



**20 November 2012**

**Agenda Item: 7**

## **REPORT OF GROUP MANAGER PLANNING**

**ASHFIELD DISTRICT REF. NO.: 4/V/2012/0096**

**PROPOSAL: THE RESTORATION OF THE FORMER BENTINCK TIP SITE USING SITE DERIVED AND IMPORTED RESTORATION MATERIALS TO CREATE A RANGE OF OUTDOOR RECREATIONAL FACILITIES INCLUDING AN EQUESTRIAN CENTRE, FOOTBALL PITCHES, GOLF COURSE, DRIVING RANGE, CAMPING GROUNDS, FISHING POND, AND ADVENTURE PLAY AREA, INCLUDING LANDSCAPING, PLANTING, ECOLOGICAL ENHANCEMENTS AND THE INSTALLATION AND OPERATION OF TWO WIND TURBINES TO PROVIDE THE FACILITIES WITH RENEWABLE ENERGY.**

**LOCATION: FORMER BENTINCK TIP SITE, PARK LANE, KIRKBY IN ASHFIELD**

**APPLICANT: BROOMCO (1997) LIMITED**

### **Purpose of Report**

1. To consider a planning application for the restoration of the former Bentinck Colliery tip to a variety of recreational facilities including a golf course, equestrian centre, football pitches and camping grounds, some office units and areas of nature conservation interest. The application has been treated as a 'departure' from the development plan as the Waste Local Plan provides for the restoration of the tip site in conjunction with the adjacent Bentinck void site, and also because the proposed office units are considered to be inappropriate development in the Green Belt. The key issues relate to the impact on the openness of the Green Belt, the impact on protected species and habitats, and highways impact. The recommendation is to grant planning permission subject to conditions and a legal agreement.

### **The Site and Surroundings**

2. The application site covers an area of 83 hectares and comprises an elevated former colliery spoil tip (see Plan 1). The centre of Kirkby-in-Ashfield is approximately 2.5 kilometres north east of the site, Pinxton a similar distance to the north west, Sutton-in-Ashfield approximately five kilometres to the north, Mansfield approximately seven kilometres to the north east and Hucknall a similar distance to the south.

3. To the immediate east of the site are Kirkby Woodhouse with Annesley Woodhouse, Nuncargate and Annesley beyond these. Residential properties on Arthur Green Avenue, Beauvale Road and Beauvale Gardens in Kirkby Woodhouse, approximately 250 metres from the site boundary, have views across the tip site along with the isolated properties Croft Cottage, Old Bleak Hall and Bleak Hall Farm further south (see Plan 1). To the west of the site, on the opposite side of the M1, is Selston with properties on Royal Oak Drive approximately 100 metres from the site boundary. Kirkby Park's Farm is immediately adjacent to the western boundary of the site.
4. The B6018 Park Lane abuts part of the northern boundary of the site with the properties High Cliff and The Hollies close to one of the entrances to the site (see Plan 1). The remainder of the northern boundary abuts a railway line. Approximately 200 metres to the north of the site, the River Erewash flows in a generally east to west direction. To the immediate south of the site is Bentinck void which is a man-made landform resulting from opencast coal extraction which took place in the late 1980s and early 1990s. Land falls steeply from the tip as well as from land to the east and west towards the base of the void. To the south of the void is Salmon Lane which has a small number of isolated properties with views of the southern boundary of the tip site (see Plan 1), including Suvla Bay and a former mushroom farm at Leedale.
5. An area at the base of the void, approximately four and a half hectares in size, is filled with water and it is understood that the void lake is approximately 10 metres deep at its deepest. The void is fed by the Cuttail Brook which rises close to the Sherwood Business Park to the south of the site and passes under Salmon Lane through a culvert before flowing into the void at its southern edge. The brook continues from the northern edge of the void lake by entering a culvert which continues for approximately 1.1 kilometres beneath the site and beyond it to the north. The culvert was constructed during the development of the site for colliery spoil disposal. The culvert outlet is approximately 300 metres to the north of the site from where it flows a short distance before discharging into the River Erewash.
6. The tip site rises steeply from Park Lane with High Cliff and The Hollies being at approximately 120 metres Above Ordnance Datum (AOD) while the top of the tip is at an elevation of between approximately 145 metres AOD and 155 metres AOD. The tip site is dominated by approximately 44 hectares of unrestored former colliery spoil and capped and uncapped lagoons associated with the former Bentinck Colliery. This area is only sparsely vegetated, apart from the margins of the uncapped lagoons and isolated areas of colonising grasses, one of which extends to approximately one hectare towards the centre of the tip area. There are also a number of self set trees on the site, predominately silver birch. Most of the lagoons hold water and there are a series of drainage pipes which channel the water towards a number of settlement ponds to the north.
7. There are two vehicular accesses onto the tip site, both off Park Lane (see Plan 1). One is approximately 110 metres to the east of High Cliff while the other is close to the railway crossing and passes areas of hardstanding associated with the previous colliery related use of the site.

8. Surrounding the spoil tip to the west are areas of grassland extending beyond the site boundary to the motorway. Where the spoil tip falls steeply to the north towards Park Lane are two former haul roads on the tip, a number of settlement ponds and areas of scrub and tree planting. Further east is an area of grassland of approximately 18 hectares which forms the north eastern flank of the application site and again falls steeply from south to north.
9. A large proportion of the tip site, and indeed the void site, is designated as the Bentinck Void Site of Importance for Nature Conservation (SINC) having been identified as 'a mosaic of habitats of botanical and zoological note on the site of a former mine'. The designation covers an area of approximately 110 hectares (see Plan 2) and was originally made only for the void area in 2001. However, it was extended in 2007 to cover the tip area on account of its avian interest. Wharf Yard Bank SINC, described as 'a herb-rich calcareous bank', is a thin sliver of land just beyond the north east corner of the site covering an area of approximately 0.3 hectares and which is adjacent to Kirkby Woodhouse Bank SINC, described as a 'steep bank clothed in ruderal vegetation with a notable calcareous community' (see Plan 2).
10. A small section of land in the applicant's ownership outside the application site, in addition to the majority of the void site, is designated as the Annesley Woodhouse Quarries Site of Special Scientific Interest (SSSI). The SSSI was originally designated in 1982 on account of its unimproved dry calcareous grassland and covered an area of approximately five hectares to the immediate north of Salmon Lane. It was extended in 2011 to cover almost the entire void site, extending to approximately 33 hectares (see Plan 2). Its interest now extends to an outstanding assemblage of native amphibians, a breeding population of great crested newts and unimproved marshy grassland.
11. Bogs Farm Quarry SSSI is close to the south western corner of the tip site. This covers an area of 5.05 hectares and is designated due to its unimproved acid-loam grassland, marsh, flushes, open water pools and a wooded dumble. It is also designated as a SINC.
12. Kirkby Footpath Number 20 runs along the north western boundary of the site from opposite High Cliff on Park Lane to close to Kirkby Park's Farm, at which point it passes beneath the motorway before continuing in a southerly direction (see Plan 2). There are further rights of way to the south. The entire site lies within the Green Belt whilst land to the north forms part of Kirkby Park Mature Landscape Area (MLA).

## **Planning History**

13. The use of the site associated with Bentinck Colliery pre-dates the introduction of modern planning legislation. The first planning permission for the spoil tip following the introduction of the Town and Country Planning Act 1947 was granted on 17 February 1949 and the tip was then extended in a generally westerly direction under a series of interlinked permissions granted in 1950, 1967 and 1973.

14. A further extension to the tip was granted permission in 1982 which permitted the raising of the height of the tip and also the opencast extraction of coal from the most north westerly part of that site. This permission was implemented and the opencast area restored, with spoil disposal continuing on the remaining areas of the permission.
15. The final spoil tipping permissions were granted in 1986 (although only one was ever implemented) and covered the southern half of the tip site and also permitted opencast coal extraction and tipping on what is now the void site to the south. The opencast coal scheme commenced and proceeded in accordance with the permission, creating the void in anticipation of receiving colliery spoil at a later date.
16. Bentinck Colliery continued to operate with both tailings and dry dirt being deposited on the tip site alone. The mine shut for a brief period during the sale of British Coal's assets in 1994/5 with the colliery and tipping site being sold to Coal Investments in 1995 and the void sold off separately to Terry Adams Limited, a waste management company. Coal Investments went into liquidation six months after this purchase and the colliery tip site was subsequently bought by Midlands Mining Limited.
17. In October 1997, the void site was put forward as a proposed allocation for waste disposal in the Deposit Draft of the County Council's Waste Local Plan and in December of that year, Terry Adams Ltd submitted a planning application to restore the void through the importation of 5.5 million cubic metres of controlled wastes over an 11-year period (planning application 4/97/0755). In September 1998, a second planning application was submitted by Waste Recycling Group (WRG) to land raise and restore the tip site through the importation of controlled wastes (planning application 4/98/0558). The tip site had not been put forward as a proposed allocation in the Waste Local Plan.
18. The planning application for the void was scheduled to be reported to the County Council's then Environment Committee in January 1999. However, the Government Office for the East Midlands (GOEM) considered that determining the application prior to the Waste Local Plan public inquiry would prejudice the inquiry itself and any recommendations made in the Inspector's report, and consequently issued a holding direction preventing the County Council from approving the application.
19. Following the public inquiry, the Inspector produced his report in March 2000 by which time Bentinck Colliery had ceased coal production, although the tip site continued to be used for the disposal of colliery spoil until that April. The Inspector recommended that the proposed Bentinck allocation be extended to include not only the void but also the whole of the tip site. However, he did stress that the tip should only be restored using inert wastes (soils, rubble etc) and that non-hazardous waste should be limited to the void. This was to allay fears of the site being seen as a 'super tip'. The Waste Local Plan was finally adopted in January 2002 with the Bentinck allocation as per the Inspector's recommendation. Prior to this, in May 2000, the planning application for the tip was refused permission principally because it was not in accordance with

emerging plan policy which required the tip to be restored with inert materials only.

20. With the tip and the void in separate ownership (by this time the void site had been sold by Terry Adams Ltd to another waste management company, Viridor), lengthy discussions between the County Council and the various interested parties took place as the Waste Local Plan required a scheme that would lead to their joint restoration. Finally, in October 2006, 'twin-tracked' applications were submitted to the County Council for the landfilling and restoration of the void and the restoration of the tip using inert materials. At this time, the previous application for the void was withdrawn.
21. During the determination of the applications for the void and tip, a further application was submitted to the County Council to cap some of the lagoons on the tip site with inert waste arising from the M1 widening works. Planning permission was granted in July 2008 but the permission was never implemented.
22. In June 2009, the County Council approved some remedial works to address problems caused by continuous erosion of the northern flank of the tip. These works involved the importation of approximately 11,000 cubic metres of inert material using an existing access point off Park Lane and also included improved drainage provisions. These works have been completed and this area of the northern flank of the tip has been seeded and restored.
23. In May 2011, another planning application was submitted to import approximately 30,000 cubic metres of inert materials onto a small part of the tip site measuring 1.8 hectares. Planning permission was granted that July and the permission was subsequently varied in October 2011 with respect to HGV numbers. Once again, these works have been completed although some restoration works remain outstanding.

### **Proposed Development**

24. It is proposed to restore the spoil heap to a suitable landform in order that a number of recreational and other end uses can be developed on the site. These end uses can be summarised as follows and are broadly outlined on Plan 3.
  - (i) An 18 hole golf course, driving range, clubhouse, car park and greenkeepers' building;
  - (ii) Three football pitches with changing facilities;
  - (iii) An equestrian centre including stables, ménage, paddocks, and horse riding trails;
  - (iv) Caravan and camping area, including toilet/shower facilities and a dwelling for a site manager;
  - (v) Adventure playground and picnic area;

- (vi) Fishing pond;
  - (vii) Outdoor classroom;
  - (viii) Bird hide;
  - (ix) A building containing six office units;
  - (x) Two wind turbines;
  - (xi) A statue indicating the site's previous mining heritage;
  - (xii) Areas of nature conservation interest.
25. In order to create a suitable landform for the above facilities, the application proposes to import approximately 495,000 cubic metres of inert restoration materials onto the site. The application envisages the material being imported over a five year period in a series of six phases (see Plan 4). Phase 1 would restore the northwest corner of the site with works then progressing in a southerly direction through phases 2 and 3. The northeast corner of the site would then be restored in phase 4 with works then progressing west and south through phases 5 and 6. The phasing has been designed to allow part of the proposed facilities to commence after approximately three years, including nine holes of the golf course, the driving range, the football pitches, and the opening of the clubhouse.
26. In addition to the importation of inert materials, the restoration works would also utilise a small amount of restoration soils already on the site in addition to including cut and fill operations to provide the necessary landform. It is also proposed to cap the lagoons on site with a capping layer of two metres, an operation which would utilise approximately 130,000 cubic metres of the material to be imported. Regrading would take place around the lagoons to reduce the gradients of the embankments. Other earthworks proposed include the provision of screening mounds around the driving range and around areas of nature conservation interest and to provide raised tees on the proposed golf course.
27. Once the final landform has been achieved, it is proposed to place soils to differing depths depending on the final land use proposed. Topsoils would be approximately 100-150mm thick on areas to be grassed while tree planting areas would have a minimum topsoil depth of 300mm. The final overall height of the tip would not be dissimilar to how it is at present with the highest part of the site being approximately 158 metres AOD in the south west corner.
28. The proposed restoration works would take place between 7am and 6pm Monday to Friday, and 7am to 1pm on Saturdays. No works are proposed on Sundays or Public and Bank Holidays. The planning application states that restoration of the site would result in 45 HGVs visiting the site per day, which would equate to approximately 250 HGV trips (500 movements) per week. There would also be a number of HGVs which would need to visit the site during the construction of the various facilities detailed below.

29. The various proposed facilities are now discussed in greater detail.

Golf course, clubhouse, driving range and greenkeepers' building

30. The largest proposed development on the site, in terms of the area of land it would cover, would be the 18 hole golf course. The course would measure almost 7,000 yards in length with the first nine holes covering much of the eastern side of the site and the inward nine holes being around the periphery of the western half of the site (see Plan 3). The course would open at 7.30am when daylight allows and would close at 8pm seven days a week.
31. The course would start and end close to the proposed two storey clubhouse which would provide male and female changing facilities, a club shop, and toilets on the ground floor, and a café/bar area (including kitchen), a function room and toilets on the first floor (see artist's impression provided in the application on Plan 5). The clubhouse building would have two storeys with a footprint measuring approximately 29 metres by 18 metres. There would be outdoor terrace areas on the first floor and the design of the proposed building is modern with extensive areas of glazing and timber and copper cladding. The two main sections of the building would have sloping south facing roofs. In order to facilitate golfers and users of the driving range at the start of the day, the clubhouse would open at 6am and, in the event that there are functions in the function room, such as a wedding reception, it is proposed to keep the clubhouse open until 2am.
32. To the west of the clubhouse, it is proposed to site a driving range (see Plans 3 and 5). The driving range would have 20 covered bays resulting in a driving range building measuring 73.5 metres in length, 8.6 metres in depth and just over four metres in height. The building would be clad with timber sides and a metal roof. The driving range would be floodlit to allow it to be used during the evenings. Nine lights would be mounted on the driving range building with another eight set into the ground on the range itself. The range would measure approximately 250 metres in length and would be surrounded by a three to four metre high bund. The proposed operating hours for the driving range would be 6am until 11pm.
33. To the immediate south of the driving range, it is proposed to construct a greenkeepers' building. This would store the various pieces of equipment required for the maintenance of the golf course and would also have a small welfare area for the greenkeepers. The building would measure 25 metres in length, nine metres in width and would be five metres high at the ridge of the shallow pitched roof. It would have four roller shutter doors on the southern elevation along with an entrance door to the welfare area. The building would be clad with metal sheeting.
34. To the east of the driving range it is proposed to locate the main car park for the site (see Plan 5). The application states that the golf course and driving range, once completed and open to the public, would generate approximately 200 vehicle trips per day. The car park would have approximately 150 spaces and would be surfaced with grasscrete or a similar material. The car park would be

lit outside daylight hours by a number of bollards with integrated lamps measuring 1.1 metres in height. There would be a low screening mound around the perimeter of the car park along with some tree planting. It is also proposed to erect a statue close to the clubhouse which would reflect the site's previous mining heritage (see Plan 5).

### Football pitches and changing facilities

35. It is proposed to install two full sized and one  $\frac{3}{4}$  sized football pitches to the south of the driving range (see Plan 3). The application states that there is a local recognised need for additional football pitches which these pitches would help to meet. Football matches would take place on Tuesday and Wednesday evenings (up to four games per evening), Saturdays (six games) and Sunday mornings (two games) with training sessions throughout the week. The application anticipates the use of the football pitches generating 80 vehicle trips on weekday evenings, 120 on Saturdays and 40 on Sundays. The pitches would also be used for other recreational and community events, such as cricket, summer fayres and charity events, outside the football season.
36. Changing facilities would also be provided in a building adjoining the greenkeepers' building and would comprise four changing rooms with adjoining showers and toilets and a changing area for officials. The building would measure 11.4 metres by 8.8 metres and, similar to the greenkeepers' building, would have a shallow pitched roof measuring four metres in height at the ridge. The building would be clad in either timber or metal.

