

12<sup>th</sup> November 2013**Agenda Item:****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND  
CORPORATE SERVICES**

**GEDLING DISTRICT REF. NO.:** 7/2012/1493  
**ASHFIELD DISTRICT REF. NO.:** 4/V2012/0570

**PROPOSAL:** IMPROVEMENT WORKS TO THE COUNTRY PARK INVOLVING THE REMODELLING AND PARTIAL IN-FILLING OF LAKE 2 FOR DEVELOPMENT AS A FISHERY, AND WIDER LANDSCAPE IMPROVEMENT WORKS AND PATH UPGRADES, IN TOTAL REQUIRING THE IMPORTATION OF CIRCA 17,000M3 OF INERT MATERIALS AND SOILS.

**LOCATION:** NEWSTEAD AND ANNESLEY COUNTRY PARK, NEWSTEAD VILLAGE

**APPLICANT:** RURAL COMMUNITY ACTION NOTTINGHAMSHIRE (RCAN)

**Purpose of Report**

1. To consider a planning application for the importation of circa 17,000cu.m. of inert materials into Newstead and Annesley Country Park - the former Annesley colliery tips. The materials would primarily be used to remodel and partially infill a lagoon in order to develop a more favourable fishing environment. Other works to improve landscaping and access tracks also form part of the scheme. The consultation process has raised key concerns relating to the proposals impact upon important habitat and species present on site; the potential disturbance to the local community and neighbouring residents from HGV traffic; issues relating to tip stability; and other highway related impacts. Some of these concerns have led to the reduction in the scope and scale of the proposed development and re-consultation has taken place on the revised application.
2. The recommendation is to grant planning permission subject to a legal agreement to control lorry routeing and to protect the highway and subject to the conditions set out at appendix 1.

**The Site and Surroundings**

3. Newstead and Annesley Country Park is located directly to the east of Newstead village and is formed from a restored colliery waste tip which was part of the former Annesley Colliery as well as a site for colliery waste from other surrounding mines. In total the site covers around 90 hectares straddling the Gedling and Ashfield local authority boundary, between Hucknall and Kirkby in

Ashfield. The site lies within the Green Belt and is subject to various local wildlife designations.

4. The site was purchased by RCAN (Rural Community Action Nottinghamshire) in 2009 in order to develop a new country park, with planning permission secured from Gedling Borough Council in 2011 for the required change of use and for the construction of a visitor centre and car park.
5. The Robin Hood railway line runs north-south forming the western site boundary between the country park and Newstead village. The level crossing on Tilford Road enables access to the site and to an adjacent construction business. Belts of woodland, some established by the former coal board, generally surround the site to the north and east containing views within the area. The surrounding countryside is interspersed with scattered woodland and parkland, including Newstead Abbey and park which lies 1.8 km to the east. To the north is the Notts Golf Club (Hollinwell) and scattered woodland.
6. Elements of Annesley village extends to the terraced properties off Annesley Cutting at Moseley Road and Byron Road. These form part of a Conservation Area which also encompasses the former pit head site now being redeveloped for housing, primarily by Persimmon Homes. Around a dozen new properties now front Annesley Cutting, with development extending behind.
7. The centre of Newstead village is shaped by its mining past, with terraced homes around Tilford Road, along with a primary school at the entrance to the village. Regeneration of the area has included the Hazelford Way Industrial Estate and the current redevelopment of the former pit head site.
8. The country park is open to pedestrians from a number of points, however vehicular access is currently restricted until a car park, currently being constructed within the country park, has been completed. Access to this car park will then be via Tilford Road, through Newstead village. Annesley Cutting offers a second vehicular route into the site. This road terminates outside the Persimmon Homes development, where two private tracks then proceed. The first continues eastwards to a user-operated level crossing over the railway line and the second bears north-east, looping around to enter the northern end of the country park, as it does so the track passes Moseley Farm and under a narrow-arched railway bridge. The route can be viewed on the attached plan.
9. The country park is formed from two main tip areas, the largest of which lies in the north of the site and stands around 19 metres above the surrounding area at its highest point. On this landscape is a mix of open grassland, woodland and a series of five water lagoons or lakes where the surrounding land levels progressively rise to the north, before falling again. Semi-mature woodland and shrub covers many of the flanks and belts of woodland partially enclose outward views. Large areas of open grassland, naturalising into heathland are present on the summits and where areas of open spoil remain, natural regeneration is increasingly greening the park. At the southern foot of the site is a partially completed visitors centre and car park.
10. A rich variety of flora and fauna is now established and the site has accordingly been designated as a Site of Importance for Nature Conservation (SINC) or

Local Wildlife Site. It is described as '*A diverse site with a mosaic of habitats and a notable flora*' and is an example of where natural regeneration on the former colliery spoil has taken place. Notable breeding birds and a large amphibian population would also merit its SINC classification. The SINC designation extends to include the access track from the end of Annesley Cutting. A number of further SINC sites are present in the locality forming a wider area of habitats and wildlife corridors. Linby Quarries Site of Special Scientific Interest (SSSI) is situated around 1km to the south-east at its closest to the proposed areas of work.

11. The majority of the country park lies within Gedling Borough and is within the Green Belt, however the north-west corner, along with an access track is situated in neighbouring Ashfield District.
12. As part of the grant of planning permission in 2011 by Gedling Borough Council to turn the site into a country park, much of the works so far undertaken have been focussed around the southern end of the site, where Lake 1 (see attached plan for the general arrangement) has been remodelled for angling (including disabled angling) along with creation of fishing pegs. The construction of a visitor centre overlooking the lake (constructed with re-used tyres) has been on hold, however works have recently recommenced on the shell of the building and the formation of the access and car park are progressing. Most of the tracks on site are loose shale or spoil and become heavily churned and rutted in wet weather. The use of these tracks by unauthorised off-road vehicles has also caused damage.
13. Moving north of Lake 1, up the rising track lies Lake 2- the former colliery polishing ponds. This was formally three separate lagoons in parallel layout, which have been opened out into a single, but deep lagoon with an island and shallow bars which remain from its previous form.
14. Following the main track northwards again, as it rises, it passes areas of immature woodland on the slopes before reaching the large expanse of Lake 4 with its surrounding expanse of bare spoil. North of Lake 4, the path level then falls away to reveal Lake 5 in a more secluded situation. These pair of lakes are separated by a embankment and have some marginal vegetation.
15. The track takes a turn to run around Lake 5 at which point the track from Annesley Cutting via the railway bridge runs into the park and joins the internal access track. The remaining Lake 3 is situated on the north-western side of the park on the tip plateau. The layout of the lakes and the main tracks can be seen on the attached plan.
16. The five lakes are therefore characterised as Lake 1 and 2 which are the smallest and in the case of Lake 2 a deep and engineered lagoon and Lakes 3, 4 and 5 which are much larger and in the case of Lake 3 and 5, exist in a more remote situation.
17. A series of interlinking ditches drain water via gravity down the slopes and between the lakes before discharging into local watercourses.

## Proposed Development

18. The applicant is a local charity which owns and is developing the country park as part of the Newstead Enterprise partnership and it has a number of schemes in progress to make improvements to the park and support it financially. One of the projects established early on is the CAST (Cornerstone Angling Skills Training) scheme, a separate charity and partner of Newstead Enterprise whose work aims to tackle social exclusion by providing training and angling activities to young people. Linked to CAST is the commercial course fishing business which aims to attract day-anglers to the site and provide an income stream to support the charity and on-going site management and development.
19. Lake 1 is currently the main focus for general course angling, and includes provision for disabled anglers, however in order to develop the income generating side further, it is proposed to remodel the adjacent lake (Lake 2) to make it more suitable and safe for anglers. In addition the importation works would realise a fee for the charity. The proposed works in this planning application therefore comprise the partial in-filling of Lake 2-the former polishing ponds- for angling and additional landscape works to improve the park and help establish vegetation. The application is a County Matter application due to importation material comprising inert waste of circa 17,000 cu.m in volume, typically construction and demolition waste such as crushed concrete or brick and red shale. Waste sub and top soils would be imported for the associated landscaping works.
20. The application when originally submitted also proposed the partial infilling of the large Lake 5 at the northern end of the site in order to develop a carp fishery. This element brought the total volume of materials required to be imported to 40,000 cu.m. However this element of the scheme raised concerns on ecology grounds with objections from the Environment Agency and Nottinghamshire Wildlife Trust and it was assessed that such works would harm the conservation value of the lake environment, a habitat of county importance supporting nationally significant bird species. Environmental benefits were absent and community benefits were considered to be outweighed by the likely ecological harm as well as the magnitude of associated haulage movements. As a result of these concerns the Lake 5 elements were removed from the application resulting in a reduced scheme. Details of the remaining aspects of the proposed development are set out below.

### Works to Lake 2

21. Lake 2 formerly existed as three separate 'polishing ponds' arranged in parallel form, however previous works developed this into a single lake, but with shallow bars and an island remaining. At its deepest, the lake is circa 5 metres deep and it remains characteristically a man-made, engineered feature with steep slopes and with areas of sparse vegetation.
22. The proposed works to Lake 2 seek to create a shallow water body with an improved marginal environment, making it safer for angling and also a more

favourable habitat. The current steepness of the lake sides is not conducive to such aims.

23. The proposed works would reduce the depth of the deepest parts to a level between 1.3 and 1.5 metres deep and the steep slope would be re-profiled to create a marginal zone with more moderate gradients. The current island would be slightly remodelled into an island connected on two sides with a spit. In order to undertake the works the lake would be dewatered, before the base is progressively in-filled with a total of 11,000cu.m. of the imported material, following which a 1 metre thick capping of compacted colliery spoil is formed over. This colliery spoil would be sourced from existing stockpiles within the site. Landscaping works around the lake using imported soils would then be completed and seeded with an appropriate seed mix. The eastern-most strip of Lake 2 would not be in-filled and would be left watered in order to provide mitigation for a large population of common toads, which use Lake 2 as their spawning ground.
24. By improving Lake 2, the applicant would be able to develop an improved income stream to assist with the management and development of the country park and the activities it supports. The current income situation has deteriorated with falling grant opportunities and delays in completing the visitor centre. An income would be realised in two ways. The importation of waste would itself realise a one-off sum for the applicant, funds which would cover costs and debt and subsequently the plans would allow RCAN to expand the fee generating angling activities.
25. Typical plant machinery to undertake the works would include an excavator and dumptruck to move material and a bulldozer and self-propelled roller to compact the colliery spoil capping to the lakes.

#### Landscaping works

26. A proportion of the imported material would comprise soil making materials for use in site landscaping works, to assist in the regeneration of areas of bare spoil by providing a soil base for grass seeding and other planting.
27. Most of the landscaping would be around Lakes 1 and 2, and around the visitor centre where a more amenity character of landscaping is envisaged. Subsoils and top soils to a total depth of 200mm would be spread before a suitable wild grass mix is sown with some additional native planting.
28. Additionally, material would be used to repair and reform the main access track running the length of the park which has been heavily churned and eroded. The improved track would be formed at 5 metres wide and would be hard surfaced with crushed stone. Soil margins would be seeded to re-establish grassland on either side.
29. The proposed works would also seek to address some stability issues arising on site. The embankment between Lakes 4 and 5 would be reinforced with 200mm of imported subsoil material to enable natural re-vegetation to take place so to bind the bank and prevent rainfall erosion. These soils would be required to be

suitably low-nutrient in make-up so not to introduce nutrients into the adjacent lakes, which are more ecologically sensitive.

