand local conditions and the physical characteristics of the site / existing and proposed routes of paths (as appropriate).
5. Where Committee members consider that there is substantial benefit to be gained from a site visit, a formal site visit can be proposed by Committee members at a committee meeting in advance of the relevant application coming before the Committee for a decision. The reasons for the request must be clear and minuted and whether a formal site visit will be undertaken will be at the sole discretion of the Committee Chair. Similarly, where officers consider it appropriate, a short factual report will be brought to an earlier committee recommending a site visit. In relation to Planning matters, the need for site visits should be considered by Committee members when reviewing the Committee's Work Programme.
6. Once the decision to undertake a site visit has been confirmed, Democratic Services will liaise with the relevant officers, Committee Chair, Vice-Chair and political groups' Business Managers to make arrangements. Transport arrangements will depend on the circumstances.
7. All members of the Committee will normally attend formal site visits, together with the appropriate local Member. If the proposal may have a significant impact on adjoining areas, the invitation will be extended to Councillors representing adjoining

electoral divisions.

8. Appropriate officer/s of the Council will accompany the Committee to advise Committee members as to the proposal and to point out salient features and highlight key issues. Councillors are advised to wear stout footwear and be prepared for adverse weather conditions, though relevant Personal Protective Equipment (PPE) will be provided where it is necessary for the site.
9. The purpose of a formal site visit is fact finding and no discussion of the merits of the matter should take place. During site visits Committee members should not make any comments that could give the impression that they had predetermined the application. Decisions on matters must only be made within the formal committee meeting when Committee Members have all the necessary information before them.
10. In relation to Planning matters, Councillors are advised not to enter into discussion with anyone other than officers or other Committee members, except for the purposes of clarification from site operators. Site managers or applicants and their agents may be present on site. They will be advised by letter that they should not lobby Councillors, but are able to accompany the party for health and safety reasons and to answer any factual questions put to them.
11. As the decision for a formal site visit will have been made at an open Committee, it is possible that the visiting party may be met with 'protest groups' or a number of supporters or objectors. Lobbying of Councillors during site visits will not be allowed as the opportunity for making representations is as part of the consultation process and as part of any public speaking during the relevant Committee meeting.
12. There may be occasions on site visits when questions raised by Committee members cannot be satisfactorily answered or require further investigation. In this event officers will pursue these matters and report back to the Committee meeting.

### **Following the Site Visit**

13. Wherever possible, details of the site visit will be included in any subsequent report to Committee.

**OVERVIEW OF PUBLIC RIGHTS OF WAY, COMMON LAND AND TOWN OR VILLAGE GREEN AREAS OF WORK**

**(i) PUBLIC RIGHTS OF WAY**

Public rights of way fall into four distinct categories:-

- 1) Footpath – Walkers only
- 2) Bridleway – Walkers, horseriders & cyclists (though cyclists must give way to walkers and horseriders)
- 3) Restricted Byway – All of the above, plus non-mechanically-propelled vehicles (i.e. horse & cart / buggy, etc)
- 4) Byway Open to All Traffic. – All classes of user, so pedestrians, equestrians, cyclists, and vehicles both horse-drawn and mechanically-propelled.

The legislation which deals with rights of way activities is quite complex, and includes a number of important statutes, such as the National Parks and Access to the Countryside Act 1949, Countryside Act 1968, Highways Act 1980, Wildlife and Countryside Act 1981, Countryside and Rights of Way Act 2000, and the Natural Environment and Rural Communities Act 2006. Most of the legislation affecting rights of way is either quasi-judicial or regulatory in nature, typically involving recognition of existing routes or changes to the network by the extinguishment, diversion or creation of new routes or changing its status. Frequently-occurring areas of work for the Committee will be the following:

**Definitive Map Modification Orders**

The County Council has a statutory duty to make a Definitive Map Modification Order where a highway exists or can reasonably be alleged to exist. This can be prompted by the discovery of evidence by the Council or as a result of a formal application being made. The Definitive Map may be modified by the addition of a previously unrecorded route or the deletion of a route currently recorded, or by the upgrading or downgrading of a currently recorded route. Claims may be based on user or historical evidence or a combination of both. Claims are processed in accordance with the priorities set out in the Council's Rights of Way Improvement Plan (RoWIP). Upon receipt of an application, or on the discovery of evidence, officers will undertake research and make an assessment of the relevant information. The requirement to recognise the route by making a Modification Order is a quasi-judicial decision and depends only on whether the right of way exists or can reasonably be alleged to exist - there is no scope for consideration of matters such as community interests, desirability, safety, suitability &c.