### Equestrian centre including stable, ménage, paddocks, and horse riding trails

37. An equestrian centre is proposed on the northern flank of the site, east of the main access road (see Plan 3). Four paddocks would cover a combined area of approximately three hectares (300 metres by 100 metres) and would be demarcated by 1.4 metre high post and rail timber fencing. A ménage and a building containing stable blocks, a hay store and an office would be located in the north west corner of the paddocks. This building would measure approximately 73 metres in length and would provide 15 stable boxes each measuring 3.6 metres square, two small tack rooms, an office and welfare facility measuring 7.2 metres by 3.6 metres, and a hay store measuring nine metres by 4.8 metres. The doors into the stable blocks, tack rooms and office, in addition to the open elevation of the hay store, would face north and an area of concrete hardstanding approximately 4.4 metres wide would be laid in front of them. All the buildings would be clad in timber and would have a pitched roof extending to 3.7 metres high at the ridge.
38. The ménage would be in front of the stable block and would measure 60 metres by 30 metres and would be a flat area surfaced in sand and enclosed with post and rail timber fencing approximately 1.4 metres high. The ménage would provide facilities for riding lessons, show jumping and dressage. To the northwest of the ménage would be a small car park providing 19 spaces. This would be accessed by a spur road off the main access road. The number of vehicles accessing the equestrian centre would be approximately 8 during the week and 16 at weekends.
39. Around the perimeter of the paddocks, it is proposed to install a horse riding trail (see Plan 3). This would link in with a longer trail which would be approximately four kilometres long and would travel around the entire perimeter of the

application site. This longer trail would be separated from the golf course by fencing and landscaping where necessary.

#### Caravan and camping area

40. Also on the northern flank of the site to the west of the main access road and adjacent to some small settlement ponds, it is proposed to have a caravan and camping area (see Plan 3). Caravans would be located on the northern part of this area with camping pitches provided to the south and it is proposed to reinforce the existing screening mound to the north of this area to provide suitable screening from the two nearby residential properties on Park Lane. The area would be able to accommodate approximately 20 tents and 30 caravans.
41. Shower and toilet facilities would be provided on the eastern edge of this area in a building measuring ten metres by nine metres, with the pitched roof having a ridge height of 4.3 metres. The building would be clad in wood and would have separate male and female shower/toilet facilities along with disabled toilets and pot washing facilities. Adjacent to this, it is proposed to have a campsite manager's office and accommodation which would allow the site to be managed 24 hours a day. Again, this building would be timber clad and would measure 11.7 metres by 7.2 metres with a roof ridge height of four metres. The building would provide a living area, kitchen, bathroom and one bedroom, along with an office/shop/reception area.

#### Adventure playground, picnic area, fishing pond and outdoor classroom

42. To the immediate south of the caravan and camping area, it is proposed to construct an adventure playground comprising play equipment such as wooden climbing frames, swings and slides (see Plan 3). The area would be enclosed by timber post and rail fencing and a hedgerow and there would be picnic benches close by.
43. To the east of the caravan and camping area, it is proposed to stock an existing lagoon on the site with fish (see Plan 3). A number of fishing pegs would be installed around the perimeter of the pond and some additional planting would be provided. To the north of this, it is proposed to construct an outdoor classroom for use by local schools, scouts and guides (see Plan 3). A timber structure measuring five metres square and three metres in height would be provided along with educational interpretation boards describing the biodiversity on the site.

#### Office units

44. Close to the northern boundary of the site to the east of the main access off Park Lane, it is proposed to provide six office units within a single building (see Plan 3). The building would measure 26 metres by 11 metres and would be eight metres high to the roof ridge which would be slightly curved to reduce the height of the building. Four office units would be provided on the ground floor, each measuring approximately ten metres by five and able to accommodate five

employees each, with two more units on the first floor roof space measuring approximately ten metres by nine and able to accommodate another five employees each. It is proposed to limit the use of the offices to Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) which would allow them to be used for offices, research and development, studios, laboratories, and high technology.

45. The ground floor offices would be accessed via glazed double doors set within glazed windows, while there would be glazed doors at either end of the building to allow access to the two first floor office units. The building would be timber clad on the walls with aluminium cladding on the roof. Car parking spaces would be provided in front of the offices which would be accessed by the same spur off the access road which would lead to the equestrian centre. If all the offices were accommodated, the application states that there would be approximately 30 vehicle trips per weekday.

#### Wind turbines

46. It is proposed to construct two wind turbines on the site to provide renewable energy for the various other facilities proposed. One turbine would be located to the south west of the football pitches with the other further north to the north west of the driving range (see Plan 3). The turbines would measure a maximum of 34.2 metres from the ground to the tip of the blade at its maximum elevation with the blade hub being 24.6 metres above ground level (see Plan 6).

#### Building construction programme

47. The application provides details of the building construction programme of the various facilities detailed above. These would be constructed at various times during the restoration works. Regarding timescales and the number of HGVs and other vehicles involved, these can be summarised as follows:

Facility	Construction duration	HGV trips per day	Light vehicle trips per day
Clubhouse, driving range and football changing rooms	6 months	2	10
Equestrian centre and offices	14 months	2	10
Camping area, shower block, play area, outdoor classroom	4 months	2	10
Wind turbines	1 month	8	16

#### Areas of ecological interest and landscape planting

48. In recognition of the site's SINC status and the various protected species known to be on the site, including great crested newts (GCN) and little ringed plover (LRP), the restoration scheme proposes areas of ecological interest which would be separate from the various human-based activities on the site. Two large lagoons on the western side of the tip plateau would be regraded to form suitable habitat for LRP and other wading birds. Shorelines of sand and shingle would be provided along with spits and islands. It is proposed that the golf course would have suitable 'out of bounds' areas marked out which would ensure that golfers do not disturb birds in these areas. It is also proposed to construct a bird hide close to the northern most of the two large lagoons (see Plan 3).
49. On the eastern side of the tip plateau, it is proposed to retain ponds and lagoons to provide suitable habitat for GCN. The ponds would be connected by ditches and suitable foraging areas are proposed in the surrounding habitat. The ponds and lagoons would have reed beds of which there are already some present on site. It is also proposed to retain the small settling ponds towards the northern boundary of the site.
50. Significant areas of woodland are proposed as part of the restoration of the site which would be beneficial to foraging bats while there would also be areas of scrub, unmanaged grassland and areas set aside for natural regeneration. The proposed woodland planting would primarily comprise ash, hawthorn, maple, oak, silver birch, alder and willow whilst shrub planting would include hazel, dogwood, elm, hawthorn and holly.
51. The applicant is proposing to enter into an extended ten year aftercare period for the areas of ecological interest described above.

### **Details of Submitted Planning Application and Environmental Statement**

52. The planning application has been submitted with an environmental statement (ES) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (The EIA Regs) which, in addition to describing the site setting and the proposed development, includes sections on landscape and visual impact, restoration, ecology, highways, hydrology and cultural heritage.
53. In light of consultation responses and representations from members of the public, additional information has been sought from the applicant and submitted under Regulation 22 of the EIA Regs. This submission included an Ecological Mitigation and Management Plan (EMMP) which details the measures that would be undertaken to prevent any adverse impacts on the features of ecological importance at the site. Further information was submitted under Regulation 22 to confirm the size of the proposed wind turbines.

### **Consultations**

54. *Ashfield District Council supports the application subject to the resolution of matters regarding the disposal of surface and foul drainage; the implications of a*

100% culvert blockage; the implementation of dust mitigation measures; the implementation of an appropriate and comprehensive landscaping scheme; the protection of the existing biodiversity on the site; limiting the employment uses of the proposed offices to B1 and B2; and maximising opportunities to connect the accessible green network of Selston and Annesley Woodhouse and Kirkby-in-Ashfield.

55. Annesley and Felley Parish Council has no objection to the application.
56. Selston Parish Council supports the application.
57. Derbyshire County Council seeks a condition attached to any planning permission requiring all HGVs associated with the restoration of the site to be routed from the A38 via the B6018. The provision of walking, cycling and horse riding routes which connect to existing routes should be sought.
58. Amber Valley Borough Council has no comments to make on the application.
59. Bolsover District Council has no comments to make on the application.
60. The Environment Agency has no objection to the application subject to conditions regarding the disposal of foul drainage, a programme for the inspection of the Cuttail Brook culvert, and the implementation of any remedial measures required to the culvert.
61. Sport England has no objection to the application and notes that the Ashfield District Council Playing Pitch Strategy (2008) highlights a shortfall in junior and mini football pitches. Concerns are raised about the changing facilities as these would not meet the Football Association's minimum guidance. A condition is recommended requiring the football pitches to be constructed to appropriate standards and any alternative uses of the pitches should avoid vehicles crossing the pitches, creating ruts and affecting the drainage of the pitches.
62. Natural England raises no objection to the application subject to the provision of a surface water ditch on the south eastern boundary of the site adjacent to the Annesley Woodhouse Quarries SSSI. The ditch should include the provision of an outfall to maintain water flow into ponds in the adjacent SSSI, along with a programme of maintenance in order to maintain a free flow of surface water along the ditch.
63. Regarding the proposed wind turbines, Natural England does not consider that they would adversely affect any international or national statutory designated sites. However, it is acknowledged that the application site is designated as a local wildlife site and therefore comments from the County Ecologist and Nottinghamshire Wildlife Trust should be sought. If the planning authority is aware of the presence of a protected or Biodiversity Action Plan (BAP) species on the site, survey information should be requested from the applicant before determining the application.
64. Natural England does not consider that the proposed development would adversely affect great crested newts so long as the proposed mitigation in the

*EMMP is implemented. Conditions should be attached to any planning permission granted to ensure that these measures are carried out.*

65. *Natural England supports the restoration scheme which would deliver a range of Local BAP habitats for a variety of fauna. The changes to the site layout are welcomed and potential disturbance would be mitigated further by the use of sealed glazed windows on the western elevation of the clubhouse; the provision of lighting on the driving range which minimises light spill; the reduction of visual and acoustic disturbance to the wildlife areas; the provision of a designated footpath to the bird hide; and signage and information for golfers to prevent access to sensitive wildlife areas.*
66. *Nottinghamshire Wildlife Trust (NWT) considers that the removal of one of the football pitches and the creation of 'out of bound' areas, combined with the embankments around the football pitches and driving range would reduce the impact of the proposed development on LRP and also keep the wetlands suitable for other waders. The level of detail in the EPPM is welcomed such as details regarding the availability of different soil materials, the provision for grasshopper warbler, the better buffering of water vole habitat, and the means of educating users of the site as to the importance of the 'out of bounds' areas and the value of the wildlife.*
67. *Regarding the impact on dingy skipper, replacement habitat should be kept as open as possible and proposed new planting near the equestrian centre car park should not be planted. Regarding the creation of new ponds and wetland areas, the higher number of ponds are welcomed but further should be provided to compensate for the overall loss of 0.8 hectares of ponds and wetlands. Provisions should be put in place to prevent geese from grazing on newly planted reedbed. The proposed bund around the large pond towards the southwest corner of the site is welcomed as it would reduce disturbance to LRP. The changes to the restoration scheme and the details set out in the EMMP confirm that the predicted effects on overwintering and breeding birds have been reasonably mitigated. The additional aftercare period is welcomed.*
68. *Despite the restoration scheme being acceptable, NWT objects to the application due to the potential damaging ecological effects of the proposed wind turbines on species protected by law (birds and bats). The applicant's calculations on the impacts on Schedule 1 (Wildlife and Countryside Act) 1981 and Annex 1 (EU Birds Directive) birds should have been made in relation to local populations, not national populations, as turbine developments nationwide are going to have a cumulative effect on national bird populations. This is particularly relevant for peregrines which are found in low numbers in the county and where the loss of an adult bird would have a significant impact. Reference is made to potential impacts on peregrines and a recent appeal decision in Scotland where an application for two 100 metre high turbines was refused planning permission, partly on account of its potential impacts on birds. Concerns are also raised regarding the impact on bats which fly over open spaces so the turbines are likely to be a risk unless they can be turned off at night.*

69. *NCC (Nature Conservation) has made a number of comments, particularly following the submission of the Regulation 22 response including the EMMP, which sought to address the concerns initially raised on the application.*
70. *Regarding the impact on GCNs, Natural England must be satisfied regarding the details submitted, although it is noted that the 22 proposed new ponds would result in lost ponds being replaced on a 2:1 basis, in line with Natural England's requirements, and the quality and connectivity of the ponds would be greatly increased. Under the Conservation of Habitats and Species Regulations 2010, local planning authorities have a statutory duty to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of the planning authority's functions. This includes consideration of the 'three tests' which are that the activity is for the purpose of preserving public health or safety or for other imperative reasons of overriding public interest, there is no satisfactory alternative, and the favourable conservation status of the species concerned would be maintained. The first two tests are planning issues but it is considered that the favourable conservation status of GCNs would be maintained at the site.*
71. *Regarding the impact of the proposals on the adjacent SSSI, these appear satisfactory but Natural England should be consulted on these matters.*
72. *It is considered that the issues relating to the proposed wind turbines, within the context of potential impacts on birds and bats, have now been sufficiently assessed and no significant impact on either species group seems likely. Confirmation is also provided that the turbines would be located such that they would be 50 metres away from habitats likely to support foraging and commuting bats, as recommended by Natural England's guidance, but a condition is recommended confirming this perhaps requiring micro siting details to be submitted prior to the turbine's installation.*
73. *There is now more confidence that the LRP mitigation measures would be more successful given the changes to the site layout, the provision of 'out of bound' areas, the sealing of glazing units on the western elevation of the clubhouse etc.*
74. *Regarding the impact on dingy skippers, it appears that more than the 25% of habitat stated in the ES would be lost. An area to the north of the proposed fishing pond has potential for dingy skipper and other invertebrates and confirmation is required that this would be retained and natural regeneration allowed to proceed. A narrow strip of land to the south and east of this pond is earmarked for tree planting but again should be allowed to naturally regenerate. Confirmation is also required as to the location of south-facing banks around the practice range.*
75. *Recommended changes to planting mixes have been made but a number of grassland seed mixes need to be modified to ensure they only use common and widespread species appropriate to the local area. These should be secured through a condition requiring a detailed landscaping scheme to be submitted.*

76. *The presence of Sorbus, Norway maple and sycamore in the existing plantation woodland should be addressed through thinning operations. The commitment to an additional five years of aftercare is welcomed.*
77. *The Highways Agency has no objections to the application subject to any ground level changes not compromising any existing Highways Agency drainage asset or causing changes to the existing water flow likely to affect the safe operation of the motorway. Any lighting in the vicinity of the motorway would need to comply with the guidance and recommendations in the Institute of Lighting Engineers Technical Report TR05 Brightness of Illuminated Advertisements (2001). A number of conditions are recommended regarding the lighting on the site.*
78. *NCC (Highways) notes that the original Transport Assessment (TA) submitted in 2011 clearly identifies that the ratio to flow capacity of Church St/Chapel St mini-roundabout, Kirkby-in-Ashfield is currently below the optimum junction performance. The report indicates that the restoration phase of the proposal would generate 90 additional HGV trips per day, which would invariably generate additional traffic using this island. Furthermore the TA indicates that this would give rise to unacceptable environmental impacts due to the level of queuing vehicles. The proposed mitigation of relatively simple changes to horizontal junction geometry would reduce queuing from 65 to less than 13 vehicles (2018 base-line). This effectively reduces the length of queuing by approximately 300 metres, which would yield a significant net community benefit in terms of junction operation.*
79. *Without considering the junction reaching its theoretical capacity in 2016, the restoration phase would immediately place additional pressure on the mini-roundabout. It is therefore not unreasonable to expect the applicant to mitigate against the impacts of additional traffic generated by this particular proposal.*
80. *The supplementary comments submitted in July 2012 are not entirely accepted. Paragraph 32 of the National Planning Policy Framework (NPPF) indicates that any development that generates a significant amount of traffic should be supported by an appropriate TA and plans and decisions should take account of opportunities for sustainable transport; safe and suitable access to a site for all people; and cost effective improvements within the transport network that limit the significant impacts of the development.*
81. *The additional information changes the approach to the proposed increased traffic flows at the mini-roundabout and concentrates on a single element of the above requirements (sustainable transport) to try and avoid the applicant providing any junction improvements to the existing network. However, the original TA indicated that the quality of existing public transport in the vicinity of the site is poor and difficult to improve. Furthermore, accessibility by non-car modes was considered as not viable because of the existing constraints such as site remoteness and surrounding topography.*
82. *Clearly, the NPPF advocates all three requirements (sustainable transport, safe and suitable access, and cost effective improvements which limit significant impacts) being considered which the original TA indicated. The supplementary information states that "some basic improvements to the Church Street/Chapel*

Street junction were set out in the environmental statement to demonstrate how the junction could be amended to continue to operate within its operational capacity". The proposed improvements provide a cost effective improvement to limit significant impacts of the development, as required by the NPPF. Therefore, it is considered reasonable for the HA to request an appropriate condition to provide these improvement works before the development works commence as traffic generation would occur as soon as the restoration works begins. The principles of the proposed mitigation are acceptable but they will be subject to an agreement under Section 278 of the Highways Act and detailed design checking as part of that agreement.