30. The materials would be sourced locally and governed by a Materials Management Plan. As part of this plan a qualified person would be appointed to check its suitability before acceptance and before it is imported to the site. A breakdown of the volume proposed to be imported and their intended use is set out in the following table.

<b><i>Details</i></b>	<b><i>Volume (cu.m.)</i></b>
<b><i>Lake 2 infill</i></b>	<b><i>11,000</i></b>
<b><i>Soil around Lake 1</i></b>	<b><i>800</i></b>
<b><i>Soil around Lake 2</i></b>	<b><i>2,000</i></b>
<b><i>Track Build (up to)</i></b>	<b><i>420</i></b>
<b><i>Bank between Lakes 4 &amp; 5</i></b>	<b><i>2,826</i></b>
<b><i>TOTAL</i></b>	<b><i>17046</i></b>

### Access and routeing

31. The revised total of circa 17,000cu.m. of material equates to approximately 1,900 vehicle deliveries at 9cu.m. per vehicle. Imported material would be hauled in via Annesley Cutting and the farm track running under the railway bridge into the northern part of the site. No deliveries would enter Newstead village. On average there would be 13 deliveries in and 13 out per day, based on a 5 day operational week, although such haulage operations can typically run on a campaign basis resulting in some peaks and troughs in traffic levels. A maximum of 40 loads per day is therefore proposed as the limit the site could handle. Haulage operations would take place between 8 am and 4 pm, 5 days per week, Monday to Friday (excluding Bank Holidays). An assessment of transport arrangements and implications is set out further in the report.

### Phasing

32. The applicant wishes to undertake the works as soon as possible whilst working outside of the spring/summer months to avoid impacts on wildlife, such as the large population of common toads. Depending on a final work schedule a phased approach may therefore take place and which would be agreed with the WPA.
33. The intention would be to utilise imported materials upon delivery, however temporary stockpiles would be used when works are constrained such as during inclement weather and would be limited in size.
34. Following the completion of the main works the new topsoil would be seeded with an appropriate wild mix and the establishment of this vegetation would be

managed in its initial years of establishment to realise the most favourable ecological conditions.

35. The country park would remain open to the public during works, with active working areas secured with suitable safety fencing.

## Consultations

36. **Gedling Borough Council** – *Do not wish to make any representation.*
37. **Ashfield District Council** – *No objection however concern is raised in regard to the routeing of vehicles along Annesley Cutting and alternative routes should be considered with less sensitive receptors. Consideration should be given to restricting working hours including deliveries to limit disruption to local residents. Request details are provided of angling platforms and disabled parking. Recommend use of recycled aggregate for path works and suitable planting and seeding.*
38. **Newstead Parish Council** – *Support. "The Parish Council are pleased to welcome the above application and warmly support the attached plans as part of the ongoing proposals to create a country park for the benefit of local residents."*

*They acknowledge that the present state of the lagoons present a hazard to the public and that reducing the depth and steepness of the slopes would improve safety.*

**Annesley & Felley Parish Council** - *Objection is raised to the original application scheme/scope.*

*In relation to the chosen haul route, this would utilise Annesley Cutting and then a farm track. Previous exportation of materials from the site using the same route, threw up dust which covered local fields and houses and exacerbated breathing problems for those with a lung related illness. Since this time, the residential development was permitted and is now being built out.*

*The farm track is 460m of limestone/rubble base, within 200 m of the properties along Moseley Road. This is a single track with no provision for lorries to pass each other, noting that around 50 deliveries per day may be expected. The route also runs along a strip of land designated as a SINC. The track is also used by pedestrians, cyclists, and by owners of adjoining farmsteads and livery yards.*

*Previous evidence has shown that dust thrown up from the track does not disperse/deposit naturally and concern is raised that during dry weather residents will be affected by this dust. In response to the applicant's mitigation to deploy water bowser units, the Parish Council state that this would lead to material clinging to tyres and wheels and that there is no opportunity to establish a wheel wash at the exit to Annesley Cutting. Therefore material would be deposited onto the roads as the lorries left. Only the provision of a wheel wash and a tarmaced area will prevent this.*

*The Parish Council note that the site is an important area for wildlife and is listed as a SINC and go on to highlight the findings of the ecology report. They believe that the chosen haulage route runs counter to the management objectives in the ecology report and would have a huge detrimental effect on the wildlife present, noting that the upper areas of the tip are important to breeding and over-wintering birds, which are prone to disturbance.*

*An alternative haulage route is suggested via Tilford Road, through Newstead village, across the railway crossing and into the site via what will be the primary public access in due course. The access could be constructed and tarmaced, allowing an effective wheelwash to be set up. They believe the alternative route would minimise dust generation and conversely allow for mud to be kept off the roads. Total vehicle distances would be minimised. The lorries would not intrude onto areas of the upper tip, until later phases of the work, minimising impact on wildlife. The alternative route would allow for the segregation of pedestrians and vehicles in the interest of highway safety.*

*Concern is raised over the availability of suitable materials due to the current economic conditions and due to other competing projects. There is therefore a very high possibility that disturbance to local residents will last for a longer period.*

*The quality of the imported material is noted of being of importance for fishing and for ecological reasons and that preferably this should be sourced from a single site/project. Material should be inspected by a suitably qualified consultant for its acceptability.*

*The proposed hours of operation, should include all working of on-site plant and machinery, as well as controlling times of deliveries.*

Additional comments responding to the additional information have been received raising the following points of objection:

*The applicant does not own all the access into the site and cannot demonstrate full control over the intended application area.*

*Request an independent assessment of the application access route and the alternative Tilford Road route, taking into account; total traffic movements; road safety; potential dust/ noise impact on amenity; and on ecology, noting that the access track is a SINC.*

*A large part of the required material could be sourced from within the site through re-profiling. The disruption to wildlife would be outweighed by the shorter time span required.*

*Concern is raised that the scheme is being used to overcome financial difficulties with a short term income and doubts are raised as to whether a viable long term fishery could be established. A fishery assessment coupled with a biological assessment is needed to determine that the correct lake depths and conditions are achieved to support fish, taking into account seasonal variations in water depths. A depth of 1.8 metres is preferable to ensure fish survival, and should be no less than 1.5metres at seasonal minimal levels.*



*Any comments received on the amended application will be orally reported.*

39. **NCC (Highways)** - *Originally commented that the proposed traffic generation [based on 4,400 deliveries] does not unduly concern the Highways Authority; however concern is raised that the type of traffic generation over a prolonged period could impact on the structure of the highway.*

*The applicant is requested to enter into a Section 106 agreement to undertake a video recorded condition survey of Annesley Cutting (from its junction with the A611, to the eastern extent outside the Persimmon site) prior to work commencing and subsequently, in order to assess any damage and to undertake any repairs as are agreed as reasonably necessary at the applicant's cost.*

*The reduced development would require approximately 1,900 HGV deliveries, which will actually be circa 3,000 vehicle movements into and out of the site. The request for a condition survey remains despite the reduced scope of the application scheme.*

*Measures to control mud and dirt being deposited onto the highway are requested.*

40. **NCC (Nature Conservation)** – *Comments on original plans - raise notable concerns for which further information and clarification should be provided.*

*The site- Annesley Pit - is a SINC, described as 'A diverse site of botanical and zoological importance'. Much of the site's interest is derived from the fact that large areas of the site have not been intensively restored, which has allowed natural regeneration to take place.*

*A considerable dataset is available for birds at the site, based on frequent visits by a local bird watcher. In terms of breeding species, Black-necked Grebe, Woodlark and Little Ringed Plover are of particular interest. The presence of breeding Black-necked Grebe is very notable (with only circa 50 pairs nationally- the two pairs breeding at this site therefore constitute around 2% of the national population). Notes they have moved to Lake 4, with some occasional foraging on Lake 5.*

*Indirect impacts on the Grebes (if on Lake 4) need to be considered. The species may be sensitive to disturbance and research on a closely related species/Grebe has recommended a buffer of 150-300 metres from the source of disturbance. It is clear that the access tracks along which HGVs will travel are somewhat closer to Lake 4 than this. Given the Schedule 1 status of the species and the available research it is recommended that a condition prevents vehicle movements around Lake 4 if they are present.*

*An amphibian survey has been undertaken which confirms a headline population of circa 600 common toads in Lake 2. Appropriate mitigation will be required, including working around the period March-July and a method statement detailing any phased works and protection measures.*

Concern is raised over the proposed top-soiling around Lake 2 as the existing vegetation is naturally regenerating into a diverse habitat. Top-soiling around Lake 1 is accepted.

*The importation of top soil has the potential to import nutrients and subsequently enrich water run off. A planning condition should be used to control the nutrient levels to an appropriately low level, to ensure that coarse grass species do not dominate at the expense of wildflowers. This would also reduce the amount of grass cutting required and consequently reduce management costs.*

*Woodlark are known to be present on site. No impact assessment has been carried out, however their favoured location is known to be on the plateau, which is away from the areas of work and due to this being at a different level to the haul road, means that there should not be significant disturbance to this species. Mitigation to maintain suitable habitat is identified. Mitigation measures to protect Little Ringed Plovers are also identified.*

*The de-watering of Lake 2 should not take place during the bird breeding season (March-August). The works to stabilise the bank between Lakes 4 and 5 should similarly not take place during this period.*

*Reptiles are known to be present on site with extensive areas of suitable habitat. It is recommended that a method statement is conditioned to identify suitable mitigation measures. Mitigation for other protected species (should they move on to the site) is also recommended.*

*Details of any tree or shrub planting, and seeding, including species and mixes should be required by condition.*

Comments have been received on the revised application scope and description:

*Previous requests for conditions relating to reptiles; other protected species; the works to the bank between Lakes 4 and 5; landscaping; planting/seeding mixes; and the restoration of woodlark habitat remain applicable.*

*The amphibian survey confirms that a method statement to control works at Lake 2 is still required along with additional measures and mitigation to include details of: how fringing reed vegetation would be retained and fenced; the creation of small ponds/pools around the margins; locations of any temporary stockpiles; and a three year monitoring period.*

*Works should be phased to ensure that areas of highest value for amphibians are worked first, so to allow time to recover. These should not be worked in March when amphibians may be returning to the lake, however in the event that they do, additional protection measures such as amphibian fencing may be required.*

*In relation to breeding birds, notes that the works would be completed prior to the onset of the breeding season, and as such there should be no impact on either Little Ringed Plover, Woodlark, or Black-necked Grebe. To ensure this is the case a condition should be made to prevent works taking place during*

*March-August inclusive. Should works during this period be permitted, requests monitoring of potential breeding activity with the help of the local birdwatchers and mitigation or a halting of works made if evidence indicates activities are causing disturbance.*

41. **Nottinghamshire Wildlife Trust (NWT)** – *Maintain an objection to the revised plans on the grounds that it is still not possible to undertake a robust assessment of the likely ecological impacts of the proposals on the basis of the information provided, nor do the mitigation measures appear to be adequate. NWT cannot therefore be certain that this scheme could proceed without severely compromising many ecological features of high value on this site.*