**Public Path Orders**

The County Council has a discretionary power to make legal orders to divert, create or extinguish Footpaths, Bridleways and Restricted Byways. (For Byways Open to all Traffic and Restricted Byways, application must be made to the Magistrates' Court instead.) These can arise from applications or requests from local residents, path users, developers, farmers, schools, or indeed the Council itself may propose to make a change. A request for a diversion is the most common of these.

## (ii) COMMON LAND

The County Council is a Registration Authority for the purposes of the Commons Act 2006 and the Commons Registration Act 1965. The 1965 Act established, for the first time, registers to conclusively record the existence of common land. The Council is responsible for keeping and maintaining this statutory register and, in limited circumstances under the 1965 Act, to take action to protect the registered land. (Action is normally taken by those whose rights are being infringed, i.e. the common rights owners.)

Common land is land, usually in private ownership, which has registered rights of common over it. These rights of common are held by persons other than the owner of the land and are rights to either do something on the land or to take something from it. Such rights do not have a recreational aspect.

Generally, the main features of common land are that it is open, unfenced and sometimes remote.

Those persons who are able to exercise the registered rights are generally known as "commoners". Common land and commoners' rights constitute a very ancient institution. They arose as part of the fabric of life in England and Wales and have their origins in the manorial system. Most common land and commoners' rights have fallen into disuse and, being forgotten, were lost over the centuries. It is generally in the more remote areas that common rights have survived in their use. The rights are held in common with the land owner. This means that a land owner cannot do anything which would restrict the exercise of a common land right.

Rights of common can include the following:

- **Estovers** – Taking wood, gorse or furze
- **Herbage** – Grazing sheep or cattle
- **Pannage** – Eating of acorns or beechmast by pigs
- **Piscary** – Taking of fish
- **Turbary** – Taking peat or turf

The Countryside and Rights of Way Act 2000 (CROW Act) provides for the public to have access to open countryside and this includes access to common land. The Countryside Agency have published maps for all areas indicating the land (including common land) to where the public now have open access rights.

It was popularly believed that every person had a right to go onto any common land. Before the Countryside and Rights of Way Act 2000 came into effect, the public in general did not have rights to go onto common land unless that land was in the area of an Urban District, or was crossed by public rights of way (in which case, people had to stay on the route of the right of way).

Registration was first carried out in the late 1960s. Some areas are quite small: such as

an ancient pinfold, being a circular piece of land with a diameter of six feet (where one or two animals could be kept, perhaps overnight for safety). Larger areas run into several acres and can support the grazing of substantial numbers of animals of various kinds. These areas might also have been waste land of the manor. Some were allotted under inclosure awards in the 18th or 19th centuries for digging sand or gravel for road maintenance.

There are also a number of green lanes which are quite properly registered as common land.

Where a right of common has been registered, the commoner has the legal entitlement to the peaceful enjoyment of that right, and action which impedes the exercise of that right, for example the erection of fencing, will be unlawful. Registered common land is protected from development by statutory controls, with the Secretary of State's consent being required for certain types of work to be carried out on the land.

### **(iii) TOWN OR VILLAGE GREENS**

As with its duty to register common land, the County Council has duties to register new town greens or village greens and, in limited circumstances, to act to protect the registered land. Town or village greens have a not dissimilar history to common land. They are, however, defined fundamentally separately for the purposes of registration.

Town or Village Greens are typically areas of land found in identifiable settlements or geographical areas where local people go to undertake lawful sports and pastimes. These sports and pastimes can include a wide variety of organised or ad hoc games, picnics, dog walking, observing wildlife and other similar activities. Although town or village greens may be owned by individuals, many of them are owned and maintained by local Parish Councils.

Town or Village Greens have statutory protections under two 19th century Acts: the Inclosure Act 1857 (section 12) and the Commons Act 1876 (section 29). The main protection has the effect of preventing works, including building works, taking place on the land.

It is possible for any person to apply to register another person's land as a town or a village green, provided that the legal tests are met – the most crucial of which is that for a period of at least 20 years a significant number of local inhabitants have used the land 'as of right' to indulge in lawful sports and pastimes. This right to apply may, however, be excluded if any one of a number of Planning-related "trigger events" has occurred on the land, although the right may become exercisable again if a corresponding "terminating event" has occurred since the "trigger event".