83. *Regarding the impact of the proposed development during its operational lifetime, the calculations are accepted as robust. The TA has examined the signal controlled junction of the A38 and Sutton Road which shows that the junction currently operates over capacity which is confirmed by observations on site. However, the effect of the development traffic on this junction is slight and it would be unreasonable to expect any mitigation measures to be implemented at this junction as a result of this development.*
84. *In addition to the legal agreement to cover the improvements to the mini-roundabout, a lorry routeing agreement should also be established to prevent HGVs from travelling through the centre of Kirkby-in-Ashfield. Conditions are recommended regarding the provision of visibility splays at the site entrance; the construction of the access road in a manner which prevents the discharge of surface water onto the public highway; the provision of measures which prevent the deposit of debris onto the public highway; the construction of the access layout; the surveying of a section of the B6018 on an annual basis to monitor damage from HGV movements associated with the restoration proposals; limiting the daily and weekly number of HGVs entering and leaving the site; and internal infrastructure on site such as car/cycle parking, turning facilities, access widths, gradients, surfacing, street lighting, structures, visibility splays, and travel plan. Various other matters should also be brought to the applicant's attention.*
85. *NCC (Road Safety) notes that there is no mention in the application of access to and from the site for cyclists and pedestrians.*
86. *Network Rail recommends conditions be attached to any planning permission granted regarding drainage; the proximity of any development, plant and machinery to the railway line; fencing adjacent to the railway line; the location of trees in close proximity to the railway line; the use of the level crossing by plant and machinery; and the types of waste used in the restoration works.*
87. *The Coal Authority considers that the coal mining legacy issues are unlikely to pose a risk to the proposed restoration of the site and the construction and operation of the various outdoor recreational facilities. More detailed consideration needs to be given to ground conditions and foundation design in respect to the construction of more permanent structures, including the wind turbines. Consideration also needs to be taken regarding the seismic charges previously placed in boreholes at the site and advice provided on a previous application should be considered. Subject to these matters being addressed, the Coal Authority has no objection to the proposed development.*

88. *NCC (Planning Policy) raises no strategic planning policy objections to the proposed development. The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development which should be seen as a golden thread running through plan making and decision taking. It is considered that the proposals in general are acceptable in terms of their compliance with the principles of the NPPF as they would regenerate the site, provide employment opportunities and create recreational opportunities for the wider community.*
89. *The proposals, through the provision of a number of outdoor recreational facilities, would accord with the NPPF's stance on Green Belts at paragraph 81 which requires local planning authorities to "plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain landscapes, visual amenity and biodiversity; or to improve damaged and derelict land."*
90. *Paragraph 89 of the NPPF sets out a general presumption against inappropriate development within the Green Belt and new buildings are considered to be inappropriate. The onus lies with the applicant to demonstrate that very special circumstances exist for the proposal which would outweigh any harm to the Green Belt, and to demonstrate that there are material considerations which outweigh both the harm arising from the fact of inappropriateness and any other harm caused to the Green Belt by the proposed development. The ES submitted with the application sets out a credible approach in assessing the need for the development in this Green Belt location and it is therefore considered that the new build element of the proposal would not cause detrimental harm to the Green Belt and so no strategic planning objections are raised.*
91. *Paragraph 55 of the NPPF considers housing in rural areas and states that "local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as .... the essential need for a rural worker to live permanently at or near their place of work." Provided that the rural worker's dwelling is sufficiently justified, there are no strategic planning objections to this element of the proposed development.*
92. *It is considered that the proposed development would provide a number of employment opportunities and would contribute to the local economy through the provision of recreational facilities and the ensuing need for local services and facilities. In addition, the site is relatively well placed in terms of access to local facilities and the road network. The restored site would improve the surrounding environment, thus contributing to the quality of life of neighbouring residents. As the NPPF supports economic growth, it is considered that the proposed development accords with the aims and objectives of the NPPF.*
93. *The NPPF supports development that provides good quality open space and the provision of the opportunity for sport and recreation, and recognises how it can contribute to the health and well-being of communities. The provision of football, golf, fishing and equestrian facilities is supported.*

94. *There are clear national strategic targets for renewable energy generation. The Government sought to generate 10% of UK electricity from renewable sources by 2010 and its aspiration by 2020 is 20%. The UK is legally bound by the EU to generate 15% by 2020. In July 2011, the Government published 'Planning our Electric Future, a White Paper for Secure Affordable Low-Carbon Electricity' and 'The UK Renewable Energy Roadmap'. The white paper sets out the Government's commitment to transform the UK's electricity system to one that is secure, low-carbon and affordable. The 'roadmap' sets out a comprehensive action plan to accelerate the UK's deployment and use of renewable energy, with the aim of putting the country on the path to achieve the national 2020 renewable energy target while driving down the cost of renewable energy over time. The Government has also published National Policy Statements (NPSs) on energy infrastructure, including NPS EN-1 which provides the overarching energy statement and NPS EN-3 on renewable energy infrastructure. These statements are material considerations when dealing with smaller infrastructure projects, such as wind farms below 50 megawatts.*
95. *Paragraph 97 of the NPPF recognises the responsibility of all communities to contribute to energy generation from renewable of low carbon sources while paragraph 98 states that "when determining planning applications, local planning authorities should .... not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application (unless material considerations indicate otherwise) if the impacts are (or can be made) acceptable."*
96. *The overall national planning policy context in relation to wind farms is strongly supportive of the principle of wind farms and the wide benefits of deploying renewable energy technologies in tackling climate change and so no strategic planning objections are raised to this element of the proposed development. Landscape comments should be sought.*
97. *Regarding consideration against the Waste Local Plan (WLP), it is envisaged that the tip site would be restored as part of a comprehensive restoration scheme involving the landfilling of the adjacent void in accordance with Policy W10.4. However, as such a scheme is now unlikely to be implemented, the scheme should be considered against Policy W10.1 which provides for the reclamation of incomplete colliery spoil heaps through waste disposal provided that they achieve environmental benefits, meet a recognised need for additional disposal capacity, and do not have an unacceptable environmental impact. Regarding the need for additional disposal capacity, there is approximately eight years of inert waste disposal capacity remaining in the county but this is largely concentrated at a single site. It could be considered appropriate to have other disposal options available but, even if it is difficult to demonstrate a specific disposal need at the site, the need to restore the site needs to be taken into consideration. There are also policies in Chapter 3 of the WLP which need to be considered, including those on the impact on the road network.*
98. *NCC (Landscape) supports the application as it would reclaim an area of unrestored colliery spoil. It is accepted that the turbines would be visually*

*prominent and that there is little that can be done to mitigate their visual impact. However, their moderate scale and setting close to the motorway would mean that they would not be inappropriate in the setting.*

99. *NCC (Reclamation) objects to the application and considers that the planning application should include a robust assessment of existing ground conditions across the site. The applicant needs to demonstrate that the proposals for re-development do not adversely impact either human health or the wider environment and it is recommended that any planning permission granted is conditioned on the submission of a desktop geo-environmental study, a site risk assessment and conceptual site model, and an intrusive site investigation and ground gas assessment.*
100. *The Health and Safety Executive has no comments to make on the application.*
101. *English Heritage has no comment to make on the application and considers that the application should be determined in accordance with national and local policy guidance.*
102. *NCC (Built Heritage) agrees with the ES insofar as there would be no direct impacts on the fabric of any designated heritage assets and any impacts on heritage assets are to their settings. The greatest impacts of the proposed development are likely to be the visual impact of the wind turbines on the setting of Kirkby Castle Scheduled Ancient Monument and Conservation Area. In this instance, the distance from the key heritage assets is considerable and the turbines are not the tallest type and, according to the ES, only the tips of the blades would be visible. If this is the case, then the impact would be 'low adverse' which would not constitute harm to the setting and significance of the designated heritage asset. Therefore, no objection is raised to the proposals.*
103. *NCC (Noise Engineer) considers that the proposed restoration and operation of the site could be undertaken without adverse noise impacts at surrounding residential receptors, subject to conditions regarding noise limits for restoration and construction works. Conditions are also recommended regarding the hours of operation for restoration and construction works. Noise from the HGV movements associated with the restoration works would result in a minor noise impact (less than 1dB) on the two properties on Park Lane close to the site entrance. A similar noise impact would result from traffic associated with the operation of the site.*
104. *Regarding the operation of the site, the ES states that the clubhouse would be well insulated and fitted with air conditioning to reduce the number of occasions when the windows of the function room would need to be open. Events would be overseen by an events manager and the glazing units on the western side of the function room would be sealed so that noise would not be directed towards the wetland habitats. A condition is recommended requiring noise from the function room not to exceed existing background noise levels between 7pm and 2am to protect the amenity of nearby residential properties.*
105. *Confirmation is required that the caravan and camping site would be managed at all times and that the gap in the existing earthbund between the caravan site*

and the two properties on Park Lane would be filled to a height of approximately four metres as part of the restoration works. Subject to the above, it is considered that noise levels from the use of the caravan and camping site would not adversely affect the amenity of these two properties.

106. *It is considered that the proposed wind turbines would not cause adverse noise impacts at surrounding residential properties as the noise levels would be below recognised limits for turbines. However, a precautionary condition is recommended in the event that a complaint is received regarding the operation of the turbines.*
107. *NCC (Energy and Carbon Management Team) considers that the proposed development should look towards reducing its energy use and improving efficiency before providing renewable energy. An assessment of the site's energy needs, and how these would be met, would be welcomed.*
108. *NCC (Countryside Access) seeks confirmation as to whether Kirkby Footpath Number 20 is within the site boundary or not. The section close to Park Lane has a double hedge which is not maintained often enough, causing obstruction. If this is within the application site, then provisions should be put in place to maintain it.*
109. *The Ramblers' Association objects to the application and is disappointed that links to other rights of way have not been provided, although it is accepted that these issues are outside the applicant's control. There appears to be no pedestrian routes for the general public to use on the site, and link in with the void site to the south, and so more thought needs to be put into providing space for all, not just those attending the site for golf and horse riding.*
110. *The Police Force Architectural Liaison Officer is concerned that the restoration and development of the site has the potential to generate crime and disorder issues, such as off-road motorcycles, which have occurred at existing golf courses in the county. The site is remote and could be vulnerable to crime. The wind turbines could also attract metal and cabling thieves.*
111. *Ashfield Against Landfill supports the proposed development in principle but objects to the proposed wind turbines which would have an adverse landscape and visual impact and would be incompatible with the other activities proposed for the site and some of the wildlife on site. It is also considered that the site entrance off the B6018 is not suitable for vehicles towing caravans and the siting of a caravan area in the Green Belt is also questioned.*
112. *Severn Trent Water Limited has no objection to the proposals and has no comments to make.*
113. *National Grid (Gas) has a high pressure gas pipeline between the M1 and the site boundary.*
114. *National Grid Company PLC has apparatus in the vicinity of the application site which could be affected by the proposed development.*

115. The RSPB; HM Inspectorate of Mines; NCC (Archaeology); British Horse Society; Hucknall Aerodrome; Selston Area Residents Association; Caring About South Kirkby; Kirkby and District Conservation Society; and Western Power Distribution have not responded on the application. Any responses received will be orally reported.

## **Publicity**

116. The application has been publicised by means of a press notice in the Mansfield and Ashfield Chad and a number of site notices placed around the site and in residential areas close to the site boundary in Selston, Annesley Woodhouse and Kirkby Woodhouse. The application has been advertised as a 'departure' from the development plan as the Waste Local Plan provides for the restoration of the tip site in conjunction with the adjacent Bentinck void site, and also because the proposals include elements that are considered to be inappropriate development in the Green Belt.
117. Neighbour notification letters have been sent to 66 properties in Kirkby Woodhouse and Annesley Woodhouse which are close to the site or have views overlooking the site, in accordance with the County Council's Statement of Community Involvement.
118. Eight letters of objection have been received from the occupiers of five residential properties (one household has submitted three letters of objection, another two). Two residents on Park Lane have raised concerns regarding views into their properties from the clubhouse and the caravan and camping area, and noise from these facilities; noise from HGVs delivering restoration material to the site, particularly early in the morning; noise from the wind turbines; increase in traffic from the proposed development and its implications for noise and road safety; and dust. A resident in Selston has raised concerns regarding the impact of the proposed development on wildlife, in particular skylark and little ringed plover while another resident in Selston considers that the restoration proposals should include the restoration of the northern face of the adjacent void. A resident of Salmon Lane has objected to the application on the grounds that the importation of soils onto the site, and the subsequent release of airborne spores, would have a detrimental impact on their mushroom business, should the need arise to re-open it during the restoration period.
119. A letter of support has been submitted citing the need to restore the site and the benefits that the proposed development would bring to the local community in terms of regeneration, investment, local employment and reclamation.
120. Gloria De Piero MP, Councillor Rachel Madden and Councillor Gail Turner have been notified of the application.
121. The issues raised are considered in the Observations Section of this report.

## **Observations**

Policy considerations and the need for the site as a waste disposal facility

122. The proposed development has both mineral and waste policy implications insofar as the proposals are seeking to restore a former colliery spoil disposal site through the importation of a significant amount of inert waste material. The consideration of this application is therefore made taking into account policies in both the Nottinghamshire Minerals Local Plan (MLP) and the Nottinghamshire and Nottingham Waste Local Plan (WLP).
123. It is first worthwhile confirming the status of the WLP in light of the recent publication of the National Planning Policy Framework (NPPF). The NPPF states that, for plans that have not been adopted since 2004:

*Due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

124. It should be noted that the NPPF does not cover waste planning matters but, instead, Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) remains in place. The County Council is in the process of preparing the replacement document for the WLP and the emerging Nottinghamshire and Nottingham Waste Core Strategy (WCS) is at the stage where the proposed submission document was published in February 2012. The NPPF gives advice on emerging policies at paragraph 216 and states that:

*Decision-takers may also give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans according to:*

- (a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- (b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- (c) The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

125. The WCS submission document has been prepared following earlier, informal stages of consultation but is at a relatively early stage of its preparation and has yet to be subject to a public examination before a Government-appointed Inspector to consider its soundness. There are two policies in particular in the WCS which are relevant to this application. Policy WCS2 (Future Waste Management Provision) seeks to achieve a target of recycling or composting 70% of all waste by 2025. The policy states that “new or extended disposal

capacity will be permitted only where it can be shown that this is necessary to manage residual waste that cannot be economically recycled or recovered.”

126. Policy WCS4 (Disposal Sites for Non-Hazardous and Inert Waste) states:

*Where it is shown that additional landfill capacity is necessary, priority will be given to sites within the main shortfall areas around Nottingham and Mansfield/Ashfield. Development outside this area will be supported where it can be shown that there is no reasonable, closer, alternative. Preference will be given to the development of sites in the following order:*

- (a) The extension of existing sites;*
- (b) The restoration and/or re-working of old colliery tips and the reclamation of mineral workings, other voids and derelict land where this would have associated environmental benefits;*
- (c) Disposal on greenfield sites will be considered only where there are no other more sustainable alternatives.*

127. Policy WCS2 has been subject to seven objections during the consultation period while there have been five objections to Policy WCS4 and it is possible that the policies could be amended following the public examination. The applicant for this application has submitted one of the objections to Policy WCS4 and considers that the focus of the policy on disposing of inert waste within old mineral workings or other voids could mean that there is a shortage of restoration material for old colliery tips and that opportunities to restore such sites are therefore lost.

128. It is therefore considered that relatively little weight can be attached to the policies in the WCS document at the present time in light of the advice in the NPPF, although assessment against these policies is a worthwhile exercise in terms of future waste policy direction in the county. As waste planning matters are not covered in the NPPF, it is considered more appropriate to consider the application primarily against PPS10 and policies in the WLP.

129. PPS10 states that the overall objective of Government policy on waste is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. PPS10 seeks to move the management of waste up the ‘waste hierarchy’ of prevention, preparing for reuse, recycling, other recovery, and disposing only as a last resort.

130. ‘Other recovery’ is described in PPS10 as waste that can serve a useful purpose by replacing other materials that would otherwise have been used. When the Bentinck tip and void complex was in full operation in the 1980s and 1990s, the tip site was being used for colliery spoil disposal and the void was subject to opencast coal extraction, with the plan being that it too would be subject to colliery spoil disposal before both the tip and the void were jointly restored. Soils that had been stripped from the whole area were primarily stored in bunds at the southern end of the void and it was intended that these soils would be used to restore the tip and void areas once colliery spoil disposal had been completed.

The ES submitted with the twin tracked planning applications to landfill the void and restore the tip, which were refused planning permission in 2010, states that these soils amount to 88,000 cubic metres of topsoil and 148,000 cubic metres of subsoil.

131. Bentinck Colliery closed in January 2000 when the disposal capacity at the tip had only been partly utilised and the void site had not been tipped in at all. The tip and the void area were subsequently sold to separate companies and while the void site has naturally regenerated to a significant degree, and been designated as a SSSI partly due to the fauna that this vegetation supports, large areas of the tip site remain unvegetated, hence this application to restore the site. Unfortunately, as the majority of the soils that were stripped from the tip and void sites were stored on the void site, they are not available to the owners of the tip for restoration purposes. Even if they were, the fact that colliery spoil disposal on the tip had not been completed means that there is a large plateau remaining and so additional restoration material in addition to what is available on the void site would be required to restore the site to a suitable landform.
132. It is therefore considered that the importation of a significant quantity of the 495,000 cubic metres of material proposed is 'other recovery', rather than disposal, as the soils that were envisaged to restore the tip site cannot be utilised. The remainder of the imported material would also serve a useful purpose in allowing the tip to be restored to a landform suitable for the proposed recreational facilities, rather than it being simply tipped into a landfill site.
133. The WLP provides a policy distinction between the benefits that the disposal of waste can provide at sites such as Bentinck tip and disposing it at greenfield sites. Policy W10.1 of the WLP states:
- Proposals for the reclamation of mineral or other voids and/or incomplete colliery spoil heaps through waste disposal will be permitted provided they:*
- (a) Achieve environmental benefits; and*
  - (b) Meet a recognised need for additional disposal capacity; and*
  - (c) Do not have an unacceptable environmental impact.*
134. In contrast, Policy W10.3 of the WLP states that:
- Proposals for waste disposal on greenfield sites will not be permitted, except where incidental areas of greenfield land are required to be included so as to achieve an optimum reclamation scheme.*
135. This policy stance reflects a desire to use the disposal of inert waste, which is at the bottom of the waste hierarchy, in a positive way to restore areas previously subject to mineral extraction or colliery spoil disposal. Policy WCS4, as presently drafted, would continue the policy stance in the WLP by providing for a sequential approach to site selection for waste disposal.