*The waste disposal operation would take place on a SINC, which was originally designated for its botanical interest, but also qualifies as a SINC for breeding birds and amphibians, some of which are of national and international rarity. NWT have sympathy for the applicant, but this does not eliminate the need for a proper ecological assessment. For the development to be permitted contrary to Local Plan policy the need for the development would have to be greater than County importance to outweigh the ecological importance of this site.*

*Particular care and assessment should be given to impact on breeding Black-necked grebe, loss of breeding toad habitat in Lake 2, any impacts arising from the intensification of use of this area and disturbance from people/dogs etc, and whether the imported materials for the 'restoration' of the site could guarantee the retention of the current biodiversity/ecological conditions, which comprise acidic and calcareous habitats.*

*The recent amphibian survey of Lake 2 clearly demonstrates that it vastly exceeds the criteria for designation as an amphibian SINC. Walkover surveys across the wider site also indicates that there must be a large population of grass snakes. It is quite clear that the whole area is of quite exceptional importance for amphibians and reptiles. No assessment has been made of the areas of terrestrial habitat used by these species for the rest of the year, which may be destroyed by movements of large machinery.*

*There needs to be a detailed plan for the minimisation of the impacts upon toads using Lake 2 and other amphibians and reptiles. The amphibian report recommends that new ponds should be created to replace habitat lost, however no details have yet been provided, and they would have to be in place in advance of habitat being lost.*

*The lake clearly contains a range of features that are highly suitable for breeding toads and frogs, perhaps because of the deep water. The stocking of fish in the lake would be fundamentally incompatible with conserving this amphibian population of County importance. Whilst toads can in some cases co-exist in a fishery, the same does not apply to frogs and newts. Fisheries can also introduce infectious amphibian diseases.*

*In the absence of detailed plans it is not possible that a tipping operation of this scale would not destroy a significant part of the marginal vegetation around Lake 2, due to the use of machinery pushing in material. The surrounding reed beds are noted as an important element in toad spawning.*

*Concern is raised regarding the mixed range of imported materials, from unknown sources, and whether the testing and acceptance/rejection of loads is feasible given the numbers of loads per day. Need to maintain the current water chemistry in Lake 2 and high nutrient top soils would be incompatible with the site.*

*A full reptile survey has not been undertaken, however a walkover survey has identified grass snakes. There is a high probability that reptiles will be killed by vehicle/plant movements and damage to habitat.*

*The applicant has not done a full bird survey and there has been no assessment of the potential impacts on birds, instead relying on information from local bird recorders (which is limited) nevertheless it can be seen that the site supports at least three breeding Schedule 1 birds and that Lake 5 qualifies as a breeding bird SINC due to its use by Black-necked Grebe. It would be an offence to disturb this species whilst breeding. Concern is raised that there has not been an assessment of impact on Woodlark using the north-western part of the site. No noise data has been provided to show that the work of HGVs and machinery would not lead to disturbing this species. It is necessary to assess whether there would be any 'Likely Significant Effects' on Woodlark, both from the waste disposal operation and any subsequent increased human activity.*

*A full invertebrates survey has not been undertaken although locations for Dingy Skipper butterflies is known and would not be affected. Information on the presence of other invertebrates is not included.*

*The re-grading of areas of the site, importation and spreading of topsoil and destruction of marginal vegetation would all lead to a loss of the habitat diversity currently present. Subsequent re-seeding and recovery would take some years before the habitats would become as diverse as those which would first be lost.*

*Have previously suggested to applicant a less ecologically damaging scheme, involving importation of material to create an amphitheatre near Lake 1 and thus avoid the more sensitive areas, but still realising a sum for the charity as a viable compromise.*

*As the plans stand "it can only be concluded that the applicant is committed to trying to maximise their income from this site through a substantial waste disposal operation and a commercial fishery, despite its designation as a SINC and its value for habitats and a range of species of greater than County importance, including birds protected by UK and EU law."*

42. **NCC Reclamation** – No objection subject to an acceptable materials management plan, and its strict adherence and monitoring and further drainage assessments and provisions.

*Notes the proposals comprise the shallowing of existing on-site settlement lagoons to comply with the safety requirements for former tips, for public angling and for local wildlife. The scheme would involve the dewatering of the lake and the importation of waste from unknown sources.*

*The site lies over a principal aquifer with local abstraction points and is adjacent to a SSSI.*

*The manner of controlling water levels in the lake system is not detailed, the management of such should be identified along with details of a gradual de-watering. The proposal would reduce the storage volume of the drainage system across the site, hence a drainage assessment to confirm that this system has not been compromised should be undertaken prior to the works.*

*Lake 5 has overtopped in the past and tip inspections have raised this as a concern which needs resolving. A temporary outfall is in place, though a permanent structure has been advised. NCC have sought to encourage the resolution of the overtopping issue and the creation of a fit and proper weir and discharge point for Lake 5. It would appear these have yet to be satisfactorily resolved. A suggested informative has been made.*

*There would appear to be low level contamination present within the colliery spoil materials analysed; however these were generally at concentrations which would not adversely impact the proposed works or pose a significant threat to either current or future site users. There are also issues related to gas generation with elevated levels of Methane and Carbon Dioxide and depleted Oxygen, these should not pose a significant risk.*

*The main contamination concern is from the importation of materials of unspecified source and nature. A robust Environmental Management Plan supplemented with a Materials Management Plan rigorously enforced would provide appropriate surety, the plans to be agreed with the Environment Agency/NCC prior to commencement of works.*

*Acceptance criteria for the material should be agreed with the authority and with the EA. The environmental management plan should address various issues such as noise, dust, emissions and the protection of ground and surface waters.*

*All materials imported to site should be stringently checked before accepted to site to ensure they are inert and comply with the material management plan and therefore do not pose a risk to surface/ groundwater, site workers or present/future site users. The importation of soil materials will also closely be monitored.*

43. **NCC Landscape** – *Comments that the site would benefit from an overall master plan which would set out the overall design aims and objectives of the country park. This should be coupled with an overall design philosophy which should link the function and use of the spaces shown within the Environmental Management Plan and be a comprehensive, planned approach as to how the site will be managed in the medium to longer term.*

*The plans should provide more detail regarding planting, seeding and natural vegetation. The maintenance/management of the water bodies and margins/habitats should be described. Questions whether works to Lake 2 will require removal of existing vegetation. Other comments relate to soil types and points of clarification.*

44. **Environment Agency Midlands Region** – *No objection to revised plans (objected to original plans) and advises that the works would require an Environmental Permit.*

*Notes that the applicant states that on occasions there may be stockpiling of waste material next to the area of intended use - in and around the lakes. Such storage locations would be unacceptable as during rainfall events the material can wash into the lakes to the detriment to micro organisms. Advises that stockpiles should be located at some distance from the lake and sheeted from rainfall.*

*Work should be undertaken in line with the recommendations made in the ecology report undertaken by the NCC Biodiversity Officer.*

*Advise that the bed of Lake 2 is designed with a lot of variation in depth to encourage a range of plant and animal communities. Depths should range between 100mm and 2000mm with levels changing across the lake bed.*

*The nutrient poor and plant free conditions provide an important wildlife habitat. It is important not to plant anything but to leave the lake to colonise naturally over time, leading to a more diverse habitat. Management should only be undertaken to remove invasive species.*

*The choice of fish species and stocking density should be carefully considered and ideally the lake should be lightly stocked over a number of years as the fishery matures. Notes the applicant is considering measures to maintain adequate water levels.*

*Planning conditions relating to unexpected contamination were previously recommended.*

45. **Network Rail** – *No objection in principle. It is noted that access to the site is via an underbridge. Applications that are likely to generate an increase in trips under such may be of concern where there is the potential for an increase in 'Bridge Strikes'. Developers may be requested to pay for bridge protection barriers. Under no circumstances should the Newstead Stockyard User-Worked Level Crossing be used. Drainage should ensure there is no increase in run off towards the railway embankment.*
46. **NCC (Countryside Access)**- *No definitive public rights of way are affected by the proposed development.*
47. **Severn Trent Water Limited** – *No objection raised.*
48. **Western Power Distribution** - *Provides a network plan.*
49. **National Grid (Gas)** - *have not responded. Any response received will be orally reported.*

## Publicity

50. The application has been publicised in accordance with the County Council's adopted Statement of Community Involvement by means of site notices, a press notice and neighbour notification letters to 29 of the nearest occupiers, primarily around the haulage route at Annesley Cutting.
51. A period of re-consultation took place with these neighbours, along with three additional addresses, when additional supporting plans were received. This included a revised set of plans covering all aspects of the proposed works and a supporting statement addressing points of concern raised from the initial round of consultation.
52. A third round of consultation has now taken place on the amended application description and reduced scope of works, following the removal of the planned infill of Lake 5.
53. The applicant has placed a local press notice under Article 11 of the Town and Country Planning (Development Management Procedure) Order 2010 in respect of notifying the owner of the access track, which has not been established.
54. A total of 11 proforma letters of objection have been received during the first round of consultation raising objection to the proposed haulage route and based upon the response from Annesley and Felly Parish Council. The letter proposes that haulage should alternatively be routed via Tilford Road through Newstead Village. The objection to the use of Annesley Cutting (the proposed route) is based on the following grounds:
  - (a) Increased public safety risk to pedestrians utilising the access track.
  - (b) Impact upon wildlife and breeding birds adjacent to the access track which is a SINC and also on the plateau top as lorries enter and manoeuvre within the site.
  - (c) Increased dust emissions impacting on residents, especially those on Byron Road and Moseley Road and particularly for new residents at the Persimmon development.
  - (d) Deposition of mud and debris on Annesley Cutting.
  - (e) Increase in vehicle mileage distance and emissions as opposed to suggested alternative route.

The letter proposes the use of Tilford Road in Newstead due to this being the eventual main access to the park and future visitor centre; that the road is sufficiently wide enough; and that the entrance into the site could be tarmaced allowing the installation of a wheel wash.

55. Persimmon Homes as the lead developer at the adjacent former pit head site has been consulted with regards to implications on their highway obligations to resurface Annesley Cutting. They raised concerns that the haulage operation as part of the proposed development could lead to damage to a new road

surface they plan and are required to install outside their development and how any repair liability would be assigned.