When an application is received, it may then be given publicity which will invite objections. Depending on the complexity and the volume of evidence for and against, it may be necessary to appoint an independent inspector to hold a public inquiry to establish the facts. The inspector does not make a decision but makes a report with a recommendation to the Council as Registration Authority.

The decision as to whether or not to register the land can only be determined on the facts established and the law as applied to those facts. There is no scope allowed for consideration of matters such as desirability or community interests. The Registration Authority's decision can only be made by examining the evidence to see if the facts show that all of the criteria are met.

Failure to meet even one of the criteria means that an application must be rejected on the facts.

A provision introduced in the Commons Act 2006 makes it possible for a land owner to register their own land voluntarily as either Common Land or a Town or Village Green. This does not involve objection or public inquiry.



**HIGHWAYS & PUBLIC RIGHTS OF WAY FUNCTIONS****TABLE A ('Day-to-Day' / Operational Functions undertaken by Officers)***(Italicised functions are not yet in force)*

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
Power to grant a street works licence	Section 50, New Roads and Street Works Act 1991
Maintaining the register of information with respect to maps, statements and declarations	Section 31A, Highways Act 1980
<i>Maintaining the register of applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980</i>	<i>Section 121B, Highways Act 1980</i>
Duty to assert and protect the rights of the public to the use and enjoyment of highways <sup>2</sup>	Section 130, Highways Act 1980
Duty to serve notice of proposed action, if any, in relation to obstruction	Section 130A, Highways Act 1980
<i>Power to temporarily divert footpath or bridleway due to works presenting a danger to users of the way</i>	<i>Section 135A, Highways Act 1980</i>
<i>Functions relating to the making good of damage and removal of obstructions</i>	<i>Section 135B, Highways Act 1980</i>
Power to permit deposit of builder's skip on highway	Section 139, Highways Act 1980
Power to license planting, retention and maintenance of trees etc in part of highway	Section 142, Highways Act 1980
Power to remove structures from the highway	Section 143, Highways Act 1980
Power to authorise erection of stiles etc on footpaths or bridleways	Section 147, Highways Act 1980
Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149, Highways Act 1980
Power to license temporary erection of structure which obstructs the highway in connection with works to buildings etc	Section 169, Highways Act 1980
Power to consent to temporary deposits or excavations in streets	Section 171, Highways Act 1980
Powers relating to the obligation to erect hoarding or fence during building works	Sections 172 & 173, Highways Act 1980

<sup>2</sup> This power is also delegated to the Committee as an overarching duty to be exercised by officers and/or Committee as appropriate.



<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
Power to consent to the placing of rails, beams etc. over highways	Section 178, Highways Act 1980
Power to restrict the construction of cellars etc under street	Section 179, Highways Act 1980
Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators	Section 180, Highways Act 1980
Power to enter into land management agreements with owners & occupiers of land	Section 39, Wildlife and Countryside Act 1981
Maintaining the register of applications made under section 53(5), Wildlife and Countryside Act 1981	Section 53B, Wildlife and Countryside Act 1981
Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A, Wildlife and Countryside Act 1981
Power to temporarily prohibit or restrict traffic on footpaths, bridleways, restricted byways and byways open to all traffic.	Section 14, Road Traffic Regulation Act 1984
Power to temporarily prohibit or restrict traffic on footpaths, bridleways, restricted byways and byways open to all traffic in connection with certain events.	Section 16A, Road Traffic Regulation Act 1984

**TABLE B (The main Functions undertaken by Committee)***(Italicised functions are not yet in force)*

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
Power to create footpaths and bridleways by agreement or otherwise	Sections 25 & 26, Highways Act 1980
Power to apply for the stopping up or diversion of a highway	Section 116, Highways Act 1980
Power to extinguish footpaths and bridleways	Section 118, Highways Act 1980
Power to make a rail crossing extinguishment order	Section 118A, Highways Act 1980
Power to make a special extinguishment order	Section 118B, Highways Act 1980
<i>Power to determine application by proprietor of a school for a special extinguishment order</i>	<i>Section 118C(2), Highways Act 1980</i>
<i>Power to determine application for public path extinguishment order for the purposes of agriculture, forestry, or the breeding or keeping of horses</i>	<i>Sections 118ZA, Highways Act 1980</i>
Power to divert footpaths, bridleways and restricted byways	Section 119, Highways Act 1980
Power to make a rail crossing diversion order	Section 119A, Highways Act 1980
Power to make special diversion order	Section 119B, Highways Act 1980
Power to require applicant for order to enter into agreement	Section 119C (3), Highways Act 1980
<i>Power to determine application by proprietor of a school for a special diversion order</i>	<i>Section 119C(4), Highways Act 1980</i>
Power to make an SSSI diversion order	Section 119D, Highways Act 1980
<i>Power to determine application for public path diversion order for the purposes of agriculture, forestry, or the breeding or keeping of horses</i>	<i>Sections 119ZA, Highways Act 1980</i>
<i>Power to decline to determine applications under Section 118ZA, 118C, 119ZA and 119C</i>	<i>Section 121C, Highways Act 1980</i>
Power to stop up private means of access to highways	Section 124, Highways Act 1980
Duty to assert and protect the rights of the public to the use and enjoyment of highways <sup>3</sup>	Section 130, Highways Act 1980