136. The application at Bentinck falls into the second category (the restoration of old colliery tips) of Policy WCS4 with the only approach more preferential being the extension of existing sites. With inert disposal in the county being primarily based at one site, the scope for applications under the most preferred approach is clearly limited. It is therefore considered that the site is one of the more preferable options when assessed against existing and proposed future local waste planning policies.
137. From a landscape and visual impact point of view, there can be no doubt that there is a need to restore Bentinck tip which is one of the last remaining former colliery spoil tips in the county requiring restoration works. This matter is confirmed by the consultation response from the County Council's Landscape Team which supports the application. However, it is necessary to consider whether there is a need for the additional disposal capacity, in accordance with Policy W10.1 and Policy WCS4, which is being proposed through the importation of 495,000 cubic metres of inert material to create the proposed final landform.
138. The County Council's Planning Policy Team has stated that there is approximately eight years inert disposal capacity remaining in the county, although almost all of this is at a single site at Vale Road, Mansfield Woodhouse. PPS10 requires planning authorities to make provision within their WCS for at least ten years disposal capacity from plan adoption. There is therefore a slight shortfall in inert disposal capacity and the fact that existing capacity is centred almost entirely at one site is not ideal with any unforeseen issues at that site, which might lead to it closing, potentially leaving the county in a difficult position in the future.
139. The emerging WCS recognises this shortfall and states that a further 3.2 million cubic metres of inert waste disposal capacity is required over the plan period up to 2025. The amount of inert waste proposed to be imported into the application site would account for around 15% of this amount, although the waste would only be imported during the first five years of this period and so would make up a more significant proportion of the county's requirements during this period. It is therefore considered that the proposed development would meet a recognised need for additional inert waste disposal during the early years of the WCS plan period.
140. Regarding policies in the MLP, the most relevant to this proposal is Policy M4.8 which considers reclamation proposals for existing minerals sites. The policy states:

*Alternative reclamation proposals will be granted which would result in the satisfactory reclamation and after-use of mineral workings where:*

- (a) Current use and/or appearance is unsatisfactory;*
- (b) The existing provisions for reclamation are unsatisfactory, inappropriate or absent;*

- (c) *The proposals result in an improved environmental and/or amenity after-use.*

141. The supporting text for this policy states that, for sites where reclamation requirements have not been, or cannot be, met, the County Council will encourage and support initiatives which assist in the reclamation of areas damaged by former mineral workings. The existing reclamation requirements for the majority of the tip and void site, as required by the planning permission granted in 1986, envisaged further colliery spoil tipping on the tip site in addition to colliery spoil tipping on the void site. With the closure of Bentinck Colliery, achieving this final landform became impossible and the site has remained unrestored for over ten years whilst various proposals have been considered by the County Council. Along with the present appearance of a large part of the site being unsatisfactory, it is considered that the first two criteria of Policy M4.8 are met. Whether the final criterion of the policy is met requires a detailed assessment of the various facilities being proposed.

Policy considerations for the various facilities proposed as part of the restoration of the site

142. The application site lies within the Green Belt and the Ashfield Local Plan Review provides policy guidance in Policy EV1 which states:

*Permission will not be granted for inappropriate development in the Green Belt, except in very special circumstances.*

*Appropriate development comprises:*

- (a) *Engineering, mining or other operations and uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it;*
- (b) *New buildings for the following purposes:*
  - (i) *Agricultural and forestry;*
  - (ii) *Essential facilities for outdoor sport and outdoor recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it;*
  - (iii) *Limited extension, alteration or replacement of existing dwellings;*
  - (iv) *Limited infilling within the villages of Bagthorpe, New Westwood, Jubilee and New Selston, so long as there is no adverse effect on the character of the village;*
- (c) *The re-use of buildings.*

*All development must be located and designed so as not to adversely affect the purposes of the Green Belt and its openness.*

143. The Ashfield Local Plan Review does not provide any relevant policies regarding the proposed recreational uses, as policies in the plan solely seek to protect what already exists rather than promote new facilities. The NPPF does provide some guidance and states that “access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities”. The NPPF also promotes a strong rural economy and supports “sustainable rural tourism and leisure developments” and the “development of local services ..... such as ..... sports venues”. Subject to any concerns regarding amenity and environmental impact being addressed, it is considered that the proposed development could contribute towards these aims.
144. The key consideration regarding the Green Belt relates to the built development proposed for the site. For the built development associated with the various sport and recreational facilities, an assessment needs to be made as to whether they can be considered as ‘essential facilities for outdoor sport and outdoor recreation ..... which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it’, as required by Policy EV1, which is also the policy stance in the NPPF. It is considered that some of the proposed facilities, such as the stables, football changing rooms and toilet/shower block in the caravan and camping site provide the most basic of facilities required in order for them to function successfully and are limited in terms of their size and scale and so meet the ‘essential’ test in Policy EV1. With regards to the openness of the Green Belt, the toilet/shower facilities and stables would be located towards the bottom of the northern flank of the tip site and so would not be particularly obtrusive on the landscape. However, the football changing facilities would be located on the tip plateau but their impact on the openness of the Green Belt needs to be considered in conjunction with the other built development proposed close to them: the clubhouse, the driving range and the greenkeepers’ building.
145. Regarding the clubhouse, this is more significant in size and scale, partly due to it including facilities such as a club shop, a cafe/bar, and a function room. Whilst such facilities could initially be deemed as non-essential, it is considered that they are nowadays part and parcel of most golf clubhouses and this fact provides a significant degree of justification for their inclusion in this proposed clubhouse in the Green Belt. This is also considered to be the case for the driving range which would be located next to the clubhouse as driving ranges are often part and parcel of golf course developments. It is therefore considered that these buildings would not be inappropriate in the Green Belt.
146. The financial viability of this proposed development is an important consideration to take into account and clearly the clubhouse and the other built development being proposed involve a significant amount of investment – investment which the applicant needs to get a return on if the proposed development is to be a long term success. The greatest benefit that facilities such as a club shop and a cafe/bar can provide is a continuous additional income stream with golfers often in need of an item of equipment or clothing before playing a round of golf, and also in need of refreshments afterwards. Similarly, function rooms provide an

additional revenue resource through their use for wedding receptions and parties while driving ranges are used by golfers to supplement the actual rounds of golf they play. Without such sources of revenue, it is questionable whether the proposed development would be viable and the tip site would not be afforded this opportunity to be restored. It is therefore considered that the opportunity to secure the restoration of the extensive tip site provides the very special circumstances for permitting these facilities within the clubhouse, and the adjacent driving range, which in any event are not unusual facilities associated with this type of development.

147. It is also considered that the design of the proposed clubhouse provides additional policy support. The NPPF promotes good design and states that “great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area”. The clubhouse design is modern with the two separate sloping roofs, outdoor terrace areas, significant areas of glazing, and timber and copper cladding providing an eye-catching design. It would have been easy for the applicant to have let the site’s location in the Green Belt suppress the design of the clubhouse. Instead, the strong design proposed should help lift the profile of the golf course and the other recreational facilities on the site, thereby helping the long term viability of the development. The design of the clubhouse is therefore supported.
148. Regarding the impact of the clubhouse, driving range, changing rooms and greenkeepers’ building on the openness of the Green Belt, it is considered beneficial that these would be located close together, rather than being scattered across the plateau of the tip. It is not considered that their close proximity to each other would create an unacceptable mass and affect the openness of the Green Belt and one look at Plan 3 shows how relatively little of the site’s footprint these buildings would occupy.
149. The other major built development proposed is some office units close to the northern boundary of the site. This area was formerly the location of the tip site’s offices and weighbridge and much of the hardstanding remains. Office development is considered to be inappropriate development in the Green Belt and so very special circumstances again need to be demonstrated in order for it to be in accordance with Green Belt policy. The applicant has again cited the income streams that the office development would provide and has also provided evidence that the office development proposed, which would be relatively small scale, is in demand in the area. It should be noted that Ashfield District Council has not objected to the application and it is considered that the location of the proposed offices at the bottom of the tip site, combined with the relatively small scale of the building (26 metres by 11 metres and eight metres high) would not impact upon the openness of the Green Belt. It is therefore considered that very special circumstances exist insofar as the income generated by this relatively small-scale office development would help in the long term viability of the site and the location and scale of the office building would not harm the Green Belt. A condition is recommended restricting the use of the offices to those in the B1 Use Class (offices, research and development of products and processes, and light industry appropriate in a residential area).

150. In accordance with Policy EM6 (Employment Development) of the Ashfield Local Plan Review), it is considered that the design and appearance of the office building would be acceptable and it would also be well screened from views off Park Lane by existing vegetation. The offices would be accessed off a spur road from the main access road which it would only have to share with users of the equestrian centre and there would be adequate parking facilities. It is therefore considered that the office building would accord with this policy.
151. Another potentially inappropriate built development proposed in this Green Belt location is a residential dwelling associated with the caravan and camping area. This would allow for the entire site to be manned when the caravan and campsite are occupied which would be beneficial from a security point of view whilst also providing for the management of the caravan and camping area on a day to day basis. The dwelling would also have an attached reception area to allow those visiting the site to report to upon arrival. As with the stable block and the campsite toilet/shower block, the dwelling would be located on the northern flank of the tip and its size and scale would be relatively modest. It is therefore considered that it would not impact upon the openness of the Green Belt.
152. The NPPF provides for “appropriate facilities for .... outdoor recreation” in the Green Belt and it is considered that this building would be considered to be appropriate in the Green Belt if a condition is attached to any planning permission granted requiring its use to be solely associated with the management of the caravan and camping area, and the site in general. This would be similar to the agricultural ties that are usually attached to farm dwellings.
153. Another potential impact upon the openness of the Green Belt is the caravan and camping area itself. However, the areas are relatively small scale when compared to caravan sites usually found in tourist areas, no electricity hook-ups are proposed, and no static caravans are proposed either. Any impact on the openness of the Green Belt would therefore be minimal and also temporary with caravans and tents only being on site for short periods of time.
154. Finally, it is proposed to install two wind turbines on the site. The NPPF states that:
- “Local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable”.*
155. Despite this support for the turbines, it is again necessary to consider their impact on the openness of the Green Belt. What needs to be considered is the size of the turbines which, at a maximum of 34.2 metres from the ground to the tip of the blade, would be significantly shorter than other turbines which have been installed in the county recently. For example, the turbines at the Lindhurst wind farm between Mansfield and Rainworth are 125 metres high. It should also be noted that the turbines would be located in fairly close proximity to the M1. It is considered that the impact of these relatively small turbines on the openness

of the Green Belt would be outweighed by the contribution they would provide towards the energy consumption of the site. The applicant expects the energy produced by the turbines (between 1500 and 2400 MWh per year) to be sufficient for the needs of the site with some being exported to the national grid. Additional consideration of the turbines with respect to noise, ecological impact and their landscape and visual impact are set out below.

156. In conclusion, it is considered that there are some elements of the proposals, particularly the office building and the dwelling associated with the caravan and camping area, that are not wholly in accordance with Green Belt policy. However, it is considered that they should be assessed alongside the proposed development as a whole and in particular what that whole would deliver: the restoration of a large area of colliery spoil tip. It is considered that the delivery of the restoration of the tip provides the very special circumstances required by national and local Green Belt planning policies.
157. The Town and Country Planning (Consultation) (England) Direction 2009 requires planning authorities to consult the Secretary of State where they do not propose to refuse a planning application for inappropriate development in the Green Belt which consists of the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more, or for any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt. The proposed built development which could be considered to be inappropriate – the offices and the residential dwelling – have a combined floorspace of 465 square metres and, as detailed above, it is not considered that any of the proposed buildings, either on their own or in combination, nor the proposed wind turbines, would have a significant impact on the openness of the Green Belt. It is therefore considered that, should Members be minded to grant planning permission, it would not be necessary to consult the Secretary of State prior to the permission being issued.
158. Regarding details of the buildings proposed, conditions are recommended regarding the external materials to be used on all buildings to confirm that their final appearance is sympathetic to their Green Belt location.

#### Impact on the local highway network

159. The applicant anticipates the proposed restoration of the site would generate approximately 45 HGV trips (90 movements) per day which equates to 250 trips, or 500 movements, per week. In addition to this, there would be a number of HGVs entering the site at specific times associated with the construction of the various built developments on the site (see table beneath paragraph 47 above). HGVs delivering inert material for the restoration of the site would have to enter the site via an existing access off Park Lane, having travelled from either Selston or Kirkby-in-Ashfield. Whilst Park Lane is a 'B' road, it is accepted that HGV traffic associated with the restoration of the site has the potential to have an adverse impact on local communities as HGVs travelling towards the site from either Kirkby-in-Ashfield or Selston would have to travel through residential areas. This potential impact on local roads was the reason why the WLP

supported a new purpose built access road for the proposed landfilling of Bentinck void and the restoration of the tip, although it should be noted that the twin-tracked applications for that proposal, which were refused planning permission in 2010, proposed 160 HGVs, or 320 movements, to enter the site per day.

160. The level of HGV traffic being proposed during the restoration of the site is the same as was permitted under planning permission 4/V/2011/0430 which provided for some restoration works on a small area of the site. County Council records confirm that no complaints were received regarding the scale of HGV numbers associated with that permission with just one complaint received regarding mud on the road. However, what has to be accepted is that this application proposes this level of HGV traffic for a much longer period of time: five years as opposed to just one.
161. In light of this, a Transport Assessment (TA) has been carried out as part of the ES with the scope of the assessment having been agreed with the Highways Authority. The TA has assessed the impact of the proposed development, both at the restoration and operational stage, on the following junctions:
- (a) Mansfield Road/Nottingham Road, Selston;
  - (b) Mansfield Road/Commonside, Selston;
  - (c) Mansfield Road/Portland Road, Selston;
  - (d) Park Lane/site access;
  - (e) Park Lane/Pinxton Lane, Kirkby-in-Ashfield;
  - (f) Church Street/Chapel Street, Kirkby-in-Ashfield;
  - (g) Sutton Road/A38, Kirkby-in-Ashfield.
162. The Highways Authority had previously highlighted to the applicant that the Church Street/Chapel Street and Sutton Road/A38 junctions are sensitive to increases in traffic flow and the TA acknowledges that “the proposed development would give rise to unacceptable environmental impacts” at the Church Street/Chapel Street mini-roundabout, although there would be no material or discernible worsening of the existing safety record of the highway network. The TA concludes by stating:
- “The proposed development would be acceptable in respect of highway capacity and safety at all junctions considered by this Environmental Statement, save for the Chapel Street/Church Street mini roundabout, where the impact of queuing vehicles is considered likely to give rise to unacceptable environmental impacts.”*
163. The TA has identified works that could be undertaken to improve the working capacity of this junction, including the widening of the northbound approach to 6.5 metres which would avoid the need for HGVs to straddle the approach lanes. The TA considers that the proposed works would significantly reduce queuing at

the junction and the Highways Authority considers it appropriate to require the junction improvements to be carried out as part of any planning permission granted for this proposed development. This would ensure that the proposed development would not have an adverse impact on the local highway network and ensure that the highway network can satisfactorily accommodate the vehicle movements likely to be generated by the proposed development, in accordance with Policy M3.13 of the MLP and Policy W3.14 of the WLP. It would also ensure that the HGVs associated with the proposed development do not adversely impact upon local amenity. It is further considered that the improvements to the roundabout would be beneficial in the long term with the various end uses being proposed (golf course, football pitches, equestrian centre, offices etc) all generating their own levels of car traffic which, cumulatively, add up to a not insignificant amount. The improvements are therefore considered to accord with Policy ST1 of the Ashfield Local Plan Review.

164. It should also be noted that the mini-roundabout is in the Kirkby Cross Conservation Area and policies in the MLP and WLP seek to protect the character, appearance, condition and setting of conservation areas. The Kirkby Cross Conservation Area Appraisal, adopted by Ashfield District Council in 2004, acknowledges that traffic is one of the issues detracting from the character and appearance of the conservation area, particularly large lorries damaging kerbs and pavements. The appraisal also highlights that the continual increase in heavy traffic is a threat to the conservation area. It is therefore considered that the improvement works to the mini-roundabout, which would need to be carried out using materials sympathetic to the character and appearance of the conservation area, would help to protect the conservation area in accordance with Policy M3.25 of the MLP and Policy W3.28 of the WLP. It is considered important that the County Council's Conservation Team is involved in the detailed design of these improvements and it is recommended that the Highways Authority is notified of this matter, should planning permission be granted.
165. The improvements required to the mini-roundabout would need to be secured through a legal agreement and it is recommended that this also includes a lorry routing agreement preventing HGVs from travelling along the B6020 through the retail centre of Kirkby-in-Ashfield, as recommended by the Highways Authority. These matters would be in accordance with Policy M3.14 of the MLP and Policy W3.15 of the WLP. The Highways Authority also recommends that the applicant carries out annual dilapidation surveys of Park Lane for a distance of 250 metres west of the site access towards Selston and approximately 650 metres east of the site access up to the access to the sewage works. These surveys would be required during the restoration phase of the proposed development, would identify any damage caused by HGVs bringing restoration material to the site and would identify any remediation works required which would be the responsibility of the applicant. Again, as this matter is outside the application area, it would need to be included in a legal agreement.
166. In addition to controlling the number of HGVs entering the site, as detailed above, there are a number of other highways related issues that would need to be secured through conditions attached to any planning permission granted.