56. From the second round of consultation a further six letters of objection were received raising the following points:

- i. The impact of up to 45 vehicles a day upon the safety of pedestrians, horse riders and cyclists, insufficient information/ surety.
- ii. Impact on livestock in adjacent fields to access track.
- iii. The farm track is narrow with insufficient space for lorries to pass each other. No provision has been made to control traffic movements or speeds.
- iv. The generation of mud and dust; homes and cars have been covered in dust from previous works.
- v. Disruption to wildlife on the site. The land around the access track is a SINC. Concern that there has been no assessment of impacts from HGV movements
- vi. The importation is unnecessary as the site is a tip - waste could be moved around to alter the lakes.
- vii. Access should be through Newstead village as previously this was used to export coal. Alternatively access should be split half and half between Annesley Cutting and Newstead/Tilford Road.
- viii. The railway under-bridge is narrow and susceptible to damage from collision.
- ix. The gate at the head of the track should continue to be closed/locked out of hours to prevent unauthorised access.
- x. Impact on the structural integrity of residential properties from passing HGVs.
- xi. Disagree with the claim that haulage traffic would displace construction traffic from the housing development as only around 10 large vehicles a day have been seen, as opposed to the up to 45 vehicles proposed.
- xii. The commercial aspect of the operation seems to be taking priority over the proposed development headline and whilst the country park needs the revenue, the surrounding villagers have to suffer due to previous mismanagement.
- xiii. Doubt is raised as to whether a viable fishery could be established given the proposed lake depths and water conditions. Concern that the applicant has not taken into account seasonal variations in water depths as shown by the recent low water levels which may lead to low oxygen levels. Doubts there are sufficient lake invertebrates and nutrients to support fish. The applicant should demonstrate, through a fishery assessment undertaken by suitably



qualified person, that a fishery would work, otherwise the application is a landfill operation.

57. Any matters arising from representations made during the third and final consultation period relating to the revised and reduced application scope will be reported to members.
58. Councillor Chris Barnfather has been notified of the application.
59. The issues raised are considered in the Observations Section of this report.

## **Observations**

### *Background to the country park*

60. RCAN's purchase of the former tip site in 2009 secured this extensive site for the community and with a vision of providing a new community and natural resource, one which would offer opportunities to local people to help rehabilitate the site and develop skills in conservation and management. Over the past few years with extensive use of volunteers several projects have been undertaken, however much remains to be completed and the park has yet to be fully opened to the public, with the car park and visitor centre incomplete. Meanwhile unauthorised off-road activity has caused damage. Nevertheless the diversity and quality of wildlife colonising the park is notable and is testament to the management of the site.
61. One of the first initiatives which moved onto the park was the CAST angling scheme, making use of an existing lagoon and this scheme has helped young people with life skills and training around the backdrop of angling. So far this activity has been focussed around the lower Lake 1 where the re-modelling of this lake has included the construction of fishing pegs, some of which are also able to accommodate disabled anglers. The proposed development seeks to expand the angling activities to the adjoining Lake 2 and also address the current poor state of landscaping in certain areas around these lakes.

### *Principle of the development - Green Belt considerations*

62. Newstead and Annesley Country Park is located in the Green Belt for which the Government attaches great importance through the National Planning Policy Framework (NPPF), paragraph 81 of which encourages local authorities to enhance the beneficial use of the Green Belt and provide opportunities for access and recreation and to enhance landscapes, biodiversity or to improve damaged and derelict land. The use of the site as a country park is therefore deemed an appropriate development in this situation, as confirmed by the grant of planning permission for the change of use by Gedling Borough Council.
63. With regards to the present application, the NPPF does not deal with waste disposal and such developments are not expressly listed as an appropriate form of development in the Green Belt, although 'engineering operations' are referenced, nevertheless the proposed development should be considered against paragraphs 87 and 88. These states that as with previous Green Belt

policy, inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm is clearly outweighed by other considerations.

64. Local policy on waste development is set out by the Nottinghamshire and Nottingham Waste Local Plan (WLP) and the published Nottinghamshire and Nottingham Waste Core Strategy (WCS), as a material consideration which is at an advanced stage and therefore can be given significant weight.
65. Policy W3.17 of the WLP permits waste disposal in the Green Belt only where this would be the *best option* for reclaiming mineral workings or other derelict voids to an after-use appropriate to the Green Belt and where there would be no unacceptable impact on the open character.
66. Policy WCS4 (Disposal sites) of the submitted WCS states that where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national guidance. The supporting text refers to bringing environmental benefits which may include and relate to landscape, heritage, biodiversity, access and recreation. It further states that very special circumstances can include enhancing the beneficial use of the Green Belt, such as opportunities to provide access, outdoor recreation, retaining and enhancing landscapes, visual amenity and biodiversity or to improve damaged and derelict land.
67. Against the relevant Green Belt policy, it is evident that the most recent policy in the NPPF and the submitted WCS gives greater protection to the Green Belt, by requiring 'very special circumstances' to support the development, whereas the adopted WLP requires an assessment in terms of it being the 'best option' to reclaim land to an appropriate after-use whilst not having an unacceptable impact on the open character of the Green Belt.
68. It is considered, in line with the supporting text in the WCS, that very special circumstances can be demonstrated through the development enhancing the beneficial use of the country park, by means of improving visual amenity, improving damaged and derelict land and landscape enhancement, as well as improving access to the park. This is in line with the approach in paragraph 81 of the NPPF. Elements of the proposed development seek to address several outstanding issues, following-on from previous restoration works, notably Lake 2 remains with steep, engineered slopes which are not favourable for wildlife or particularly safe for visitors nor suitable for anglers. Plans to spread top and sub-soils over bare colliery spoil would allow for grassland to be established, thus providing a visual enhancement to areas of degraded land. The formation of a hard-surfaced track network would assist in the year-round access and enjoyment of the park.
69. The importation and disposal of inert waste and soils would therefore enable such enhancements to be made to the country park, with an after-use of angling which would be an appropriate activity in the Green Belt and the completed works for which would not impact upon the open character. A temporary impact on the local character would be expected, in terms of limited plant and HGVs and any temporary stockpiles, however this is not considered unacceptable in this location.

70. The development and all its individual elements should be the 'best option' for the site as required by the adopted WLP policy. Clearly as proposed the total scheme represents the most financially favourable option for the charity, however if this is viewed from a sustainability and environment view, whether the best option has resulted depends on matters of ecology and residential amenity which are of particular relevance and these are explored further in the report.
71. In terms of alternative options, it has been put to the applicant that a greater proportion of the fill materials could be sourced from within the site itself and whilst this has been explored by them, they state that this would lead to wider disturbance to wildlife and habitat and crucially would not realise a financial receipt needed for the parks' survival and sustainability.
72. Against Green Belt policy it is considered that the proposed importation, in general terms, allows improvements to be made to the country park, which would be sufficient to demonstrate very special circumstances. An assessment in terms of whether the development and its constituent parts would be the best option for the site is subject ecological and other considerations which follow.

#### Disposal need and locations

73. WLP Policy W3.20 states that where a waste development would destroy or degrade defined heathlands, permission would not be granted unless the need for the proposal outweighs the value of the heathland. The site is not a defined heathland as such, though the grassland is naturalising into a heathland environment. The value is thus somewhat limited and, whilst the policy remains applicable, the site as a former colliery tip entails the consideration of WLP Policy W10.1.
74. Policy W10.1 of the WLP permits waste disposal where it would reclaim incomplete colliery spoil heaps or mineral voids, subject to meeting a recognised need for disposal capacity and subject to achieving *environmental benefits* without causing an unacceptable environmental impact.
75. The latest position on the need for disposal capacity is set out in the emerging WCS which states that an indicative additional 3.2 million cu.m. of capacity for inert waste would be required going forward in the context of a high overall recycling target. The importation of 17,000 cu.m. under this proposed development therefore represents a very small proportion in this context. The WCS has completed its public examination, and is therefore at an advanced stage of preparation. Substantial weight therefore can be given to its policies in accordance with paragraph 216 of the NPPF.
76. Policy WCS4 gives locational preference for disposal sites around the Nottingham and Mansfield/Ashfield areas and whilst preferring existing sites, does permit disposal and restoration at former colliery tips and other man-made voids where this would have associated environmental benefits. Policy WCS6 also identifies former un-restored or poorly-restored colliery land as suitable for waste disposal subject to there being no unacceptable environmental impacts.

77. Both the adopted WLP and the emerging WCS therefore provide a level of support for the proposed waste disposal development subject to the environmental considerations. Such considerations include a wide range of impacts on the local population, built and natural environment and are set out in chapter 3 of the WLP and its associated policies. The emerging WCS takes a more positive stance on the environment, under Policy WCS12 seeking to protect and enhance the environment, however under Policies W10.1 and W10.2 of the WLP, environmental benefits should also be realised.
78. The following sections discuss the main environmental considerations which arise from the proposed development.

### Ecological Impacts

79. The country park is designated as a SINC (Site of Importance for Nature Conservation), making it of County importance for wildlife and it is a good example of how nature can re-colonise former derelict or degraded land such as this former colliery tip. The development of the country park goes very much in step with the wildlife and habitat on site, but recognising that community access can also be accommodated to appreciate and benefit from the natural resource. The size of the park is such that there are more remote areas at the top of the former tip, which allows room for wildlife, whilst areas nearer to the village at the base, are more popular with the community.
80. Into this mix of nature and human activity, the anglers can be added. The CAST angling project currently makes use of Lake 1 and it is proposed to expand the angling activities and associated revenue by developing Lake 2 as a fishery. Proposals to develop a large carp fishery on one of the larger lakes has been withdrawn from the current application, and may or may not come forward as a subsequent planning application.
81. In planning policy, the WLP, in Policies W3.21, W3.22 and W3.23 relating to water features, biodiversity and nature conservation apply. Policy W3.21 states that development which would destroy or degrade the amenity, setting or nature conservation value of wetlands and lakes will not be permitted unless their value is outweighed by the *need* for the development. Policy W3.22 states that where a development would harm or destroy a species or habitat of county importance planning permission will only be granted where the need for the development outweighs the local conservation interest. Policy W3.23 takes a similar approach for local wildlife sites.
82. Policy ENV36 (Local Nature Conservation Designations) of the Gedling Replacement Local Plan, is also relevant and states that where proposals may have an adverse effect on a SINC, the reason for the proposal will be weighed against the local ecological and community value of the site. Consideration will be given to the long-term ecological viability of the site and any impact upon the public's enjoyment of the site. Impacts should be mitigated or compensated.
83. At a national level, the NPPF, in chapter 11 states that development should minimise impacts on biodiversity and provide for net-gains where possible. Planning should contribute to preserving and re-creating priority habitats and the protection and recovery of priority species. It seeks to direct development to

areas of the least environmental or amenity value. Paragraph 118 states that planning permission should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

84. The proposed works raise several important ecological considerations, given the quality and diversity of wildlife which is known to be present on site. Some impacts would relate only to the construction phase, whilst others relate to the final operation and form of the development.
85. In the absence of a detailed ecology impact assessment, officers with assistance from NCC Nature Conservation Unit, have assessed the proposed development with particular attention paid to species and habitat which would be directly affected. Much of what is known about the on-site ecology is as a result of the work of volunteer record-keepers, such as bird watchers therefore whilst good and up to date information about the wildlife present is known, this has not been coupled with a full assessment of the likely impacts which may arise as a result of the proposed development. An amphibian survey has now been submitted and this supplementary information addresses the impacts which would arise at Lake 2, which is a spawning pond for toads and other common amphibians.
86. The majority of the works within the revised scheme are proposed in and around Lakes 1 and 2 which can be described as the more publicly accessible area of the park and the site of the future visitor centre. The most notable wildlife on site make use of other lakes and terrestrial habitat not affected by this development, such as the Black-necked Grebe which have successfully bred on the upper lakes over the past three years. These are exceptionally rare birds in the county and the Newstead/Annesley population represents 2% of the national population. As a Schedule 1 breeding bird, the species is protected under the Wildlife and Countryside Act 1981 (as amended). It is unlawful to intentionally or recklessly disturb such a bird whilst it is nest-building or is at or near a nest with eggs or young; or to disturb their dependent young. Two further Schedule 1 birds; Little Ringed Plover and Woodlark are also known to be on site, as well as various reptiles and invertebrates.
87. At Lake 2 (the former polishing ponds), a 600 strong population of common toads has been recorded to use this as their spawning ground and could therefore be directly affected by the lake remodelling works. Such a population would qualify for designation as an Amphibian SINC, if it was not for the fact that it already sits within a large site-wide SINC. A recent amphibian survey has been undertaken and a range of mitigation and working methods has been identified and a final method statement can be conditioned as part of any planning permission. As a starting point, the eastern parcel/strip of the lake, which is not proposed to be infilled, would be left with water during works in the other part and also provides ideal habitat in terms of the existing marginal vegetation. Works would take place so to avoid the toad breeding period. Should the toads return during the works, additional protection measures including specialist fencing will be required to direct toads into the retained part

of the lake. Provision of some additional small ponds has also been identified by the survey in order to compensate for loss of frog and common newt habitat, which are less compatible within a fishery.