<sup>3</sup> This power is also delegated to officers as an overarching duty to be exercised by Committee and/or officers as appropriate.

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
Power to apply for variation of an order made under section 130B of the Highways Act 1980	Section 130B(7), Highways Act 1980
Power to authorise temporary disturbance of service of footpath, bridleway or restricted byway due to excavation or engineering works for the purposes of agriculture	Section 135, Highways Act 1980
Power to extinguish footpaths and bridleways where land acquired compulsorily or otherwise	Section 32, Acquisition of Land Act 1981
Duty to keep the definitive map and statement under review	Section 53, Wildlife and Countryside Act 1981
Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
Duty to reclassify roads used as public paths	Section 54, Wildlife and Countryside Act 1981
Power to convert footpaths into cycle track	Section 3, Cycle Tracks Act 1984
Power to seek approval to extinguish public right of way over land acquired for clearance	Section 295, Housing Act 1985 (c.68)
Power to authorise stopping-up or diversion of footpath or bridleway to enable development in accordance with planning permission	Section 257, Town and Country Planning Act 1990
Power to extinguish footpath or bridleway over land held for planning purposes	Section 258, Town and Country Planning Act 1990
Power to enter into agreements with respect to means of public access	Section 35, Countryside and Rights of Way Act 2000
Power to provide means of public access in absence of agreement	Section 37, Countryside and Rights of Way Act 2000
Power to register variation of rights of common	Commons Registration Act 1965 and Commons Act 2006
Application to Magistrates Court to remove obstruction on access land	Section 39 Countryside and Rights of Way Act 2000
Various	Powers under the Natural Environment and Rural Communities Act 2006
General	Powers under all other legislation associated with the County Council's functions in respect of Public Rights of Way



**03 September 2019****Agenda Item: 8****REPORT OF CORPORATE DIRECTOR - PLACE****DEVELOPMENT MANAGEMENT PROGRESS REPORT****Purpose of the report**

1. To report on planning applications received by the Development Management Team between 1<sup>st</sup> July and 14<sup>th</sup> August 2019, to confirm the decisions made on planning applications since the last report to Members on 16<sup>th</sup> July 2019, and to detail applications likely to come before Committee in the coming months.

**Background**

2. Appendix A highlights applications received since the last Committee meeting, and those determined in the same period. Appendix B sets out the Committee's work programme for forthcoming meetings of Planning and Licensing Committee.

**Statutory and Policy Implications**

3. 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.
4. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

**RECOMMENDATIONS**

5. That Committee considers whether there are any actions they require in relation to the contents of the report.

**ADRIAN SMITH****Corporate Director - Place**[Page 97 of 104](#)

### **Constitutional Comments - [RHC 14/08/2019]**

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

### **Financial Comments [CSB 16/08/2019]**

The contents of this report are duly noted. There are no specific financial implications arising directly from the report.

### **Background Papers Available for Inspection**

None

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

All

### **For any enquiries about this report please contact:**

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**Planning Applications Received and Determined**  
**From 1<sup>st</sup> July to 14<sup>th</sup> August 2019**