Regarding preventing mud from being deposited on the road, there is already a rumble strip on the access road on the site and this would be retained throughout the restoration works. A condition is recommended requiring this and other suitable measures to be in place to prevent the deposit of mud on the public highway in accordance with Policy M3.12 of the MLP and Policy W3.11 of the WLP and as recommended by the Highways Authority. The Highways Authority has also recommended a condition requiring suitable visibility to be provided at the site access which would need to be maintained beyond the restoration works to provide visibility for the various visitors to the site, which could include cars towing caravans. In addition to this, a condition is recommended requiring the access road having suitable drainage so as to prevent the unregulated discharge of surface water on the public highway. Finally, a condition is recommended requiring details of the internal infrastructure and layout of the site to be submitted for approval, including details regarding geometry, car/cycle parking, turning facilities, access widths, gradients, surfacing, street lighting, structures, visibility splays, and a travel plan.

167. The Highways Agency has provided some advice regarding potential impacts on the motorway's drainage system and the impact of lighting from the site on motorway users. It is proposed to attach this consultation response to any planning permission granted as an informative although it should be noted that the installation of the lighting to be used on the driving range would need to be in accordance with the luminance plan submitted as part of the ES. No floodlighting is proposed for the football pitches and a condition is recommended to confirm this matter and to require the installation of any subsequent additional floodlighting to be in accordance with previously submitted and approved details. Regarding concerns about drainage, similar concerns have also been raised by Network Rail regarding potential impacts on the adjacent rail line and so a condition requiring the submission of a surface water drainage scheme is recommended to ensure the proposed development accords with Policy M3.8 of the MLP and Policy M3.5 of the WLP.
168. Finally, Derbyshire County Council has requested that a lorry routeing agreement be put in place to stop HGVs from travelling through Pinxton from junction 28 of the M1. This is not considered necessary as, although the B6019 Alfreton Road/Town Street/Beaufit Lane does provide HGV access to an industrial estate to the south of Pinxton, it is considered that any HGVs associated with this application are more likely to use the A38 and the B6018 to access the site. However, this does further reinforce the need to provide the improvements to the Kirkby Cross mini-roundabout.

### Ecology

169. The site is presently designated as a SINC due to its avian interest but the ecological surveys carried out as part of the ES, and as part of previous applications for the site, have identified a range of habitats and species at the site. These include areas of woodland and scrub; hedgerows; grasslands; ponds and reedbeds; great crested newts and other amphibians; little ringed plover and breeding and wintering birds; water voles; reptiles; bats; and invertebrates.

170. The applicant has produced an Ecological Mitigation and Management Plan (EPPM) which details how these features and species would be managed throughout the restoration of the site and when the end uses are in operation. Regarding the habitats on the site, the changes can be summarised as follows:

<b>Habitat type</b>	<b>Existing</b>	<b>Existing habitat to be retained</b>	<b>New habitat to be created</b>	<b>Total area/length proposed (retained + new)</b>
<b>Woodland</b>	1.3 hectares	1.25 hectares	12.9 hectares	14.15 hectares
<b>Scrub</b>	0.5 hectares	0.5 hectares	4.6 hectares	5.1 hectares
<b>Hedgerow</b>	35 metres	35 metres	0	35 metres
<b>Grassland</b>	20.9 hectares	0.5 hectares	46.5 hectares	47 hectares
<b>Ponds</b>	6 hectares	3.2 hectares	2 hectares	5.2 hectares
<b>Reedbed</b>	1 hectare	0	1.4 hectares	1.4 hectares

171. It can therefore be seen that, with the exception of the ponds, all the habitats described above would be maintained or increased in size or length and it should be noted that the figures above for grassland do not include the fairways and greens on the golf course as these would be intensely managed and would be of little ecological value. Regarding the ponds, Nottinghamshire Wildlife Trust recommends the 0.8 hectare loss be compensated by the provision of further small wetland areas or ponds. However, it should be noted that whilst there are 22 ponds on the site at the present time, of which seven would be lost, ten retained, four retained and modified, and one retained and stocked with fish, it is proposed to create a further 22 new ponds which is a greater number than would be required to meet Natural England's requirement to replace lost ponds on a 2:1 basis. It is also considered that the quality and connectivity of the new ponds would be greatly increased. Whilst the 0.8 hectare area loss of ponds is not ideal, it is considered that this needs to be assessed against the context of the entire restoration being proposed and the overall benefits this would bring, particularly in landscape and visual impact terms. It is considered that these factors along with the increased biodiversity interest of the retained and new ponds adequately mitigate for this loss in the area of ponds and so the proposed development accords with Policy W3.21 of the WLP.

172. The ponds would serve two primary ecological functions. On the western side of the site, two large ponds and a number of smaller ponds would provide suitable habitat for wading and wintering birds with the provision of shingle islands and shorelines being particularly suitable for LRP. These ponds would also have sinuous, shallow sloping banks with areas of open bare mud and reedbed planting to increase their ecological interest. The reedbed plants used would be cuttings taken from reedbed existing on the site at the present time.
173. On the central-eastern part of the site, a significant number of smaller ponds would provide suitable habitat for GCNs and would be planted with vegetation suitable for egg laying. Regarding GCNs, the County Council has a statutory duty under the Conservation of Habitats and Species Regulations 2010 to have regard to the Habitats Directive in the exercising of its functions. In effect, the County Council needs to be satisfied that the proposed development:
- (a) Is for the purpose of preserving public health or safety or for other imperative reasons of overriding public interest;
  - (b) Has no satisfactory alternative;
  - (c) Would preserve the favourable status of the species in question to be maintained.
174. The County Council's Nature Conservation Leader considers that point (c) would be satisfied taking into account the details submitted with the application and Natural England has not raised an objection to the application. The finer details regarding the translocation of any GCNs or damage to their habitat would be dealt with under licence from Natural England but they are satisfied with the details submitted with the application.
175. Regarding points (a) and (b) above, it is considered that there are imperative reasons of overriding public interest in seeing the site restored, based on its present visual appearance, and the capping of the lagoons would address health and safety concerns that presently exist on the site. On this basis, it is considered that there is no satisfactory alternative as the only alternative available would be to leave the site in its present condition. There are no other known alternative restoration schemes for the site presently being considered. It is therefore considered that the County Council has duly considered the requirements of the regulations in determining this application.
176. Initial concerns had been raised about the interaction between some of the end uses for the site, particularly the golf course and the football pitches, and the areas set aside for ecological interest. However, changes to the layout of the scheme, particularly the removal of one of the pitches and the relocation of the tees and fairway of one of the holes on the golf course, have addressed these concerns. In addition to this, the applicant is proposing have clearly demarcated 'out of bound' areas on the golf course which would maintain this separation between human activity and areas of ecological interest. A condition is recommended requiring details of these measures to be submitted for approval and could include markers on the golf course, notes on the scorecards and information boards detailing the areas of interest which should not be disturbed.

These mitigation measures would ensure that the areas set aside for both GCNs and birds would be protected in accordance with the NPPF.

177. The application site is of course adjacent to a SSSI which covers the majority of the void site and is primarily designated on account of its breeding populations of GCNs and other amphibians. Natural England initially raised concerns regarding the potential impact of sediment flowing from the site into a series of ponds in the SSSI close to the south eastern boundary of the site during the restoration works. However, Natural England were also keen for existing surface water run-off into these ponds to be maintained to prevent them from possibly drying up.
178. The applicant is now proposing to provide a surface water drainage ditch along a significant length of the southern boundary of the site. It would be approximately 800 metres in length and would ensure that surface water and sediment would not flow directly from the tip site onto the SSSI during the restoration works. It is proposed to retain the ditch as a permanent feature and it would help to demarcate the two areas. However, in order to ensure that existing surface water run-off rates into the SSSI ponds are maintained, an outfall from the south western end of the ditch is proposed. Natural England is satisfied with this approach and a condition is recommended requiring details of the drainage ditch to be submitted for approval prior to its construction. This approach complies with the NPPF which requires potential significant harm to biodiversity to be avoided or adequately mitigated and would also ensure that the proposed development accords with Policy M3.19 of the MLP and Policy W3.23 of the WLP.
179. Concerns remain regarding the impact of the proposed development on dingy skippers, for which surveys were carried out earlier in the year highlighting a small breeding population in the central northern part of the site. However, it is considered that the removal of some proposed tree planting from the restoration scheme in these areas, allowing them to naturally regenerate instead, along with confirmation that another area close by would also be allowed to regenerate naturally to provide suitable dingy skipper habitat, would mitigate against the existing habitat that would be lost. It is considered that this matter could be dealt with by a suitably worded condition which would require detailed restoration details to be submitted on a phase by phase basis.
180. Reptiles, including common lizard and grass snake have also been surveyed on the site and the application proposes no net loss of suitable habitat as part of the proposals. Any translocation of reptiles during the restoration works would be carried out in line with the translocation of GCNs under licence from Natural England. Bats are known to use the site for foraging and commuting and it is considered that the restoration proposals, including areas of species-rich rough grassland, woodland, scrub and open water habitat would provide higher value foraging areas than exists at present.
181. Whilst no water voles were recorded in the most recent surveys of the site, evidence of burrows was recorded and it is considered that the site has the potential to support this species. It is considered that the restoration proposals would result in a net increase in suitable habitat for this species.

182. Previous comments made regarding the proposed tree and scrub species mixes have been incorporated into the EMMP and these species mixes are now considered acceptable. Woodland planting would be dominated by ash and also include oak, field maple, hawthorn, blackthorn, wych elm, hazel and holly. Scrub planting would be hawthorn dominated and also include blackthorn, hazel, holly, wych elm and dogwood. The County Council's Nature Conservation Leader has recommended that the proposed thinning of existing woodland areas on the site specifically targets whitebeam, Norway spruce and sycamore. All these matters could be secured through detailed restoration submissions for each phase of the restoration works.
183. Some amendments to the proposed grassland mixes are recommended, primarily to remove species that are not widespread in the county. Again, these matters could be dealt with through more detailed restoration proposals on a phase by phase basis.
184. In conclusion, the restoration proposals are largely supported from an ecological point of view and would help to ensure that those features of ecological interest on the site at the present time, which have led to its designation as a SIN, would be retained in the long term whilst the much needed restoration of the site takes place. It is also considered that sufficient mitigation measures would be in place to protect the adjacent SSSI. It is therefore considered that the proposed development accords with Policies M3.19 and M3.20 of the MLP and Policies W3.22 and W3.23 of the WLP. It is considered that the overall loss of a small area of ponds would be suitably compensated for by the quality of the ponds being provided through the proposed restoration in accordance with Policy W3.21 of the WLP. The applicant is proposing to enter into an extended period of aftercare lasting ten years and the second five years would need to be secured through a legal agreement. The additional five year period is considered necessary to ensure that the habitats proposed can be created successfully and therefore accords with Policy M4.11 of the MLP and Policy W4.11 of the WLP. It is therefore finally considered that, from an ecological point of view, the proposed development would accord with the final criterion of Policy M4.8 of the MLP which requires the proposals to result in an improved environmental and/or amenity after-use.

#### Landscape and visual impact

185. The application is supported in terms of its landscape and visual impact as it would restore what is presently a significantly degraded landscape feature. This accords with the requirements of the Greater Nottingham Landscape Character Assessment 2009 for the Magnesian Limestone Policy Zone 19 – Kirkby Quarry, Portland Park and Rise Hill and again accords with the final criterion of Policy M4.8 of the MLP. Whilst some built development is being proposed in the application, these would be relatively small in scale when set against the context of the entire site. The most prominent feature on the landscape would be the two proposed wind turbines but the County Council's Landscape Officer considers that their moderate scale and setting close to the motorway would mean that they would not be inappropriate in their setting. As detailed above, it is considered that the turbines, being of the size proposed, would not impact

upon the openness of the Green Belt. Further consideration of the wind turbines is set out below.

186. The County Council's Landscape Team has recommended some minor amendments to the woodland planting mix in addition to a condition requiring any ornamental planting to be limited to the area immediately surrounding the clubhouse. These are considered acceptable and would be attached to any planning permission granted to ensure the proposals accord with Policy M4.4 of the MLP and Policy W4.6 of the WLP.

#### Wind turbines

187. As highlighted by the County Council's Planning Policy Team, there is strong planning policy support for the principle of renewable energy such as the two turbines being proposed as part of this application. The NPPF recognises the responsibility of all communities to contribute to energy generation from renewable or low carbon sources and acknowledges that even small scale projects can provide a valuable contribution to cutting greenhouse gases. However, the NPPF also acknowledges that applications for renewable energy should only be approved if the impacts are (or can be made) acceptable and there have been some issues associated with this part of the proposed development which require consideration.
188. Firstly, there has been some confusion with regards to the size of the wind turbines being proposed as part of the proposed development. Two identical turbines were originally proposed, each with a hub height of 24.6 metres and a maximum blade elevation of 34.2 metres. One was to be located close to the proposed football pitches and the other on the north western edge of the driving range.
189. Concerns raised by Sport England, Natural England, Nottinghamshire Wildlife Trust, and the County Council's Nature Conservation Leader regarding the location of the turbine close to the football pitches and on the potential flight path between two areas of open water which would be suitable for wading birds led to its location being moved approximately 80 metres west-northwest. When additional information was submitted regarding this revised location, the applicant also revised the size of this turbine to one with a hub height of 35 metres and a maximum blade elevation of 61 metres. However, this additional information did not include any revised assessment of the impact of this substantially larger turbine in terms of its landscape and visual impact, its ecological impact, its noise impact or its impact on heritage assets.
190. In light of this, the applicant has decided to revert back to the original sized turbine in this revised location and has submitted some additional information arguing that it would not have any different an impact to the original location, as assessed in the ES submitted with the application. This is accepted and Natural England does not consider that the turbines would have an adverse effect on any international or national statutory designated sites. The adjacent SSSI is notified primarily for its amphibian assemblage and so is not at risk from this type of development. Despite Nottinghamshire Wildlife Trust continuing to object to

the application on the grounds that the impact of the proposed turbines on birds and bats have not been adequately assessed, the County Council's Nature Conservation Leader considers the assessment to be acceptable and considers that the two turbines combined would not have a significant impact on these species, subject to confirmation that there would be a 50 metre buffer zone between the turbines and any habitats that would support foraging and commuting bats. This matter could be dealt with through a suitably worded condition and it is therefore considered that the turbines would not have an adverse impact on either bird or bats in accordance with the NPPF which, at paragraph 98, states that such applications should be approved "if the impacts are (or can be made) acceptable".

191. The County Council's Noise Engineer considers that the turbines would not cause adverse noise impacts at surrounding residential properties as the predicted noise levels would be well below the noise limits required by recognised noise assessment guidance for wind turbines (The Assessment and Rating of Noise from Wind Farms – ETSU-R-97), as set out in the ES. However, a precautionary condition is recommended in case complaints are received which could be possible if either of the turbines suffers a mechanical problem, for example. It is also considered advisable to limit the life of any permission for the wind turbines to 25 years and to prohibit any advertising to be placed on the turbines to reflect their rural Green Belt location and proximity to the motorway.

#### Noise

192. The proposed development has the potential to generate noise at both the restoration and operational stage. Although Ashfield District Council has not raised an objection to the application, objections to the application have been raised by nearby residents. Regarding the restoration of the tip site, works to restore a small area of the tip have been ongoing in recent times and no complaints with respect to noise were received by the County Council whilst these works were being undertaken. The ES has made predictions regarding the anticipated levels of noise at three noise sensitive properties: The Hollies on Park Lane near the site entrance; 25 Main Road in Annesley Woodhouse to the east of the site; and Suvla Bay on Salmon Lane to the south of the site. Monitoring of existing background noise levels have also been taken from these properties at various times during the day.
193. It is considered appropriate to assess the proposed restoration works against the guidance provided in the NPPF Technical Guidance for minerals as the restoration works would involve operations which would normally be found at a minerals development, such as the movement of plant and machinery. The NPPF states that:

*"Subject to a maximum of 55dB(A)<sub>L<sub>Aeq</sub>, 1 hour (free field)</sub>, mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A)."*

194. Daytime background noise levels have been measured at 49.8 dB<sub>La90</sub> at The Hollies, 45.3 dB<sub>La90</sub> at Main Road and 48.3 dB<sub>La90</sub> at Suvla Bay. It is therefore proposed to condition noise levels at these three properties so that they do not exceed 55 dB<sub>Laeq, 1 hour (free field)</sub> as a result of the restoration works. This would limit noise levels to no more than 10dB(A) above existing levels up to a maximum of 55dB(A) in accordance with the NPPF, Policy M3.5 of the MLP and Policy W3.9 of the WLP.
195. The only potential issue regarding the above concerns works required to provide a perimeter bund on the northern boundary of the site opposite The Hollies and High Cliff, although it needs to be recognised that the provision of this additional section of bunding is designed to provide additional noise attenuation for these properties both during the restoration works and when the site is operational. It is anticipated that the works required to create this bund could not be undertaken without exceeding the 55dB(A) limit as detailed above. However, the NPPF recognises that activities such as the construction of screening bunds can bring longer-term environmental benefits and that increased temporary daytime noise limits of up to 70dB(A)<sub>Laeq, 1 hour (free field)</sub> for a period of up to eight weeks in a year should be considered.
196. It is anticipated that the works required to create this mound would take less than eight weeks to complete but it is proposed to attach a condition to the granting of any planning permission requiring these works to be completed within this timeframe. The condition would also require the bund to be created at the start of the restoration works, in order to maximise the benefits that it would bring, in addition to requiring details of the route to be taken by mobile plant to construct the additional bund in order to minimise the loss of vegetation. A condition is also recommended requiring all mobile plant on the site to use 'white noise' reversing alarms which would also reduce the noise impact of restoration works on site. Again, these matters would accord with Policy M3.5 of the MLP and Policy W3.9 of the WLP.
197. The HGVs bringing material onto the site also have the potential to generate noise impacts, particularly on the residents of the two properties on Park Lane close to the site access. However, the County Council's Noise Engineer considers that the noise from the HGVs would only result in an additional 1dB which, to put into context, is less than the 3dB which is accepted as being the minimum change in noise levels that can be noticed by the human ear.
198. In addition to the restoration works, there is the potential for additional noise from the construction of the various built development on site, such as the clubhouse, equestrian centre and offices. British Standard BS5228:2009 provides guidance for construction noise and states that noise levels between 7am and 7pm outside the nearest window of an occupied room closest to the site boundary should not exceed 70 decibels (dBA) in rural areas away from main road traffic and industrial noise. The ES predicts that construction noise from activities such as piling works, foundation works and building works would not exceed 70 dB(A) at the three locations detailed above and this assessment is accepted. In the interests of residential amenity, it is proposed to attach a condition to any planning permission granted requiring noise levels to be kept below 70 dB(A)

during construction works in addition to not allowing the noisiest construction works to commence until 8am instead of 7am.