88. Whilst the lake does support a significant population of common toads and frogs, the assessment is that as long as the works are undertaken in accordance with a method statement and prescribed mitigation measures, the final conditions in the lake would still be suitable for the toads, and the introduction of a fishery should not adversely impact upon the toad population or their reproduction. There are numerous other examples where large toad populations share water bodies with a fishery. The benefits are also clear, in that by remodelling the lake, new marginal areas would replace the steep sides thus providing an environmental enhancement and also serving to address a safety concern for anglers and visitors. Therefore this element of the proposed development is considered ecologically acceptable.
89. The proposed development to import inert waste material and soils into the site could if not properly controlled, change the balance of nutrients on site and in particular in and around the lakes. The landscaping and spreading of top soil around Lake 1 is accepted, as an amenity character has always been the plan in this area, in conjunction with the future visitor centre. Clarification has been sought that soil spreading around Lake 2 would comprise low-nutrient sub-soils to preserve the emerging conditions. In addition, the soil-making materials to be used on the surrounding landscaping works and stabilisation works to the bank between Lakes 4 and 5, also need to be of a suitable low-nutrient condition to prevent nutrient run-off into the lakes and to establish a wild grass/flower sward. The applicant intends to let any contract with the requirement for the appropriate testing and assurance, prior to its delivery on site and conditions are proposed in relation to this.
90. Original proposals to partially infill the larger Lake 5 raised key concerns and objections from officers at the County Council and objections from the Environment Agency and Nottinghamshire Wildlife Trust. This was due to the potential harm to the particular water conditions/chemistry in the lake which is a priority habitat supporting the notable breeding Black-necked Grebe and other breeding and over wintering wildfowl. It was not adequately demonstrated that the particular water chemistry and conditions could be recreated after completion of any works. The impact of the introduction of a specimen carp fishery on the overall ecological balance was unclear and therefore could have adversely impacted on this habitat and the wildfowl it supports. There was also the unknown impact of potentially increased human activity into that area, including night angling and vehicular access for anglers, and whether this would be compatible with the wildlife making use of this tranquil area. As a result of these concerns the applicant agreed to remove this element from the scope of the application. The works to raise the surrounding track are also removed.
91. Despite the removal of the works to Lake 5, there is still potential for disturbance to the Grebe if works overlap with an early spring return of the birds. Over the past years the birds have bred on both Lakes 4 and 5. If they return to Lake 4 they could potentially be disturbed as a result of HGV movements traversing the main access track. The advice is that this species is sensitive to disturbance

(based upon research into a closely related Grebe) and requires a buffer of between 150 and 300 metres from any source of disturbance such as machinery or HGVs. Applying this to the site, would mean that the access tracks would be close enough to lead to disturbance, therefore in order to overcome this impact, works at the site should be prevented during the breeding season (March-August) unless such works can demonstrate that there would be no adverse impact on Schedule 1 breeding birds or amphibians. The attachment of this condition is considered reasonable, given the wildlife present on site and the fact that limited ecological surveys have been completed.

92. The access track commencing at the end of Annesley Cutting has been identified as part of the SINC designation covering the park and although the application does not include a specific assessment of impacts, officer advice has been received that there should be no long term or significant impacts upon it, given that it is already utilised by vehicles to a certain extent and the fact that the track itself only covers a limited part of the land designated.
93. Given the range of other wildlife known to be present on site which could be affected, mitigation for each species or class can be implemented during the construction phase. Such measures can be part of a method statement to be followed by on-site operatives. Measures have been identified which will protect a range of species including reptiles, and other protected species (should they move on to the site), breeding birds and butterflies. The timing of the works outside of the breeding periods, avoids many direct impacts on the species present and additional mitigation measures could be enacted or works temporarily ceased altogether.

#### Impact from haulage traffic

94. The application is for the importation of 17,000cu.m. of material which would equate to an estimated total of 1,900 deliveries at 9cu.m per delivery. The associated traffic figures have been more than halved following the removal of the proposed element to infill Lake 5 (from a total of 4,400 deliveries to 1,900). The proposed haulage operation may still run on a campaign basis, therefore a maximum of 40 deliveries (80 2-way movements) is proposed, which is a small reduction of 5 deliveries. Clearly the revised haulage figures, whilst lessening impact, still raise concerns due to its nature and volume and the impact such an operation would have upon the amenity of local residents along the proposed access route.
95. The proposed route would take HGVs from the A611 along Annesley Cutting, passing the Persimmon Homes development to the end of the adopted highway. At this point the farm track running north-eastwards would be used passing under the railway bridge, before entering the northern point of the country park. Using this route option, HGVs would pass a grouping of properties at the A611 turning, running past the end terraces of Byron Road and Moseley Road before passing in front of around a dozen newly completed houses at Annesley Cutting. Some of these properties (completed by Persimmon Homes) sit close to or directly on the edge of the highway.
96. Policy W3.14 of the WLP states that development will be permitted where the associated vehicle movements can be satisfactorily accommodated on the

highway network and where this would not cause unacceptable disturbance to local communities.

97. In justifying the level of traffic which would be generated, the applicant contends that Annesley Cutting has been used by Persimmon and Morris Homes as their main construction site access, which until it was recently moved to Newstead Road, was used by a greater volume of mixed traffic than that proposed under their current application. However this claim has been questioned locally.
98. NCC Highways raises no objection to the level of traffic proposed, in terms of highway safety and capacity, subject to a legal agreement to secure a road condition survey and to remediate any damage to Annesley Cutting which might be reasonably attributed to the haulage operations.
99. Local objections have been received from Annesley and Felley Parish Council and from 16 local residents who believe that the proposed haulage route via Annesley Cutting would create adverse impacts upon local amenity, in terms of dust, mud, noise/disturbance and road safety and that an alternative delivery route via Newstead village should instead be used. Ashfield District Council also raise a concern with the chosen route, whilst Newstead Parish Council raise no objection to the development, nor do they raise any highway related concerns.
100. The alternative route put forward by Annesley and Felley Parish Council would take HGVs via Tilford Road through the centre of Newstead village. Not only would this require HGVs to pass directly in front of Newstead Primary School (more than likely during the school term) and a community centre, but also passing the front of in excess of 50 terraced properties on both sides of Tilford Road as well as shops and recreation spaces, before crossing the railway at the level crossing. Whilst it is accepted that this route will be the main access to the country park and its car park, once complete, this is not likely to involve HGV tipper lorries and plant deliveries, which would raise road safety concerns in this built-up area. It has been assessed that this cannot be a viable alternative haulage route to the site and would not be in accordance with WLP Policy W3.14. Officers at the Highways Authority agree with this assessment.
101. A further comment has been made as to whether there is the local availability of suitable inert material, as a result of the decline in the construction market, the concern being that the proposed timescales may slip and lead to an extended operation. The applicant is however confident that a supply is available and have had numerous approaches from house builders, hauliers and construction firms and they have appointed a consultant to assist them.
102. In light of the local concerns raised, the applicant has been asked whether more of the infill material could be sourced from within the site (from the former colliery tips) rather than be imported and thus limit the impact upon residential amenity. However the applicant advises that this would not be possible for two broad reasons. Firstly this would result in disturbance to habitat and wildlife across a greater area of the country park, which is home to important breeding birds for example. Secondly the financial income to the charity and to the ongoing development and maintenance of the park would be reduced, in the context of a declining funding base.



103. A further option whereby both routes are utilised for the haulage, so as to spread the impact and lessen impacts on properties along Annesley Cutting has also been explored, but discounted, due to safety and amenity concerns in the village. The routeing of the haulage traffic can be secured by a legal agreement to ensure HGVs use the correct route and avoid the village centre.
104. In assessing the transport and haulage impacts of the proposed development, it is accepted that the traffic could be accommodated on the local road network, however in terms of impact on residential amenity, the local impacts of a haulage campaign in terms of noise, disturbance and mud/dust, cannot entirely be mitigated, and as a result may lead to disturbance to the local community. It is noted that the proposed delivery route has previously been used as a haul route in connection with former restoration works, however this was prior to the housing regeneration taking place on Annesley Cutting, which would result in a greater number of residents living with the impacts of a haulage campaign. Some of these properties are also on comparatively small plots, with a very limited set-back from the highway. The likely impacts of the haulage scheme have substantially reduced following the removal of works to infill Lake 5, this alteration more than halving the total lorry movements into the site, however it is acknowledged that some disturbance to local residential amenity is still possible and a high tempo operation is still possible.

#### Dust, mud and safety

105. Local residents and Annesley and Felley Parish Council raise concerns over mud and dust arising from the haulage operations. Concern is focussed on the use of the farm track which is not a metalled surface but formed of hardcore. During extended wet periods the track condition can deteriorate and measures to prevent mud being deposited along Annesley Cutting are necessary in accordance with WLP Policy W3.11. The provision of a full wheel-wash is physically constrained, however the operation of a simple jetwash has been identified along with other control measures such as road sweepers which could be deployed if inspections identify a problem. In particularly poor conditions, haulage operations could be halted altogether.
106. Conversely in dry periods, dusty conditions could arise. Local objections have referred to the concern that this could blow over towards properties along Moseley Road and has done so previously. However, due to the distance between the track and this street and the direction of prevailing winds such occurrences would be infrequent. The use of water bowzers and sweepers could be employed in such circumstances, in accordance with WLP Policy W3.10 to combat any significant emissions.
107. It is acknowledged that the farm track is used as access to farmsteads and by some local walkers, it is not however a right of way and remains a private track. Local concern has been raised with regards to the safety of pedestrians and agricultural tenants should they encounter a HGV on the track. Given the narrowness of the track, which would prevent two HGVs passing each other, and the length of the route, the risks require an understanding and measures to ensure safe working. A package of measures and safe working arrangements has been identified, the final details of which can be conditioned as part of any

approval. Measures would include a method of traffic control to ensure lorries do not meet on the track. This could simply be a radio or telephone procedure to give clearance to individual vehicles to proceed, or alternatively a traffic light set-up. This would be coupled with signage to make all users of the track, including pedestrians, cyclists and horse riders, aware of the traffic and the control operation in place. Clear instructions would be given to all haulage companies and to individual drivers, to stop and give way to other users when required and to abide by a speed limit.