Division	Member	Received	Determined
<b>BASSETLAW</b>			
Tuxford	Cllr John Ogle		Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site. Welbeck Colliery, Elkesley Road, Meden Vale. Granted 01/08/2019 (Committee)
Tuxford	Cllr John Ogle		Proposed variations to the soil management areas, the internal linking access road and the installation of welfare and office portacabins and toilet block unit. Welbeck Colliery, Elkesley Road, Meden Vale. Granted 01/08/2019 (Committee)
Tuxford	Cllr John Ogle	Temporary classroom accommodation, East Markham Primary School, Askham Road, East Markham. Received 06/08/2019	
<b>MANSFIELD - None</b>			
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Division	Member	Received	Determined
<b>NEWARK &amp; SHERWOOD</b>			
Sherwood Forest	Cllr John Peck	To retain mobile classroom, King Edwin Primary School, Fourth Avenue, Edwinstowe. Received 01/08/2019	
<b>ASHFIELD</b>			
Selston	Cllr David Martin	To retain temporary classroom, known as Building 5 until 31st August 2022, Jacksdale Primary School, Main Road, Jacksdale. Received 01/08/2019	
<b>BROXTOWE - None</b>			
<b>GEDLING</b>			
Arnold South	Cllr John Clarke Cllr Muriel Weisz	Due to the removal of hedges / trees from within the Highway Boundary we propose to install some 8ft timber close boarded fencing behind affected properties to retain their current feeling of privacy and security. The fencing will be installed within the Highway Boundary and is in addition to the fences that are already installed within the property boundaries. Arnold Lane/Shelford Road, Gedling. Received 09/08/2019	



Division	Member	Received	Determined
Newstead	Cllr Chris Barnfather		Conversion of existing barn into café, new car park and cycle parking in place of existing mobile building to be demolished. Installation of new vehicular and pedestrian gate and children's play area. Brooke Farm Horticultural Unit, Main Street, Linby. Granted 13/08/2019
<b>RUSHCLIFFE</b>			
West Bridgford North West Bridgford South	Cllr Liz Plant Cllr Jonathan Wheeler		Reconfiguration of grass sports pitches to create an official 7 vs 7 (U9-U10) football pitch with associated drainage works along with improved access to the school sports storage building and removal of raised manholes. West Bridgford Junior School Annex, Tudor Road, West Bridgford. Granted 15/07/2019



## Schedule of future planning applications to be reported to Planning and Licensing Committee

(Please note: The committee dates identified are for guidance only. A final decision regarding the committee date is not made until shortly before the agenda is published).

15 <sup>th</sup> October 2019	4/2019/0300	Two Oaks Quarry, Coxmoor Road, Sutton In Ashfield, NG17 5LZ	Variation of Condition 13 of planning permission 4/V/2017/0690 to increase daily, weekly and annual HGV movements (max 380 movements per day during April, May, June and July and max 320 per day during remainder of the year. Annual limit of 50,000 movements)
15 <sup>th</sup> October 2019	7/2019/0017NCC	Colwick Business Park, Road No 2, Colwick, NG4 2JR	Change of Use of existing buildings from waste transfer station and B1, B2, and B8 to plastic recycling
15 <sup>th</sup> October 2019	1/19/00660/CDM	East Markham Primary School, Askham Road, East Markham, NG22 0RG	Erection of a standalone single storey hall, kitchen and classroom building. Expansion of existing photovoltaic solar array. Associated paving and landscape works.

## Planning Applications currently being processed by the County Council which are not currently targeted to a specific meeting of the Planning and Licensing Committee.

Planning Application:	1/18/014570043/CDM
Location:	Land to the south of College Farm, East of Great North Road, Barnby Moor, Retford
Proposal:	Sand and gravel extraction, backfill with imported silt and restoration to agriculture and bio-diversity, including construction of a temporary road access road.
Planning Application:	8/17/02096/CMA
Location:	Land off Green Street, Mill Hill and land at Barton in Fabis, off Chestnut Lane, Nottingham
Proposal:	The extraction and processing of sand and gravel, including the construction of a new site access road, landscaping and screening bunds. Mineral washing plant and other associated infrastructure with restoration to agriculture and nature conservation areas.
Planning Application:	1/18/01611/CDM
Location:	Harworth Colliery No 2 Spoil Heap, Blyth Road, Harworth,
Proposal:	Importation of 6.2 million cubic metres of restoration materials to complete the restoration of Harworth Colliery No. 2 spoil heap.

Planning Application: 2/2018/0040/NCC  
Location: Ratcher Hill Quarry, Southwell Road West, Rainworth, Mansfield, NG21 0HW  
Proposal: Retrospective permission for silica sand extraction and associated revised site restoration proposals.

Planning Application: 3/19/00100/CMM  
Location: Cromwell North Quarry, Land Between Carlton on Trent and Cromwell, Newark  
Proposal: Proposed extraction of 1.8 million tonnes of sand and gravel together with the erection of mineral processing plant and associated ancillary infrastructure. the provision of a new access, and the progressive restoration of the site to nature conservation over a period of 9 years.