199. Once operational, it is considered that the greatest potential for noise disturbance would come from late-night functions at the clubhouse, which the application states could last until 2am, and the use of the caravan and camping site which would be close to the northern boundary of the site and therefore High Cliff and The Hollies. Concerns regarding both these matters have been raised by local residents.
200. Regarding the late night use of the function room in the clubhouse, the County Council's Noise Engineer considers that if a condition was attached to any planning permission granted requiring noise levels associated with the function room to be no more than existing night-time noise levels, taking into account a 5dB(A) penalty to reflect the impact of noise associated with discos or live music, between the hours of 7pm and 2am, then the amenity of the residents of these properties would be protected in accordance with Policy ST1 of the Ashfield Local Plan Review. The condition would require the site operators to implement noise attenuation measures should the condition be breached. Again, it should be noted that Ashfield District Council's Environmental Health Officer has not objected to the application and it should also be noted that the applicant proposes to fit the clubhouse with air conditioning, therefore limiting the need to have windows open.
201. Regarding the use of the caravan and campsite, The Hollies on Park Lane would be approximately 75 metres from the southern edge of the caravan area with High Cliff approximately 90 metres away. These distances increase to approximately 125 metres and 150 metres respectively for the camping area at its closest point. It is considered that the provision of the additional screening bund at the start of the restoration works, in addition to a commitment from the applicant to ensure that the caravan and campsite would be managed by the site manager whenever it is operational – a matter which would be secured through a condition – would ensure that the impact of this facility on residential amenity would be minimised to acceptable levels in accordance with Policy ST1 of the Ashfield Local Plan Review. It would be for the campsite manager, who would live in a purpose built residential unit close to the caravan site, to ensure that the site is managed to ensure that noise levels do not cause any adverse impact on residential amenity.

## Dust

202. It is recognised that the restoration phase of the proposed development has the potential to generate dust through the deposit and spreading of inert material, a matter raised by Ashfield District Council and members of the public. Indeed, one objector has stated that recent works carried out on site generated significant amounts of dust, resulting in windows having to be kept closed, although no complaint was made to the County Council at the time of these alleged occurrences. A condition is recommended requiring a dust management scheme to be submitted for approval and then implemented prior to the commencement of the restoration works in order to ensure that dust does not cause any unacceptable impacts to nearby sensitive receptors in accordance with Policy M3.7 of the MLP and Policy W3.10 of the WLP.

## Impact on nearby mushroom farm business

203. An objection has been submitted from the owners of a property on Salmon Lane to the south of the site. The owners of the property used to run a mushroom farm on land to the rear of their property which was granted planning permission on appeal with a condition linking its use to the agricultural activities on site.
204. The business has not operated for a number of years as it was closed due to future uncertainties during the processing of the 1997 landfill application. The incompatibility between the mushroom business and the proposed landfill related to airborne particles from the landfill which would have had an adverse impact on the extremely sensitive growing conditions required at mushroom farms. This fact is recognised in the Waste Local Plan which identifies one of the planning issues associated with the landfilling of the void that needs to be taken into account as being the safeguarding of the viability of the mushroom farm. It is understood that, had the later application to landfill the void been granted planning permission, then the owners of the mushroom farm would have been compensated by the landfill operators for the acknowledged impact it would have caused to their business.
205. The owners of the property do not object to the principle of the restoration of the tip site but are concerned that the restoration works, principally the tipping and spreading of restoration soils and the resultant release of soil-borne microbes and spores, would make it impossible to recommence the mushroom farm for similar reasons to those described above. The applicant has submitted details that confirm that such issues would arise from the restoration of the tip site and these are accepted.
206. The owners of the property argue that if it is not possible to operate the mushroom farm, which it would not be during the estimated five years of restoration works, then the value of their property would be diminished due to the agricultural tie attached to it. The owners of the property are understood to be preparing an application to seek to have the agricultural tie removed from their property – an application which would be determined by Ashfield District Council. It is accepted that the relatively small size of the property and its

landholding make it unsuitable for other agricultural activities which could support the owners of the property and so this is quite a rare situation.

207. Discussions with the owners of the property have taken place and they have suggested a condition be attached to any planning permission granted to restore the tip requiring a scheme to safeguard the viability of the mushroom farm to be implemented prior to restoration works commencing. Should the application to remove the agricultural tie be determined positively by Ashfield District Council, then they consider that this would be one way of dealing with the matter and discharging the condition.
208. Whilst the above scenario does appear to be a satisfactory manner in which to deal with this issue, there is always the possibility that Ashfield District Council may refuse the application to remove the agricultural tie for reasons possibly relating to the property's location in the Green Belt. If this were to happen with the condition in place, the applicant would be required to come forward with a scheme to mitigate the impact on the mushroom farm. If a suitable scheme could not be approved (and there is the issue of which body, authority or organisation would be consulted by the County Council to consider any scheme submitted under this condition), then the restoration of the tip site would have to cease as the condition could not be discharged.
209. However, what also needs to be recognised is that the mushroom farm has not been in operation for over ten years. It is accepted that uncertainties regarding the proposed landfill made business planning difficult and led to the closure of the mushroom farm but what should also be recognised is that there appears to have been no attempt to restart the business since planning permission to landfill the void and restore the tip was refused planning permission in March 2010, over two and a half years ago, refusals which were not challenged through the appeal process.
210. In light of all the above factors, it is considered reasonable to recommend two conditions be attached to any planning permission granted for the restoration of the tip. One would require the restoration works, which are the works which are of concern to the owners of the mushroom farm, to be completed within the five years set out in the ES. This would remove any uncertainty that the owners of the mushroom farm might have that the restoration of the tip would take far longer than suggested in the application. The second condition would require a suitable scheme to be submitted to safeguard the viability of the mushroom farm should the County Council be informed that the owners, or any subsequent owners of the business should the present owners sell it and the adjoining property, wish to recommence the business. This would protect the viability of the mushroom farm from the restoration works proposed but only if it can be realistically expected that the mushroom farm is to recommence operating.

#### Cuttail Brook culvert

211. As described in the site description above (see paragraph 5), the Cuttail Brook is carried beneath the application site, and also land to the north of this, by a culvert which was installed when the tip site was being developed for colliery

spoil disposal. The culvert was designed to be a permanent feature and it should be noted that, had Bentinck Colliery remained open, colliery spoil disposal would have continued on the site and raised the height of the tip by approximately another 30 metres over and above the existing height of the tip. It is therefore to be assumed that the loading capacity of culvert is far greater than the load it is presently experiencing. However, a previous survey of the culvert, carried out as part of the application for the landfilling of the void, did identify some maintenance requirements although it was considered that the culvert retained much of its original durability.

212. The Environment Agency (EA) has raised concerns about the condition of the culvert and has recommended a condition requiring a programme for the inspection of the culvert, pre and post the importation of waste and reprofiling works, to be submitted and implemented as approved. The EA has also recommended a condition requiring remedial works to be carried out following the completion of the restoration works, as identified by the surveys, in order to maintain the integrity of the culvert. The EA is not necessarily concerned about the additional inert material that would be placed over the line of the culvert, which crosses phases 5 and 6 of the proposed restoration works, rather the movement of heavy plant and vehicles in this area.
213. It is therefore recommended that a condition be attached to any planning permission granted requiring a survey of the culvert to be carried out and a programme of remediation works put forward which can be undertaken prior to restoration works commencing in phase 5. Once restoration works have been completed in phase 6, a further survey would be carried out to ascertain whether the restoration works, in particular the movement of heavy plant and vehicles, had had a detrimental impact on the culvert and for further remediation works to be carried out as necessary. These matters would ensure that the integrity of the culvert is maintained and the risk of pollution minimised to acceptable levels in accordance with Policy W3.5 of the Waste Local Plan.

#### Unexploded seismic survey charges

214. An issue that has been raised in previous applications for the tip site and has again been raised by the Coal Authority is a seismic survey that was previously carried out. The explosives for the survey were laid in 1985 with the seismic line running from the western side of the tip site in a generally northerly direction to the north of Park Lane. However, the seismic survey was never carried out and so the explosives, ranging from between 2-5lb in size, remain undetonated. The boreholes in which the explosives were placed were backfilled and capped and much of the seismic line within the application site would have been subsequently overlaid with further colliery spoil prior to the cessation of colliery spoil tipping operations in 2000. Plans drawn at the time by the National Coal Board have been obtained from the Coal Authority showing the location of the boreholes.
215. During the determination of a previous application to cap some of the lagoons on the tip site using material derived from the M1 widening works (a planning permission which was never implemented), the Coal Authority was consulted on

this matter and the Coal Authority itself consulted with an explosives company in order to ascertain the nature of the explosives and detonators, in addition to their likely state after a significant period of time since they had been laid. The explosives company stated that the seismic primer and detonator would still likely be sensitive with the explosives having reduced sensitivity.

216. In light of this information, a condition was attached to the permission requiring a working design and method statement to be submitted, to mitigate any risk from the charges. Although the permission was not implemented, details required under that condition were submitted and proposed a 10 metre stand-off from the location of one of the boreholes which was close to the working area. The details were forwarded to the Coal Authority which considered them to be suitable and the condition was discharged.
217. Imposing a similar approach would have a greater impact on the proposed restoration of the entire site being considered here because the restoration works would be in close proximity to the location of many more of the boreholes. Indeed, a small number of the borehole locations are close to the driving range building where groundworks would be required. The Coal Authority has not objected to the application but has merely requested that its comments be taken into account as it does not have the technical expertise to offer specific advice on this matter. It has recommended that the applicant seeks advice from a suitably qualified expert in order to determine an acceptable approach on this matter.
218. In light of this, and taking into account the fact that 27 years have passed since the seismic survey works were undertaken, it is considered reasonable to attach a condition to the granting of any planning permission requiring the applicant to take the known location of the seismic line and the boreholes into consideration during the restoration works being proposed. It would be for the applicant to take all reasonable mitigation measures deemed necessary through liaison with the Coal Authority or a suitably qualified expert to minimise the impact of the proposed development on the integrity of the seismic line and the boreholes. Copies of plans previously provided by the Coal Authority would be attached as informatives to any planning permission granted.
219. A final point to consider on this matter is that land to the north of Park Lane on which five of the boreholes were dug (a former coal stocking area known as 'Area Number 5') has since been the subject of a planning permission permitting the importation of approximately 20,000 m<sup>3</sup> of inert material for restoration purposes. The issue of the boreholes within that application site was not raised during the application consultation process and the development has been implemented without any known impact upon the boreholes or the explosives and charges within them. However, it should be noted that that permission did not include any built development anywhere on the site, let alone along the line of the seismic survey, and so it is considered important to attach the recommended condition to the application under consideration in this report.

#### Contamination and ground stability issues

220. The previous use of the site for colliery spoil disposal has left a legacy of potential contamination which, if not dealt with adequately, could potentially lead to health risks to the users of the various recreational and other uses proposed on the site. The County Council's Reclamation Team considers that insufficient information has been provided in the ES submitted with the application but considers that conditions could be attached to any planning permission granted requiring the necessary remediation works to be carried out as part of the restoration works. These remediation works would include investigations to ascertain the presence of any potential contamination and the submission of a method statement to deal with any contamination identified. The recommended conditions are considered to be an acceptable way of dealing with potential contamination issues and would ensure that the proposed development accords with Policy W3.5 of the WLP.
221. The Coal Authority has highlighted that the previous use of the site also has implications for the foundation design of the proposed new buildings on the site. As foundation design would be dealt with by the district council under building regulations, it is proposed to attach the Coal Authority's consultation response as an informative to any planning permission granted.
222. Once restored, the site would need to have suitable provisions to deal with the disposal of foul drainage, an issue raised by Ashfield District Council and the Environment Agency. It would not be possible to connect any foul drainage system on site to the existing public sewer system due to the significant distance, approximately 800 metres, between the clubhouse and the nearest public foul sewer. It is therefore proposed to install a package treatment plant to serve the clubhouse, football changing rooms and campsite. Details of the plant to be provided would require submission under a suitably worded condition and would require approval from the EA prior to installation.

#### Rights of way

223. The Ramblers' Association wishes to see the proposed equestrian track around the perimeter of the site accessible to all rights of way users as it would improve walkers' access in the area and also allow for access to the void site to the south. This matter has been put to the applicant but they wish the equestrian track to be solely for the use of horse riders.
224. Regarding access onto the void site, it should be noted that there are no definitive rights of way linking the void to the tip site. In its consultation response to the application, Natural England has sought confirmation that the void site, which is designated as a SSSI, would be fenced off from the southern boundary of the tip to prevent horse riders from accessing it and potentially damaging the void's ecological interest. For similar reasons, it is considered that walkers' access onto the void site should also be discouraged and this would be achieved by not allowing public access onto the equestrian trail.
225. The County Council's Countryside Access Team has recommended that any permission granted includes provisions to maintain that section of Kirkby Footpath Number 20 which runs along the northern and western perimeters of

the site. On the section adjacent to Park Lane, the footpath has the tendency to become overgrown and so a condition requiring the footpath to be maintained is considered appropriate. The applicant has agreed to this and it is considered that any such works could be carried out by the greenkeepers working on the golf course.

#### Football pitches and changing rooms

226. Sport England, whilst not objecting to the application, has raised concerns regarding the design of the football changing rooms as they do not meet the Football Association's (FA) guidelines in terms of their size and the facilities they provide, particularly regarding the provision of disabled toilets and separate toilets for footballers and spectators. Sport England has indicated that not meeting the FA's guidelines has implications for funding from the FA, Sport England or the Football Foundation, both now and in the future if other funding is sought.
227. It is considered that the applicant cannot be forced through conditions to construct the changing rooms in accordance with the FA's guidelines as they are solely being proposed in response to a request from the local community for additional football pitches, rather than being necessary in order to make the application acceptable from a planning point of view. The applicant would have been perfectly within their rights to submit the application without the pitches and changing facilities. What is considered appropriate is to attach Sport England's consultation responses to any planning permission granted, even though the applicant has already been made aware of these issues. It is understood that the applicant is giving this matter some consideration and could change the internal layout of the building without the need for a further planning permission in order to meet some, if not all, of the FA's guidelines.
228. Sport England has also advised on the standards for the construction of the football pitches and has raised concerns regarding the potential use of the pitches for other activities such as community events, as stated in the application. Sport England is concerned that such events could result in damage to the pitches, particularly if vehicles run over the pitches, causing problems for their drainage and ultimately making them unsuitable for football use. Again, no objection has been raised on these matters and it is considered that it would be in the applicant's best interests to keep their pitches in good condition. Again, these matters have been brought to the applicant's attention and Sport England's consultation responses would be attached as informatives to any planning permission granted.

#### Crime and disorder

229. The Police Force Crime Liaison Officer has raised concerns that the restoration of the site to the various facilities proposed, and its relatively remote location, could increase the potential for crime and disorder. Indeed, the issue of unauthorised off-road motorcycles and quad bikes has caused some nuisance in the past on the site. It is considered that these matters could be suitably

addressed through the provision of alarms in buildings and secure gates at the site entrance, which the applicant has indicated would be provided. It should also be noted that the site is already fenced along much of its northern boundary with Park Lane. Along with the presence of the campsite manager when the campsite is occupied, it is considered that the site would be secure and would not give rise to crime and disorder issues.

#### Network Rail consultation response

230. Network Rail has recommended a number of conditions be attached to any planning permission granted in order to ensure the continued safe operation of the railway which is adjacent to the northern boundary of the site. The principle of these conditions are considered acceptable although the wording has had to be amended in certain cases as the recommended conditions required controls to be put in place on Network Rail land, whereas the conditions attached to this report in Appendix 1 would safeguard the railway line through provisions made within the site boundary, such as a suitable surface water drainage scheme and ensuring that any cranes and jibbed machines are a suitable distance from the line.

#### High pressure pipeline

231. National Grid has indicated that there is a high pressure pipeline running alongside the motorway and therefore close to a short section of the western boundary of the application site. The applicant has confirmed that some groundworks would be required in this area as part of the development of the golf course. It is very unlikely that these works would impact on the pipeline but it is considered appropriate to attach National Grid's consultation response to any planning permission granted as an informative so that they are aware of the pipeline's location.

### **Other Options Considered**

232. No other options in terms of the restoration of the site have been considered as no other restoration schemes are presently before the County Council or Ashfield District Council for consideration. Therefore, the only other option available at the present time is to leave the site as it is and it is considered that there are significant material planning considerations which at the very least support the consideration of this planning application to restore the site.