#### Potential for damage to highway

108. Representations have been made by Persimmon Homes, the lead developer of the former pit head site, with regards to the possibility of damage to the road surface. As part of their planning permissions to develop 193 homes they are required to re-surface parts of Annesley Cutting and Newstead Road as secured via a legal agreement and bond. Concern was raised that as these road works were imminent, the proposed haulage operations could damage this newly-laid surface, raising the problem of responsibility.
109. Discussion between the applicant's agent, Persimmons and NCC Highways officers has resulted in an agreement that Persimmon should proceed with the planned works and resurface the end of Annesley Cutting (this option is now available to them following the relocation of their site access). Upon re-adoption by NCC, Persimmon's liability would be fulfilled and their bond could be released. As part of any grant of planning permission, a Section 106 agreement could be secured between the applicant (RCAN) and NCC to survey the length of Annesley Cutting both before and after the haulage operations with a subsequent assessment of any damage which should reasonably be rectified at the applicant's expense. Such an assessment would be mindful of the other traffic using much of Annesley Cutting.
110. Confirmation has been received from NCC Highways that the survey requirement is still necessary as part of the substantially reduced scheme. In order to secure this survey on highway land outside of the development and site boundary, legal agreement is needed. Such a solution is considered to accord with WLP Policy W3.15 and has been used in similar cases involving haulage.

#### Tip stability

111. The country park is a former colliery spoil tip which needs to be maintained in a stable and safe form to prevent slips and other movements. Effective drainage is central to the maintenance of a stable site. Whilst restoration works previously undertaken in 2007/8 installed a new drainage system, some elements require rectification notably at Lake 5 where a temporary outfall pipe has been installed, which drains into an adjacent brook. A permanent drainage outfall is ultimately needed to regulate water levels, however following the omission of works to Lake 5 and the containing bank, the present opportunity to create a permanent spillway has gone, however the applicant will be advised again of the need to undertake this work.
112. The plans still propose works to the bank between Lakes 4 and 5 to address a current erosion issue caused by rainfall run-off which is creating a series of

fissures or channels affecting the integrity of this bank which supports the water body in the middle level lagoon. To overcome this problem it is proposed to use imported subsoils to a depth of 200mm to build up this bank to prevent water accumulation on the top and then to over-seed this to establish vegetation cover which should prevent rainfall erosion. This is considered acceptable, subject to working around ecological constraints and utilising appropriate low-nutrient soils.

113. Alterations will be made to the lake drainage system between Lake 3 (the upper lagoon) and Lake 2, so that a sluice maintains a minimum water level in Lake 2. Such an arrangement would ensure that a healthy fishery is viable during the summer months, when the water level would otherwise be expected to fall and the exact details will be required through a condition. A drainage assessment has also been requested and a suitable condition can secure this prior to commencement of any works.

### Contamination

114. A site survey submitted in support of the application has adopted a conservative and cautionary threshold for the purpose of assessing risks to human health, in the context of its use as a public park. Whilst a level of contamination has been found from samples taken from boreholes and trenches, these were at levels not exceeding the thresholds, to be as expected with such former colliery tips, and would not pose a significant threat to site users.
115. The main contamination consideration arises from the importation of inert waste. The applicant intends, as part of any contract it lets, to require the contractor to have a Materials Management Plan, governing the type and make up of the imported material. NCC officers agree that this is required and to be agreed before the commencement of works. The Materials Management Plan will ensure suitable testing of candidate material to ensure it is of suitable low-nutrient levels, particularly for the soil-making materials, to preserve the ecological conditions around and in the lakes. Testing will identify any potential contaminants and set thresholds and applicable standards. Unsuitable material will not be admitted onto the site, and the operation would be monitored for compliance. Precautionary conditions relating to unexpected contamination is also recommended in line with advice from the EA.

### Other matters

#### *Railway Bridge*

116. The proposed haulage route would involve utilising quite a narrow arched under-bridge, under the Robin Hood Line. Network Rail has been consulted and raises no objection. It should be noted that previous restoration works has used this route for associated haulage without an impact on the railway. A speed limit along this track would also protect the structure and drivers.

#### *Impact on the Conservation Area*

117. Annesley Conservation Area is formed by two areas of land adjacent to Annesley Cutting, along which is the proposed haulage route. The mining terraces along Moseley Road and Byron Road, along with Moseley Farm form

one area. The former pit head site, now being redeveloped forms the second part. The movement of HGVs along Annesley Cutting between these two areas would not significantly impact upon the status of the Conservation Area and is already frequented by various construction traffic.

#### *Noise emissions*

118. The application proposes to receive materials on site during the hours of 8am to 4pm, five days a week, Monday-Friday (excluding Bank Holidays). Conditions can be attached to define these hours and in addition to stipulate the operating times of on-site machinery. A requirement for white noise type reversing alarms on plant should further limit noise emissions. Clearly there will be a noise impact, for residents along Annesley Cutting from delivery vehicles, however the scheme has been reduced substantially, thereby limiting the amounts of materials required and reducing the time frame during which noise and possible disturbance could arise. It is recognised that some level of disturbance would still occur, albeit this would be temporary in nature.

#### *Aftercare*

119. An aftercare regime would ensure that the soil seeding successfully establishes an ecologically favourable sward and does not become predominated by weeds and unfavourable species. Such measures would include over-seeding if required, stone picking and cutting. Landscaping and aftercare measures are in accordance with WLP Policy W4.5 and W4.9.

#### *Fishery viability/sustainability*

120. Representations have been made questioning the design of the lake(s), particularly in terms of the depth and water conditions, and whether they could support a fishery. The initial plans resulted in an objection from the Environment Agency which also raised concerns relating to the maintenance of adequate water levels. The applicant has clarified that additional sluices would be installed on the existing drainage network, which would maintain a minimum water level within Lake 2, as fed from the upper lagoons. Advice has been sought from a suitably qualified fisheries management consultant, the Environment Agency (EA), the British Disabled Anglers Association and the Nottinghamshire Angling Group. A fisheries appraisal report dated March 2010 has been provided in support of the plans, it states that the lakes are suitable for angling and makes a series of recommended development works. The average water depth should be 1.5 metres, with some 'holes' and shallows. It further recommends that marginal ledges should be created along fishable banks to improve safety and provide habitat for marginal plants. It does not address or refer to the importation and fill of materials in order to reduce lake depth and simply states that the creation of the ledges could be through simple re-sculpting of the bank side. The applicant is currently looking to commission a full management plan for the proposed fishery.
121. The Environment Agency in their response has also made recommendations that the lake bed should be designed with a variation in depths and that it is important not to plant anything, but allow natural plant colonisation to take place. The applicant can be advised accordingly and there is scope for some shallows

and 'holes' to be formed in the lake bed. The ecological and chemical conditions of the water in Lake 2 is not as sensitive or notable as in Lake 5, where many of the Agency's concerns related to.

#### *Socio-economic benefits*

122. RCAN state that as a local charity with extremely limited resources, they need the finance which the importation of material would bring, in order to manage, maintain, and develop the site. They state that they do not have any other source of funds with which to employ a ranger, or to undertake day to day maintenance.
123. Part of their emerging vision for the site is the need to operate an economic activity upon the site by using Lakes 1, 2 and 5 for angling. They state that the activity is of great importance and that the income would be used to maintain and improve the site as a whole, indicating that they would have to seriously re-consider their continuing running of the park should the plan be unsuccessful.

*"We unfortunately do not have any other finance available for this, and without this income, RCAN would have to seriously consider if our intention to continue running the site as a country park is feasible. Were it not feasible- and we do not see that it could be in this scenario- RCAN would be left with little option other than to sell the site to the highest bidder and dispose of our plans for NACP."*

124. Clearly a certain amount of human management is required to manage the impact of the local community utilising the park and to favour suitable habitat to achieve a successful balance. Some limited weight can be afforded to the financial gain to support the wider site, however there are other plans and schemes being explored, which could support the site's management.

#### Concluding assessment

125. The proposed development has raised key concerns related to ecology, residential amenity and highways impacts. The impacts relating to individual elements of the proposed development have been assessed against key policies in the WLP. These policies generally weigh up the principle and merits of the proposal against the environmental considerations, whether on the natural environment or on matters relating to the impact upon the local community.
126. A starting point is WLP Policy W10.1 which permits disposal for reclamation purposes in former colliery spoil heaps, but this is subject to there being no unacceptable environmental impacts, whilst realising environmental benefits. The site has been largely restored into a country park and the imported material for the lakes would address outstanding safety and erosion issues, whilst benefits would be realised from the associated landscaping works and from the generated angling income which would allow the continuation of the wider site management and its development over the long term.
127. During the course of the application it was assessed that environmental benefits would not be achieved with the works to infill Lake 5, indeed an unacceptable

impact was likely. This likely harm to the environment and habitat of Lake 5 was also considered to outweigh any financial benefits which would arise from the waste disposal operation and any subsequent angling income at this lake. Following discussions, the applicant agreed to remove this element of the proposed application.

128. The ecological effects relating to the remaining elements of the proposed works have been carefully assessed. WLP Policies W3.21, W3.22 and W3.23 weigh up the impact on water features, biodiversity and nature conservation respectively, against the benefits of the proposed development. The assessment has not identified a conflict on ecological grounds, subject to careful mitigation around Lake 2.
129. The removal of the large Lake 5 element from the proposals has cut the volume of imported material by more than half, thus the total vehicle movements has similarly reduced thereby greatly mitigating the impact of the haulage of material on the amenity of local residents. The resulting scheme would still lead to some impact on local amenity with disturbance from deliveries during the haulage campaign. Daily HGV deliveries may run up to a maximum of 40, given the likely campaign basis of moving waste materials, however the overall duration of the operation would be significantly reduced and consequently impacts upon local and residential amenity in terms of possible associated noise, dust and mud would be mitigated in accordance with WLP Policies W3.9, W3.10, W3.11, W3.14 and W3.15 and which would be monitored for their effectiveness. A high tempo delivery campaign with a much smaller quantity of imported material would hasten the completion of the works, and is considered favourable as opposed to a longer duration operation. Measures to address road safety concerns and a routing requirement can be controlled. The proposed hours of operation are also considered to be acceptable.
130. The benefits which would be delivered need to be kept in mind, despite the remaining highway/amenity impact. Benefits which would arise from the development include the wider landscaping works; improving grassland and heathland habitat; and measures which would address erosion and drainage. Community benefits from increasing the scope of angling to Lake 2 and improving its amenity and safety would be achieved and a notable financial gain to the applicant to assist with the management of the country park would still be realised. It is recognised that the original proposals for Lake 5 would have entailed a significant amount of imported waste thus realising a larger fee income, as well as an on-going angling income, however the granting of a limited permission would still realise benefits for the applicant and the organisation are studying a large range of other schemes on the site, which may financially support the park. The removal of works at Lake 5 enables this part of the site to remain favourable to protected species and provides an opportunity for a more thorough ecological assessment to be made of this lake should a subsequent application be made.
131. The revised development is considered to achieve a necessary balance between wildlife and the community and is itself more in line with the ecological /management plan for the country park. The parts of the original scheme which

were assessed to be in conflict with policy have been removed, enabling the acceptable elements of the proposed development to now proceed.