### **Human Rights Act Implications**

233. 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 on the amenity of local residents through the use of the caravan and camping area and functions associated with the clubhouse. However, it is considered that these impacts would be suitably

mitigated through the management of this facility and the conditions recommended. Members will need to consider whether these measures would outweigh the potential impacts.

### **Crime and Disorder Implications**

234. The introduction of new built development on the site has potential to lead to crime on the site and concerns have been raised by the Police Force Crime Liaison Officer. However, these matters have been brought to the attention of the applicant who has been in dialogue with the liaison officer. It is considered that these issues are capable of being appropriately mitigated.

### **Conclusions and Statement of Reasons for the Decision**

235. Bentinck tip has remained virtually unchanged since colliery spoil disposal ceased in 2000. Although it has gained some features of ecological importance, including designation as a Site of Importance for Nature Conservation for its avian interest, it is considered that there are compelling reasons in terms of the site's landscape and visual impact to support a scheme which brings about its restoration. The proposed development would address the adverse impact the site presently has on the local landscape whilst also introducing a number of activities that would be beneficial to a variety of sections of the local community.
236. It is considered that the importation of a significant quantity of the approximately 495,000 cubic metres of inert material required to restore the site is 'other recovery', which is higher up the waste hierarchy than waste disposal, as soils that were originally envisaged to restore the tip site are no longer available. Planning Policy Statement 10: Planning for Sustainable Waste Management states that waste can serve a useful purpose by replacing other materials that would otherwise have been used. It is also considered that, as a whole, the material to be imported would serve a useful purpose in allowing the tip to be restored to a variety of recreational end uses, rather than it potentially being disposed of at an inert landfill site. Local planning policies, both adopted and emerging, also support the use of such material to restore former colliery spoil heaps such as Bentinck tip. It is therefore considered that the importation of the inert material accords with national and local planning policies.
237. Despite the benefits that the restoration of the tip would bring, it is accepted that the importation of significant amounts of inert material using HGVs on the local highway network has the potential to cause unacceptable environmental impacts. However, improvements to the highway network, as identified in the planning application, in addition to limits to the number of HGVs entering the site per day and annual surveys of the highway closest to the site entrance, would ensure that these highways impacts would be kept to acceptable levels and would also minimise the impact of the development on the character, appearance, condition and setting of the Kirkby Cross Conservation Area.
238. Various built developments are proposed as part of the restoration of the site including a clubhouse, driving range, greenkeepers' building, changing rooms,

stables, offices, campsite manager's accommodation and a toilet/shower block. It is considered that these would be acceptable in the Green Belt as they are either appropriate facilities required to support the successful running of the various recreational activities being proposed or, in the case of the proposed offices, the benefits they bring in terms of the financial viability of the proposed restoration of the site provide the very special circumstances required by the National Planning Policy Framework and the Ashfield Local Plan Review. It is considered that none of the proposed built development would have a detrimental impact on the openness of the Green Belt.

239. The various recreational and other facilities being proposed have been designed in order to also provide suitable areas for ecological enhancement and it is considered that these features of interest, such as great crested newts and little ringed plover and other birds, and their habitats, would be mitigated and enhanced in order to retain the site's ecological interest in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan. The provision of a total of ten years aftercare would ensure the necessary ecological enhancement is achieved. Measures have also been designed to ensure that the proposed development does not impact upon the adjacent Site of Special Scientific Interest, in accordance with Policy M3.19 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.
240. It is therefore considered that the proposed development would accord with Policy M4.8 of the Nottinghamshire Minerals Local Plan as it would provide for the reclamation of a former minerals site which presently has an unsatisfactory appearance and inappropriate provisions for reclamation, in addition to providing for an improved environmental and amenity after-use. The County Council is of the opinion that there are no material considerations that indicate that the decision should be made otherwise and considers that any potential harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.
241. As the site is within the Green Belt and includes proposals for offices and a residential property, the proposals have been treated as a 'departure' from the development plan. However, whilst the County Council acknowledges this issue, it is considered that the impact of these and other buildings proposed on the openness of the Green Belt would be minimal and would be outweighed by the need to restore this former colliery spoil tip.

## **RECOMMENDATIONS**

242. It is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be instructed to enter into legal agreements under Section 106 of the Town and Country Planning Act 1990 and Section 278 of the Highways Act 1980 to secure an additional five years of aftercare for those areas on the site which are of ecological interest; an annual dilapidation survey of the section of Park Lane 250 metres west of the site access towards Selston and approximately 650 metres east of the site access up to the access to the

sewage works; improvements to the highway at the Kirkby Cross roundabout; and a lorry routeing agreement to prevent HGVs associated with the restoration of the site from travelling along the B6020 through the retail centre of Kirkby-in-Ashfield.

243. It is FURTHER RECOMMENDED that subject to the completion of the above legal agreements the Corporate Director for Policy, Planning and Corporate Services be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. Members need to consider the issues, including the Human Rights Act issues set out in the report and resolve accordingly.

**SALLY GILL**

**Group Manager Planning**

### **Constitutional Comments**

"Committee have power to decide the Recommendation [SHB.31.10.12]"

### **Financial Comments (DJK 07.11.12)**

The contents of this report are duly noted; there are no financial implications arising.

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

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

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

Kirkby-in-Ashfield South      Councillor Rachel Madden

Selston                              Councillor Gail Turner

Report Author/Case Officer

Jonathan Smith

0115 9696502

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

W001013  
PPCS.JDS/PAB/EP5351  
9 Nov 2012

## RECOMMENDED PLANNING CONDITIONS

### Commencement

1. The development hereby permitted shall be begun within three years from the date of this permission.

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

2. The Minerals and Waste Planning Authority (MWPA) shall be notified in writing of the date of commencement of the development at least seven days, but not more than 14 days, prior to the commencement of the development.

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

3. The importation of inert material onto the site and its grading to the final approved levels shall be completed with five years of the date of commencement, as notified under Condition 2 above.

*Reason: To ensure the restoration of the site is completed within a satisfactory timescale.*

4. The MWPA shall be notified in writing of the date of completion of the importation of inert material onto the site and its grading to the final approved landform at least seven days, but not more than 14 days, following the completion of these works.

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

### Approved plans

5. From the commencement of the development to its completion, a copy of this permission including all plans and documents hereby approved, and any other plans and documents subsequently approved in accordance with this permission, shall always be available at the site offices for inspection by the MWPA during normal working hours.

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

6. The development hereby permitted shall only be carried out in accordance with the details contained within the planning application forms and Environmental Statement (ES) received by the MWPA on 24 February 2012 and the Regulation 22 Submissions received by the MWPA on 17 August 2012 and 27 September

2012, including the Ecological Mitigation and Management Plan received by the MWPA on 17 August 2012, and in particular the plans and details identified below, unless amendments are made pursuant to the other conditions below:

- (i) 'Drawing Number BG 3/1 – Existing Site Layout' received by the MWPA on 24 February 2012;
- (ii) 'Drawing Number BG 3/2A – Proposed Site Layout' received by the MWPA on 17 August 2012;
- (iii) 'Drawing Number BG 3/2A – Sections' received by the MWPA on 17 August 2012;
- (iv) 'Drawing Number LH/1 – Landscape and Restoration Proposals and Sections' received by the MWPA on 17 August 2012;
- (v) 'Drawing Number BG 3/3 – Driving Range Building' received by the MWPA on 24 February 2012;
- (vi) 'Drawing Number BG 3/4 – Green Keepers Building' received by the MWPA on 24 February 2012;
- (vii) 'Drawing Number BG 3/5 – Equestrian Centre Stables and Office Building Layout' received by the MWPA on 24 February 2012;
- (viii) 'Drawing Number BG 3/6 – Equestrian Centre Building Elevations and Layout' received by the MWPA on 24 February 2012;
- (ix) 'Drawing Number BG 3/6A – Equestrian Centre: Hay Store' received by the MWPA on 24 February 2012;
- (x) 'Drawing Number BG 3/7A – Layout of Camping and Adventure Play Area' received by the MWPA on 17 August 2012;
- (xi) 'Drawing Number BG 3/8 – Manager/Security Office and Accommodation' received by the MWPA on 24 February 2012;
- (xii) 'Drawing Number BG 3/9 – Campsite Toilet/Shower Facilities' received by the MWPA on 24 February 2012;
- (xiii) 'Drawing Number BG 3/10 – Outdoor Classroom' received by the MWPA on 24 February 2012;
- (xiv) 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012;
- (xv) 'Drawing Number BG 3/12 – Football Pitch: Changing Rooms' received by the MWPA on 24 February 2012;
- (xvi) 'Drawing Number BG 3/13 – Proposed Bird Hide' received by the MWPA on 24 February 2012;

- (xvii) 'Drawing Number BG 3/14 – Proposed Car Park Lighting' received by the MWPA on 24 February 2012;
- (xviii) 'Drawing Number BG 3/15A – Luminance Plan' received by the MWPA on 17 August 2012;
- (xix) 'Drawing Number BG 6/1A – Landscape and Restoration' received by the MWPA on 17 August 2012;
- (xx) 'Drawing entitled 'Endurance Wind E-3120 Elevation' received by the MWPA on 24 February 2012;
- (xxi) 'Drawing Number 11/1843/01 Revision A – Clubhouse: Proposed Site Layout' received by the MWPA on 24 February 2012;
- (xxii) 'Drawing Number 11/1743/02 Revision A – Clubhouse: Proposed Lower Floor Layout' received by the MWPA on 24 February 2012;
- (xxiii) 'Drawing Number 11/1843/03 Revision A – Clubhouse: Proposed Upper Floor Layout' received by the MWPA on 24 February 2012;
- (xxiv) 'Drawing Number 11/1843/04 Revision A – Clubhouse: Proposed Elevations (Sht 1)' received by the WPA on 24 February 2012;
- (xxv) 'Drawing Number 11/1843/05 – Clubhouse: Proposed Elevations (Sht 2)' received by the MWPA on 24 February 2012;
- (xxvi) 'Drawing Number 11/1843/06 Revision A – Employment Buildings: Proposed Layouts and Elevations' received by the MWPA on 24 February 2012'.

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

### **Inspection of the Cuttail Brook culvert**

7. Prior to the importation of inert material onto Phase 4, as detailed on 'Drawing Number BG 3/11A - Restoration Phasing Plan' received by the MWPA on 17 August 2012, a programme for the inspection and maintenance of the section of the Cuttail Brook culvert which lies within the application area, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012, shall be/shall have been submitted to and approved in writing by the MWPA. The scheme shall provide for:
  - (a) A survey of the culvert to be carried out prior to the commencement of the importation of inert material onto Phase 4;
  - (b) The submission of the culvert survey to the MWPA with six months of the commencement of importation of inert material onto Phase 4 along with a programme for subsequent maintenance including timing/phasing arrangements which shall provide for any refurbishment and repair works

to be carried out prior to the deposit of any inert material within phases 5 and 6;

- (c) The provision of a further survey to take place following the completion of the importation of inert material onto the site and its grading to the final approved landform, as notified under Condition 3 above, to be undertaken no later than one year following the completion of the importation of inert material onto the site and its grading to the final approved landform; and
- (d) The submission of the further culvert survey to the MWPA along with a further programme for subsequent maintenance including timing/phasing arrangements which shall provide for any further refurbishment and repair works to be carried out within three months of the further survey being carried out.

The scheme shall be implemented in accordance with the approved details.

*Reason: To protect surface and groundwater resources in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Surface water and foul sewage drainage**

- 8. Prior to the importation of inert material onto Phase 3, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012, a scheme for the disposal of surface water shall have been implemented in accordance with details previously submitted to and approved in writing by the MWPA. The scheme shall include details of how the adjacent motorway will not be adversely affected by changes to surface water drainage from the site, including details of the locations of any soakaway or lagoon constructed as a means of storm/surface water disposal or storage. The scheme shall be implemented in accordance with the approved scheme.

*Reason: To protect surface and groundwater resources in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

- 9. Prior to the importation of inert material onto Phase 4, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012, a scheme for the disposal of surface water shall have been implemented in accordance with details previously submitted to and approved in writing by the MWPA. The scheme shall include details of how the adjacent rail line will not be adversely affected by changes to surface water drainage from the site, including details of the locations of any soakaway or lagoon constructed as a means of storm/surface water disposal or storage. The scheme shall be implemented in accordance with the approved scheme.

*Reason: To protect surface and groundwater resources in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

10. A scheme to dispose of foul drainage shall be submitted to and approved in writing by the MWPA prior to the installation of a foul water drainage system at the site. The scheme shall include details of the discharge arrangements which shall demonstrate that there would be no adverse impacts on the adjacent Sites of Special Scientific Interest. The foul water drainage system shall be installed in accordance with the approved details.

*Reason: To protect surface and groundwater resources in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Restoration works**

11. Only uncontaminated soils, clays and soil making materials (uncontaminated inert waste such as concrete, hardcore and other similar demolition waste) which are fit for the purpose of restoring the site to a recreational/amenity/biodiversity afteruse shall be imported into the site. If, in the opinion of the MWPA, it is considered that the materials being imported into the site are not fit for purpose then, within two weeks of a written request from the MWPA, detailed chemical analyses of samples of the materials imported onto the site shall be undertaken and submitted to the MWPA for assessment and for its approval in writing. The analyses, based on criteria derived from BS:3882 and guidance from the Contaminated Land Exposure Assessment, shall provide data on the concentrations of the following and any other compounds or substances deemed appropriate by the MWPA:

- (a) pH;
- (b) Arsenic;
- (c) Asbestos;
- (d) Boron;
- (e) Cadmium;
- (f) Chromium (III and IV);
- (g) Copper;
- (h) Hydrocarbons;
- (i) Lead;
- (j) Mercury (inorganic);
- (k) Nickel;
- (l) Selenium; and
- (m) Zinc.

Should the results of the analyses confirm that unsuitable material has been imported onto the site, it shall be removed from the site within two weeks of notification from the MWPA, and disposed of at a suitably licensed site.

*Reason: To ensure there is no unacceptable risk of pollution to groundwater or surface water, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

12. No development shall commence until:

- (a) A phase 1 desk top study has been submitted to and approved in writing by the MWPA;
- (b) The site investigation contained in the phase 1 desk top study submitted in accordance with Condition 12 (a) has been completed and approved in writing by the MWPA and a risk assessment has been completed; and
- (c) A method statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters and on the proposed land use, using the information obtained from the site investigation, has been submitted to and approved in writing by the MWPA prior to that remediation being carried out on the site.

*Reason: To ensure that the proposed final uses of the site do not pose a risk to public health or the wider environment by ensuring that the site is made suitable for its intended use, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

13. No development shall commence until the remediation works approved under Condition 12(c) above have been completed in accordance with the approved method statement to the satisfaction of the MWPA.

*Reason: To ensure that the proposed final uses of the site do not pose a risk to public health or the wider environment by ensuring that the site is made suitable for its intended use, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

14. Validation of the remedial scheme carried out in accordance with Condition 13 above, including evidence of post remediation sampling and monitoring results to demonstrate that the required remediation has been fully effective, shall have been submitted to and have been approved in writing by the MWPA prior to any of the recreational or other facilities approved by this permission first being brought into use or such other timescale as may first be agreed in writing with the MWPA.

*Reason: To ensure that the proposed final uses of the site do not pose a risk to public health or the wider environment by ensuring that the site is made suitable for its intended use, in accordance with Policy*

*M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

15. If, during the approved restoration works, contamination not previously identified through the details submitted under Condition 12 above is found to be present at the site, then no further development shall be carried out until a method statement has been submitted to and been approved in writing by the MWPA, detailing any additional remediation requirements to deal with the unsuspected contamination, including measures to minimise the impact on ground and surface waters and on the proposed land use, using the information obtained from additional site investigations. The method statement shall be implemented in accordance with the approved details prior to any of the recreational or other facilities approved by this permission first being brought into use or such other timescale as may first be agreed in writing with the MWPA.

*Reason: To ensure that the proposed final uses of the site do not pose a risk to public health or the wider environment by ensuring that the site is made suitable for its intended use, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

16. The development hereby permitted shall be carried out in a manner which mitigates the adverse impacts of undetonated seismic charges on the site. All precautionary measures deemed necessary to mitigate any potential impacts from the undetonated seismic charges on the site shall be undertaken by the operator in accordance with appropriate expert advice during both the restoration works and any groundworks associated with the construction of any buildings in the vicinity of the boreholes located on the site.

*Reason: To ensure the safety of the tip site and prevent any pollution to groundwaters in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

17. Within three months of a written request from the MWPA, a scheme of mitigation to safeguard the viability of the mushroom farm at Leedale, Salmon Lane shall be submitted to the MWPA for its approval in writing, following the receipt of satisfactory written evidence from the operators of the mushroom farm that it is proposed to recommence the mushroom farm business. The scheme shall be implemented in accordance with the approved details within a timeframe detailed by the MWPA.

*Reason: To safeguard the commercial viability of a nearby business from the impact of airborne emissions associated with the restoration of the tip.*

18. No development shall commence until a dust management plan has been submitted to, and approved in writing by, the MWPA. The dust management plan shall set out measures to minimise the generation of dust and reduce its impact on nearby dust sensitive receptors and provide for dust monitoring.

These measures shall include, but not necessarily be limited to, any or all of the following steps as appropriate:

- (a) The use of water bowzers to dampen haul roads, stock-piles and other operational areas of the site;
- (b) The sweeping of access and haul roads, where necessary;
- (c) The minimisation of drop heights during loading and unloading of inert restoration material;
- (d) Limiting on-site vehicle speeds;
- (e) Provisions for the temporary suspension of restoration works, including the tipping of inert material from HGVs, during periods of unfavourably dry or windy weather conditions;
- (f) Details of the mechanism to be employed to monitor dust, the monitoring locations (which shall reflect the areas of working) and the mechanism to record the dust monitoring data, including its submission to the MWPA.