132. The County Council is therefore of the opinion that the proposed development (as revised) is in accordance with WLP Policies W10.1 (waste disposal in...incomplete colliery spoil heaps), W3.17 (Green Belt), W3.20 (heathlands), W3.21 (water features), W3.22 (biodiversity) and W3.23 (nature conservation sites). Conditions are recommended to mitigate impacts arising against WLP Policies W3.9 (noise); W3.10 (dust); W3.11 (mud); W3.13 (drainage); W3.14 (vehicular movements); and W3.15 (vehicle routing). Landscaping and aftercare measures are in accordance with WLP Policy W4.5 and W4.9.
133. The County Council considers that any potential harm as a result of the acceptable elements of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

### **Other Options Considered**

134. The report relates to the determination of a planning application. Consideration was given to whether the original application scheme in its totality could be supported, however officer and consultee concerns were raised regarding one aspect of the works. Whilst the option of split decision was explored, the applicant opted to continue with the application in a reduced form, omitting the unsupported aspects and therefore the County Council is under a duty to consider the revised planning application as submitted.

### **Statutory and Policy Implications**

135. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, crime and disorder, human rights, the safeguarding of children, 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.

### **Implications for service users**

136. There are no implications on County Council services.

### **Financial Implications**

137. There are no financial implications for the County Council. The recommendation would require the sealing of a Section 106 agreement, the costs of which would be recovered from the applicant. The financial situation with the applicant's management of the country park is noted in the report.

### **Equalities Implications**

138. Newstead and Annesley Country Park is managed for the benefit of the community. The CAST venture is a community run project working with disadvantaged young adults around an angling backdrop. The fishing lakes have been designed with guidance from the British Disabled Anglers Association.

### **Crime and Disorder Implications**

139. The country park has seen incidences of unauthorised access by off-road vehicles, which has caused erosion and damage to ground conditions. The development would realise funds to support the maintenance of the site, as well as increasing authorised access to the angling lakes, which would provide passive surveillance over the park.

### **Human Rights Implications**

140. 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 may be affected. The proposals have the potential to introduce impacts of traffic noise and disruption upon local residents along the haul route. However, this would be a temporary impact which needs to be balanced against the wider benefits the proposals would provide for the improvement to the country park. Members will need to consider whether these benefits would outweigh the potential impacts.

### **Implications for Sustainability and the Environment**

141. The development would utilise inert waste to undertake works on the country park. The ecological or environmental impacts which would arise have been identified and considered in the report.

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

142. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; meetings during the course of the application; identifying the scope of information necessary to assess the proposal and liaising between interested stakeholders. The Waste Planning Authority has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; and have progressed the proposals towards a timely determination. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

## **RECOMMENDATIONS**

143. It is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be instructed to enter into a legal agreement under section



106 of the Town and Country Planning Act 1990 (as amended) to cover highway condition surveys and rectification works relating to an element of the public highway and the routeing of HGV traffic via the A611 and Annesley Cutting.

144. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement the Corporate Director for Policy, Planning and Corporate Services be authorised to grant planning permission for; the importation and deposition of inert waste into Lake 2; the importation and spreading of soils around Lakes 1 and 2; the reinforcement of the embankment between Lakes 4 and 5; and improvement of tracks. The approval is subject to the conditions set out in Appendix 2 of this report. Members need to consider the issues, including the Human Rights Act issues set out in the report and resolve accordingly.

**JAYNE FRANCIS-WARD**

**Corporate Director Policy, Planning and Corporate Services**

### **Constitutional Comments**

The Planning and Licensing Committee has authority to approve the recommendations set out in this report by virtue of its terms of reference. (NAB 31.10.13)

### **Comments of the Service Director - Finance (SEM 01/11/13)**

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

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

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

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

Newstead - Councillor Chris Barnfather

Report Author / Case Officer

Joel Marshall /Mike Hankin

0115 9696511

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

## APPENDIX 1

### RECOMMENDED PLANNING CONDITIONS

#### *Commencement /notification*

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).*

2. The Waste Planning Authority (WPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement or re-commencement of any phase of the development hereby permitted.

*Reason: To assist with the monitoring of the conditions attached to the planning permission and for the avoidance of doubt.*

#### *Approved details*

3. Unless otherwise agreed in writing by the WPA, or where amendments are made pursuant to the other conditions attached to the permission, the development hereby permitted shall be carried out in accordance with the following plans and documents:
  - Planning application forms received by the WPA on 17/10/12 and ownership certificate D, signed 02/04/2013 and received by the WPA on 05/04/13
  - Revised site Location Plan – NACP Plan 001 Rev C, dated 19/09/13 and received by the WPA on 27/09/13
  - Supporting Statement received by the WPA on 17/10/12
  - Drawing no. 1-375/801 Rev B, titled Drawing Showing Proposed Part Filling of Lake 2, dated 24/07/13 and received by the WPA on 29/07/13
  - Drawing no. 1-375/802 Rev B, titled Drawing Showing Part Filling of Lagoon 5, dated 23/07/13 and received by the WPA on 29/07/13. Works relating to imported subsoil on the bank between Lakes 4 and 5 only.
  - Drawing no. 1-375/804 Rev A, titled Drawing Showing Landscaping Around Lake 1, dated 20/02/2013 and received by the WPA on 29/07/13
  - Drawing no. 1-375/805 Rev B, titled Drawing Showing Landscaping Around Lake 2, dated 23/07/13 and received by the WPA on 29/07/13
  - Drawing titled NACP Plan-002 Rev A, titled Paths at Newstead and Annesley Country Park, dated 24/07/13 and received by the WPA on 29/07/13

- Drawing no. 1-375/807 Rev A, titled Lagoon Drainage and Interlinking Strategy, dated 20/02/2013 and received by the WPA on 29/07/13
- Site survey report (Opus Jones Pyke Ltd), dated June 2009 and received by the WPA on 17/10/12
- Ecology Report (EMEC) dated September 2012 and received by the WPA on 09/11/12
- Toad/Herpetofauna survey dated 28/08/13
- Letters from RCAN dated 02/07/13, 24/07/13 and 27/09/13

*Reason: To define the permission. For the avoidance of doubt works to remodel and infill Lake 5 and the building up of the surrounding track do not form part of this grant of permission. The north-eastern strip of Lake 2 is also not part of this permission.*

#### *Duration of works*

4. The importation of waste materials, landscaping and lake infilling works into/at the application site shall be completed no later than 24 months from the date of the commencement of the first phase of works as notified under the requirements of conditions 2 and 21, including the removal/use of any stockpiled material.

*Reason: To ensure that works are completed within a reasonable timeframe.*

#### *Material importation and movements*

5. Prior to any importation of waste as approved by this planning permission, a Materials Management Plan shall be produced and submitted to the WPA for its written approval. The plan should include details of:
  - a. The types and characteristics of waste materials proposed to be imported (including details of pH levels and soil phosphorous (P) at no more than Index 2) and the targeting of types to specific work areas.
  - b. A material testing/sampling regime to certify that the materials are clean and contaminant free.
  - c. The locations of existing stockpiles of colliery spoil to be used in lake capping and the routes needed to move this material.
  - d. The locations for any temporary stockpiling of inert imported materials and soils.
  - e. Soil handling procedures.
  - f. A methodology for compacting deposited material in Lake 2.
  - g. A methodology for keying in subsoil on the bank between Lakes 4 and 5.

Waste material importation shall not commence prior to the approval of the Materials Management Plan. Thereafter all works shall be undertaken in accordance with the approved management plan.

*Reason: To provide the optimum reclamation solution for the site thus ensuring compliance with Policy W10.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

6. Notwithstanding the requirements of Condition 5, nothing other than uncontaminated materials shall be imported onto the site comprising of soils, concrete, hardcore and other inert construction/demolition waste.

*Reason: To provide the optimum reclamation solution for the site thus ensuring compliance with Policy W10.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

7. No more than 11,420m<sup>3</sup> of waste material shall be imported onto the site to facilitate the lake remodelling and path works, of which no more than 5,626m<sup>3</sup> of sub and top soils shall be imported onto the site for landscaping works.

*Reason: To provide the optimum reclamation solution for the site thus ensuring compliance with Policy W10.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

8. Any temporary stockpiles formed from imported waste and soils shall be limited to no more than 4 metres in height, as agreed under condition 5(d) and shall be sited away from any lake. Alternatively stockpiles shall be sheeted during particularly inclement weather.

*Reason: To control the temporary nature of any approved works and to prevent nutrients washing into water bodies to accord with Policy W3.21 of the Nottinghamshire and Nottingham Waste Local Plan.*

9. Prior to the re-watering of Lake 2, the finished bed of Lake 2 shall be capped with layers of colliery spoil sourced from within the site, to a total depth of 1 metre. The layers should be compacted during the process in accordance with the methodology agreed under condition 5(f).

*Reason: To provide the optimum reclamation solution for the lake thus ensuring compliance with Policy W10.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Unexpected contamination*

10. If, during development, contamination not previously identified is found to be present in the imported material then no further development (unless otherwise agreed in writing with the WPA) shall be carried out until the developer has submitted a remediation strategy to the WPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the WPA. The remediation strategy shall be implemented as approved.

*Reason: Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to*

*or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.*

### *Hours of operation*

11. Unless in an emergency, which shall be notified to the WPA in writing within no more than 48 hours of its occurrence or with the prior written agreement of the WPA, works associated with the development shall only be permitted between the following hours:

<i>Operation</i>	<i>Permitted Working Hours</i>
Deliveries of inert waste, soils or other earth.	Mondays to Friday: 08.00 hours to 16.00 hours.  Not at all on Saturdays, Sundays, or Bank and other holidays.
Operation of on-site plant and machinery.	Mondays to Friday: 08.00 hours to 18.00 hours.  Not at all on Saturdays, Sundays, or Bank and other holidays.

*Reason: To minimise impacts arising from the haulage operation, so to protect the amenity of local residents, in accordance with Policy W3.9 and W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

### *Drainage*

12. Prior to the commencement of the development hereby approved, a Site Drainage Scheme, shall be prepared and submitted to the WPA for its written approval. The Scheme shall assess the storage volumes required for the site and ensure that the system has not been compromised. The current rates of run-off/discharge into local watercourses should be maintained.

*Reason: To ensure the former tip remains stable, through effective drainage and to ensure surface water is attenuated on-site, in accordance with paragraphs 103 and 109 of the NPPF.*

13. Prior to the dewatering of Lake 2 a project plan for the drawdown of the water within the respective lake shall be prepared and submitted to the WPA for its written approval. The plan should address potential impacts of the drawdown.

The methodology should ensure that a gradual reduction of water is undertaken to maintain ground stability and to avoid potential flooding downstream.

*Reason: To ensure the former tip remains stable, through effective drainage in accordance with paragraph 109 of the NPPF.*

14. Prior to the commencement of works at Lake 2, details of how water levels will be maintained at an agreed minimum depth, by means of a sluice system linked to the upper lagoon, shall be submitted to the WPA for its written approval. The approved scheme shall thereafter be installed and maintained for as long as a fishery is operating.

*Reason: To ensure adequate water levels are maintained at all times to support a fishery and aquatic wildlife, in accordance with Policy W3.21 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Haulage*

15. Prior to the commencement of the importation of waste materials and soils, a traffic management plan detailing measures to ensure the safe operation of HGVs into and out of the site shall be submitted to the WPA for its written approval. The scheme shall incorporate a methodology for enforcing a variable one-way system on the access track, the locations of signage and details of speed limits and driver instructions. The scheme shall be implemented in accordance with the approved details and maintained throughout all haulage periods.

*Reason: To ensure that HGVs are able to safely use the access track without endangering each other or other users, in accordance with Policy W3.15 of the Nottinghamshire and Nottingham Waste Local Plan.*

16. Signage and instructions to delivery drivers shall be provided, so to direct associated HGV traffic solely via the A611 and Annesley Cutting. Under no circumstances should the user-worked level crossing at the terminus of Annesley Cutting be used by any vehicles associated with the permitted development.

*Reason: To protect the residential amenity of Newstead village, in the interest of road safety and to protect the operational railway, in accordance with Policy W3.15 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Control of mud*

17. Measures shall be employed to ensure that mud and detritus from the site and from any associated vehicle movements is controlled and prevented from being deposited on the public highway. These shall include taking all or any of the following steps as appropriate:

- a. Daily environmental site inspections to monitor conditions in and around the site and access track.

- b. The use of a wheel wash facility and/or pressure washer to clean HGVs leaving the site and entering the highway including any associated drainage arrangements.
- c. Any additional steps or measures as requested by the WPA, should these measures prove inadequate.

In the event that these measures prove inadequate, then upon the written request of the WPA, a temporary cessation of material importation and/or material movements and site re-profiling (as prescribed) shall be made in order to prevent the deposit of materials upon the public highway.

*Reason: To reduce the possibility of deleterious material being deposited on the public highway (mud, debris etc), in accordance with Policy W3.11 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Control of dust*

18. Measures shall be employed to ensure that dust emissions from the site and associated vehicle movements is controlled and fugitive dust is prevented from leaving the site. These shall include taking all or any of the following steps as appropriate:
- a. Daily environmental site inspections to monitor conditions in and around the site and access track.
  - b. The use of water bowsters and/or spray systems to dampen the haul route, stockpiles, and working areas.
  - c. Any additional steps or measures as requested by the WPA, should these measures prove inadequate.

In the event that these measures prove inadequate, then upon the written request of the WPA, a temporary cessation of material importation and/or material movements and site re-profiling (as prescribed) shall be made in order to prevent the release of fugitive dust

*Reason: To minimise potential dust disturbance upon residential amenity in accordance with Policy W3.10 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Noise*

19. All plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the applicant) used on the site shall incorporate white noise reversing warning devices and be fitted with noise abatement measures and silencers maintained in accordance with the manufacturers' recommendations and specifications.

*Reason: To minimise potential noise disturbance at the site in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

*Ecology*

20. All reclamation works involving use of plant and machinery and all importation of materials shall cease by 1<sup>st</sup> March and shall not recommence until 1<sup>st</sup> September, unless the prior written approval of the WPA has been secured, and unless it can be demonstrated that Schedule 1 birds and amphibians would not be adversely impacted.

*Reason: To control the timing of the works around breeding Schedule 1 birds using the site, to minimise impacts on ecology and biodiversity in accordance with Policy W3.22 and W3.23.*

21. Prior to the commencement of works, a phasing schedule shall be submitted to the WPA for its approval in writing. The phasing shall aim to avoid ecologically sensitive periods. Restoration works shall thereafter be undertaken in accordance with the approved phasing plan.

*Reason: To minimise impacts on ecology and biodiversity in accordance with Policy W3.22 and W3.23.*

22. Prior to the remodelling works to Lake 2 commencing, final detailed plans of the contours of the proposed lake bed shall be submitted to the WPA for its consideration and written approval. The design should provide for a mix of differing water depths to create a variety of micro-conditions and habitats.

*Reason: To provide optimum aquatic conditions to support a fishery and other wildlife, in line with fishery advice and in accordance with Policy W3.21 of the Nottinghamshire and Nottingham Waste Local Plan.*

23. Unless with the prior approval of the WPA there shall be no planting made within Lake 2 and marginal vegetation shall be allowed to naturally re-colonise.

*Reason: To preserve the ecological conditions on this SINC site, in accordance with Policy W3.21 of the Nottinghamshire and Nottingham Waste Local Plan.*

24. Prior to the commencement of works at Lake 2, a method statement shall be submitted to the WPA for its consideration and written approval. The statement shall detail how areas of fringing vegetation shall be retained and protected during the works.

*Reason: In the interests of biodiversity and to provide satisfactory protection to a SINC qualifying population of common toads in accordance with Policies W3.21 and W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

25. As part of the works to Lake 2, the north-eastern strip of water shall be left watered and shall not be drained down. Re-modelling works in this area shall be limited to the island and land bridges.



*Reason: To provide available habitat for a large amphibian population, whilst works to the remaining lake area is completed in accordance with Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

26. Prior to the commencement of works at Lake 2, plans detailing the provision of new compensatory frog pool(s)/pond(s) in the vicinity of the lake shall be submitted to the WPA for its consideration. The agreed plans shall be implemented as part of the overall programme of landscaping at the site.

*Reason: To provide compensatory habitat for other amphibians which would not be compatible within a fishery, in accordance with Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

27. Prior to the commencement of works a method statement to protect reptiles and amphibians shall be submitted to the WPA for its written approval. The statement should identify mitigation measures which may include, but is not limited to; vegetation manipulation to displace reptiles/amphibians from the working areas; the provision of any temporary fencing to limit the working areas; and the creation of hibernaculae. Operatives undertaking works should be made aware of the potential presence of reptiles/amphibians on site and the recommendations of the method statement shall be implemented throughout the programme of works.

*Reason: In the interests of biodiversity and to provide satisfactory protection to species protected by the Wildlife and Countryside Act 1981 (as amended).*

28. Immediately prior to works commencing in any given working area, a survey for the presence of other protected species shall be made to ensure they have not become established. The survey findings shall be presented to the WPA and agreed in writing prior to the commencement of works. In the event that other protected species are found to use the site, additional mitigation measures shall be drawn up in consultation with the WPA

*Reason: In order to ensure the protection of wildlife and in the interests of nature conservation by safeguarding mammals in accordance with Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

29. Following the completion of works at Lake 2, an annual survey of the amphibian populations shall be undertaken and its results submitted in writing to the WPA for the subsequent three years.

*Reason: To monitor the impacts of the development on the reproductive success of the amphibian populations and identify any corrective works in accordance with Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

## *Landscaping*

30. Prior to the completion of soil spreading works a plan and statement of areas to be seeded and any other planting shall be submitted to the WPA for its approval in writing. Seed mixes and/or planting should be of native genetic origin and suitable for the local area, with the chosen mixes agreed with the WPA.

The scheme shall incorporate arrangements and methodology for a maintenance schedule of 5 years aftercare for consideration and approval.

*Reason: To provide for a satisfactory restoration scheme in the context of a SINC and to accord with Policy W4.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

31. As part of the submitted after-care scheme, a programme of works and established maintenance regimes should be identified for each year of the 5-year period and may include, but is not limited to, details of cultivations; weed control; vegetation management and remedial works to ensure suitable habitat conditions re-establish.

*Reason: To provide for a satisfactory restoration scheme in the context of a SINC and to accord with Policy W4.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Alternative Restoration*

32. Should, for any reason, lake infill or landscaping works at the application site cease for a period in excess of 12 months, then, within three months of the receipt of a written request from the WPA, a revised scheme for the restoration of the site shall be submitted in writing to the WPA for its approval in writing. Such a scheme shall include details of the final form of Lake 2, the provision and extent of soiling and seeding/planting in a similar manner to that submitted with the application and subsequently approved pursuant to conditions attached to this permission. The revised restoration scheme shall be implemented within 12 months of its approval by the WPA.

*Reason: To secure the site is satisfactory restored within an acceptable timescale and to accord with Policy W4.7 of the Nottinghamshire and Nottingham Waste Local Plan.*

#### *Other measures*

33. Suitable protective fencing and signage shall be deployed around active or incomplete areas of works so to protect members of the public utilising the rest of the park.

*Reason: In the interests of public safety whilst works are undertaken.*

34. Details of any fishing pegs, or platforms or other ancillary works shall be provided as a scheme to the WPA for its written approval. Works should be completed in accordance with the agreed scheme.

*Reason: To control any ancillary development.*

35. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, of the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges, and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land, or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

*Reason: To prevent pollution of the water environment in accordance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.*

### ***Informatives to applicant***

1. The works will require an Environmental Permit under the Environmental Permitting Regulations 2010. The applicant is advised to contact the Environment Agency (Everal Burrell on 0115 8463725) for further information. A regulatory guide (EPR:13- Defining Waste Recovery: Permanent Deposit of Waste on Land) is included for your attention. Additional 'Environmental Permitting Guidance' can be accessed via the Environment Agency website.

The supporting information refers to a CL:AIRE and you should be aware that in order to comply with the CL:AIRE Code of Practice, a declaration needs to be signed by a Qualified Person and submitted to the Environment Agency at:

Permitting Support Centre  
Quadrant 2  
99 Parkway Avenue  
Parkway Business Park  
Sheffield  
S9 4WF

Or emailed to [psc@environment-agency.gov.uk](mailto:psc@environment-agency.gov.uk)

A template of a Code of Practice declaration can be found in Appendix 5 of the CL:AIRE The Definition of Waste: Industry Code of Practice. Appendix 6 explains what is meant by a Qualified Person.

Any waste materials used on site which do not comply with the requirements of the above, would be subject to Environmental Permitting Regulations and other relevant legislative controls on waste. For further information please contact the Leics & South Notts EPR Waste Management Team on 03708 506506.

2. The Environment Agency advise that the choice of fish species and stocking density should be carefully considered and ideally the lake should be lightly stocked over a number of years as the fishery is allowed to mature.
3. There still remains the requirement to construct a permanent weir and discharge flume for Lagoon 5 to prevent the overtopping of the lagoon. This should remain a priority and the WPA are able to advise on its design.
4. The site would benefit from an overall master plan (or a revised master plan in the context of the application) to guide in a more comprehensive, planned approach, how the site will be developed in the medium to longer term. This could geographically illustrate the overall design aims and objectives of the Country Park and could be coupled with a design philosophy relating to the function and use of the various spaces, linked to the aims of the Environmental Management Plan.
5. You are advised to consult Network Rail Asset Protection ([AssetProtectionLNE@networkrail.co.uk](mailto:AssetProtectionLNE@networkrail.co.uk)) prior to haulage operations commencing in order to clarify whether a temporary licence is required and/or if bridge protection measures are necessary.

You are advised to provide the (when completed) Drainage Assessment to Network Rail for their consideration. The plans should ensure that there would be no increase to average or peak flows of surface water run-off leading towards Network Rail Assets.

All roads, paths or way of providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

6. A plan of Western Power Distribution's local network is attached.
7. With regards to condition no.15, signage to enact a 15 MPH speed limit along the access track is considered appropriate, with the exception of the approach to and passing under the railway bridge, where vehicles should be advised to proceed with particular care at a 'dead slow' speed.