The dust management plan shall be implemented in accordance with the approved details.

*Reason: To ensure that dust impacts associated with the operation of the development are minimised, in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan and Policy W3.10 of the Nottinghamshire and Nottingham Waste Local Plan.*

19. No development shall commence until details of the site access layout have been submitted to the MWPA for its approval in writing. The details shall provide for a minimum of 10 metres of kerbed radii and the surfacing in a bound material of the access road for a minimum distance of 50 metres behind the highway boundary.

*Reason: To reduce the possibility of deleterious material being deposited on the public highway and in the interests of highway safety in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan and Policy W3.11 of the Nottinghamshire and Nottingham Waste Local Plan.*

20. Measures shall be employed to prevent the deposit of mud, clay and other deleterious materials on the surrounding public highway during the restoration works. Such measures shall include the retention of the existing wheel washing facilities on the access road; and regular sweeping and cleaning of the access road, vehicular circulation routes and the adjacent public highway. In the event that such measures prove inadequate, then within one week of a written request from the MWPA, a scheme including revised and additional steps or measures to be taken in order to prevent the deposit of materials upon the public highway shall be submitted to the MWPA for its approval in writing. The approved steps for the protection of the surrounding roads shall be implemented immediately upon their approval and thereafter maintained throughout the restoration works.

*Reason: In the interests of highway safety in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan and Policy W3.11 of the Nottinghamshire and Nottingham Waste Local Plan.*

21. No restoration material shall be imported onto the site until visibility splays of 2.4 metres by 215 metres have been provided in accordance with details previously submitted to and approved in writing by the MWPA. The area within the visibility splays shall thereafter be kept free of all obstructions and structures exceeding 0.6 metres in height.

*Reason: To afford adequate visibility at the access to the site to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan and Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

22. The restoration of the site shall be carried out on a phased basis in accordance with the details on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012. The MWPA shall be notified in writing of the completion of each phase of restoration.

*Reason: To minimise the operating area of the site at any one time and to provide for the phased disposal and restoration of the site in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan and Policy W4.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

23. The initial restoration works shall provide for the construction of the additional perimeter bund on the northern boundary of the site as detailed in Section 2 of the Regulation 22 Submissions received by the MWPA on 17 August 2012 which shall be carried out in accordance with details previously submitted to and approved in writing by the MWPA. The submitted details shall include the route that mobile plant shall take and shall be chosen to minimise the loss of existing vegetation, in addition to landscaping details to be implemented upon the completion of its construction. The new bund shall tie in with the existing perimeter bund and shall be at least the same height as the existing bund and shall be constructed so as to ensure there are no gaps in the perimeter bunding in this area. The bund shall be constructed in accordance with the approved details, shall be constructed over a period of time not exceeding eight weeks, and shall be constructed in such a manner to ensure that noise levels associated with its construction do not exceed 70dB LA<sub>eq, 1 hour (free field)</sub> at High Cliff and The Hollies, Park Lane.

*Reason: To minimise potential noise disturbance at the site in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

24. The existing access road shall be maintained throughout the restoration works so as to ensure that there is no unregulated discharge of surface water onto the public highway. Should the access road be widened, resurfaced or extended to

provide access to the offices and equestrian centre, no works shall be carried out until details of the provisions to prevent the unregulated discharge of surface water onto the public highway have been submitted to and approved in writing by the MWPA. The access road shall only be widened, resurfaced or extended in accordance with the approved details and thereafter maintained to the satisfaction of the MWPA.

*Reason: In the interests of highway safety in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.*

25. The total number of HGVs entering the site shall not exceed 250 in any week. A written record of all HGV movements to the site shall be maintained by the operator and made available to the MWPA in writing within seven days of a written request from the MWPA.

*Reason: In the interests of highway safety in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan and Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

26. All plant and machinery used on the site for the purposes of grading colliery spoil or inert restoration material to the final approved levels 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 M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

27. Any cranes and jibbed machines used in connection with the restoration works hereby permitted shall be positioned so that the jib or any suspended load does not swing over adjacent railway infrastructure or within three metres of the nearest rail if the boundary is closer than three metres.

*Reason: To maintain the safety of railway operations.*

28. All cranes, machinery and constructional plant must be so positioned and used to prevent the accidental entry onto railway property of such plant, or loads attached thereto, in the event of failure.

*Reason: To maintain the safety of railway operations.*

29. Noise levels associated with the restoration works hereby permitted shall not exceed 55.0 dB<sub>L<sub>Aeq</sub> 1 hour (free field)</sub> at The Hollies, Park Lane, Kirkby-in-Ashfield, 25 Main Road, Annesley Woodhouse, and Suvla Bay, Salmon Lane, Annesley Woodhouse.

*Reason: To minimise potential noise disturbance at the site in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Waste Local Plan.*

30. Noise levels associated with the construction of the golf clubhouse, driving range, the camping shower block, the adventure playground, equestrian centre, and office block hereby permitted shall not exceed 70.0 dB<sub>L<sub>Aeq</sub> 1 hour (free field)</sub> at The Hollies, Park Lane, Kirkby-in-Ashfield, 25 Main Road, Annesley Woodhouse, and Suvla Bay, Salmon Lane, Annesley Woodhouse.

*Reason: To minimise potential noise disturbance at the site in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Waste Local Plan.*

31. Except in an emergency, which shall be notified to the MWPA in writing within no more than 48 hours of its occurrence, the restoration works hereby permitted shall only be undertaken during daylight hours and, in any event, within the following hours only:

Mondays to Fridays	0700 hrs to 1800 hrs
Saturdays	0700 hrs to 1300 hrs

There shall be no working on Sundays, Public and Bank Holidays.

*Reason: In the interests of amenity in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

32. Except in an emergency, which shall be notified to the MWPA in writing within no more than 48 hours of its occurrence, construction works hereby permitted involving earth moving, piling works, foundation construction and external building works shall only be undertaken during daylight hours and, in any event, within the following hours only:

Mondays to Fridays	0800 hrs to 1800 hrs
Saturdays	0800 hrs to 1300 hrs

There shall be no working on Sundays, Public and Bank Holidays.

Construction works involving the internal fitting of any buildings shall be permitted to start at 0700 hrs.

*Reason: In the interests of amenity in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

33. There shall be no changes to ground levels on land within 10 metres of the site boundary adjacent to the railway line until details of those changes, including cross sections, have been submitted to the MWPA and have been approved in writing by the MWPA. Restoration works within 10 metres of adjacent railway infrastructure shall be carried out in accordance with the approved details.

*Reason: To maintain the safety of railway operations.*

## Ecology

34. No restoration material shall be imported onto any phase of the site, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012 until details of the measures to protect all retained trees, hedges and shrubs during that phase of restoration have been submitted to and approved in writing by the MWPA. The measures shall be implemented and maintained throughout that phase of restoration in accordance with the approved details.

*Reason: To ensure the protection of vegetation on the site in accordance with Policy M3.4 of the Nottinghamshire Minerals Local Plan and Policy W3.4 of the Nottinghamshire and Nottingham Waste Local Plan.*

35. Prior to the capping of any of the lagoons on site, details of the drainage of the lagoons shall have been submitted to and approved in writing by the MWPA. These shall include details of where the water is to be drained to, the rate at which the water is to be drained and the timetable for the drainage works. Details shall also be submitted setting out how any settlement ponds into which water is to be drained shall be maintained. Provisions shall also be provided for the continued drainage of the lagoons throughout the capping operations. The development shall thereafter be carried out in accordance with the approved details and the lagoons drained prior to their capping.

*Reason: To ensure that no legally protected species are adversely affected by the development and to ensure compliance with Policy M3.8 of the Nottinghamshire Minerals Local Plan and Policy W3.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

36. No restoration material shall be imported onto any phase of the site, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012 until details of the internal haul routes to be used by HGVs in each phase have been submitted to and approved in writing by the MWPA. HGVs depositing inert restoration material shall only use the haul routes as approved.

*Reason: In order to minimise the impact of the development on features of ecological interest.*

37. No restoration works shall commence in phases 1, 3 and 5 until a method statement for the translocation of reptiles has been submitted to and approved in writing by the MWPA. These schemes shall be implemented in accordance with the approved details prior to any site clearance works taking place.

*Reason: In the interests of protecting species and their habitats in accordance with Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.*

38. Prior to the removal of vegetation from any phase of the restoration works, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by

the MWPA on 17 August 2012, a qualified ecologist shall walk the affected land to ensure that no species as identified in the Ecological Mitigation and Management Plan received by the MWPA on 17 August 2012 or species protected by the Wildlife and Countryside Act 1981 are present. A report detailing the findings of the survey shall be submitted to the MWPA for its approval in writing prior to restoration works commencing within that phase. In the event that the ecological survey identifies any protect species, then the report shall provide recommendations for appropriate mitigation measures to ensure the satisfactory protection of the species. The mitigation measure shall be implemented in accordance with the approved details prior to the removal of any vegetation within that phase.

*Reason: In the interests of protecting species and their habitats in accordance with Policies M3.17 and M3.20 of the Nottinghamshire Minerals Local Plan and Policies W3.21, W3.22 and W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

39. Site clearance operations that involve the removal or destruction of vegetation shall not be undertaken during the months of March to August inclusive except with the prior written approval of the MWPA and in such circumstances following the carrying out and submission to the MWPA for its approval in writing of an ecological appraisal undertaken by an appropriately qualified person in accordance with the details required under Condition 38 above.

*Reason: In the interests of protecting species and their habitats in accordance with Policies M3.17 and M3.20 of the Nottinghamshire Minerals Local Plan and Policies W3.21, W3.22 and W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

40. Prior to the importation of inert material and the reprofiling of the landform in phase 2, as detailed on 'Drawing Number BG 3/11A – Restoration Phasing Plan' received by the MWPA on 17 August 2012, the surface water ditch on the south eastern boundary of the site detailed on 'Drawing Number BG 3/2A – Proposed Site Layout' received by the MWPA on 17 August 2012 shall have been constructed in accordance with details previously submitted to and approved in writing by the MWPA. The details shall include:

- (a) The precise location, size and depth of the surface water ditch which shall not only act as a means of draining surface water but shall also provide a suitable barrier for users of the site from gaining access onto the adjacent Annesley Woodhouse Quarries Site of Special Scientific Interest;
- (b) The provision of an outfall from the surface water ditch to maintain water flow to ponds 7 and 8 highlighted on 'Drawing Number BG7/2 – Phase 1 Habitat Plan' included in the Ecological Mitigation and Management Plan received by the WPA on 17 August 2012;
- (c) Any necessary measures to ensure sediment is removed before water is discharged to ponds 7 and 8;

- (d) A schedule of inspections and maintenance of the surface water ditch in order to remove deposited sediment and to maintain a free flow of surface water along the ditch.

The ditch shall be constructed in accordance with the approved details prior to the importation of inert material and the reprofiling of the landform in phase 2, and thereafter maintained in accordance with the approved details.

*Reason: To ensure the development does not have an adverse impact on the Annesley Woodhouse Quarries Site of Special Scientific Interest in accordance with Policy M3.19 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

41. The restoration of the site shall be carried out in accordance with the Ecological Mitigation and Management Plan received by the WPA on 17 August 2012, in particular providing for:

- (a) Habitat retention, enhancement and creation for grassland, woodland and scrub, hedgerows, ponds and reedbeds;
- (b) Mitigation and habitat creation for great crested newts and other amphibians, birds, water voles, reptiles, bats, and terrestrial invertebrates;
- (c) Habitat management and monitoring.

*Reason: In the interests of protecting species and their habitats in accordance with Policies M3.17 and M3.20 of the Nottinghamshire Minerals Local Plan and Policies W3.21, W3.22 and W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Sports pitch construction and maintenance**

42. Any alternative use of the football pitches shall be restricted to the full sized pitch and the  $\frac{3}{4}$  sized pitch which are closest to the main car park as detailed on 'Drawing Number BG 3/2A – Proposed Site Layout' received by the WPA on 17 August 2012.

*Reason: To minimise the impact of activities on the site on features and species of ecological interest.*

43. No floodlighting shall be erected to illuminate the football pitches unless details have previously been submitted to and approved in writing by the MWPA. Development shall be carried out in accordance with approved details.

*Reason: To minimise the impact of activities on the site on features and species of ecological interest.*

### **Construction of buildings and associated infrastructure**

44. The internal infrastructure layout of the site shall not be installed until details of road geometry, car/cycle parking facilities, turning facilities, access widths, gradients, surfacing, street lighting, structures, visibility splays, and a travel plan have been submitted to and approved in writing by the MWPA. The details submitted shall comply with the County Council's most up-to-date Highway Design and Parking Guides. The internal infrastructure of the site shall be installed in accordance with the approved details.

*Reason: To minimise congestion on the public highway and in the interest of highway safety.*

45. Prior to their use on site, samples of proposed facing materials and finishes, including the colour of glazing frames, on all buildings to be constructed shall have been submitted to and been approved in writing by the MWPA. The development shall be carried out in accordance with the approved details.

*Reason: In the interest of visual amenity and in accordance with Policy ST1 of the Ashfield Local Plan Review.*

46. All windows on the western elevation of the function room in the clubhouse, as detailed on 'Drawing Number 11/1843/04 Revision A – Clubhouse: Proposed Elevations (Sht 1)' received by the MWPA on 24 February 2012, shall be sealed units.

*Reason: In order to minimise the impact of the development on features of ecological interest.*

47. The driving range lighting shall be installed so as to provide luminance and light spill levels in accordance with the details on 'Drawing Number BG 3/15A – Luminance Plan' received by the MWPA on 17 August 2012. The lighting shall be maintained to provide these levels of luminance and light spill.

*Reason: In order to minimise the impact of the development on features of ecological interest and to protect motorway users.*

48. Prior to being installed, design details, locations, height, hours of illumination and light spread of external lighting to be installed on any of the buildings and elsewhere within the site, shall have been submitted to and been approved in writing by the MWPA. The lighting shall be installed in accordance with the approved details and shall be so maintained throughout the life of the development.

*Reason: In the interest of visual amenity and in accordance with Policy ST1 of the Ashfield Local Plan Review.*

49. The designated pathway from the access road to the bird hide shall be located in accordance with the details on 'Drawing Number BG 6/1A – Landscape and Restoration' received by the MWPA on 17 August 2012. Suitable signs shall be erected in the main car park to direct the public to the bird hide via the designated path.

*Reason: In order to minimise the impact of the development on features of ecological interest.*

## **Restoration**

50. The site shall be restored in accordance with 'Drawing Number BG 6/1A – Landscape and Restoration' received by the MWPA on 17 August 2012, except that the relevant submissions under Condition 51 below shall provide for additional areas of natural regeneration suitable for dingy skipper.

*Reason: To ensure the proper restoration of the site in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan and Policy W4.6 of the Nottinghamshire and Nottingham Waste Local Plan.*

51. Within three months of the date of the completion of the importation of inert material and the reprofiling of the landform on any phase, as notified under Condition 22 above, details of the landscape and ecology management for each phase shall be submitted to the MWPA for its approval in writing. The details shall include:
- (a) Planting proposals showing numbers, species, density of planting, positions, sizes and establishment methods of all trees and shrubs, which shall be of native genetic origin appropriate to the local area and shall accord with the species mixes detailed in the Ecological Mitigation and Management Plan received by the MWPA on 17 August 2012;
  - (b) Native species grassland seed mixes for neutral, damp, calcareous and acidic grassland areas (the scope and scale of which shall be determined by analysis of the substrates imported into each phase and any part of therein), and planting within ponds, including rates of sowing and establishment methods, which shall be of native genetic origin and shall accord with the species mixes in the Ecological Mitigation and Management Plan received by the MWPA on 17 August 2012 with the exception of:
    - (i) In the neutral grassland mix (MG5), meadow saxifrage shall not be included and the mix shall include no more than 12 herb species;
    - (ii) In the damp grassland mix (MG4/MG10), meadow saxifrage, pepper saxifrage and devil's-bit scabious shall not be included and the mix shall include no more than 12 herb species;
    - (iii) In the calcareous mix, common rockrose and dropwort shall not be included and the mix shall include no more than 12 herb species;
    - (iv) In the acidic mix, bitter vetch, viper's bugloss, devil's-bit scabious, crested dogstail, sweet vernal grass and chewing fescue shall not be included and the mix shall include no more than six herb species to include tormentil, sheep's sorrel, heath bedstraw and harebell;

- (v) For the planting in ponds, frogbit shall not be included and the details submitted shall detail a commitment to using plant material salvaged from existing water bodies on the site to ensure local provenance and the adaptation of species to local conditions.
- (c) Substrate penetration (where required), including the creation of micro-topography features;
- (d) The extend of areas of natural regeneration;
- (e) Boundary and fencing treatments;
- (f) Confirmation that habitats considered to support foraging and commuting bats would not be provided within 50 metres of the two wind turbines in phases 1 and 3;
- (g) Provision for the submission of an annual aftercare report for the five year aftercare period which shall detail works undertaken in the previous 12 months and those proposed for the following 12 months;
- (h) Timetable for the implementation of the restoration works.

The restoration of each phase shall be carried out in accordance with the approved details.

*Reason: To ensure the phased restoration of the site in accordance with Policies M4.1 and M4.4 of the Nottinghamshire Minerals Local Plan and Policies W4.1 and W4.6 of the Nottinghamshire and Nottingham Waste Local Plan.*

52. Ornamental planting on the site shall only be planted within the vicinity of the clubhouse and only in accordance with details previously submitted to and approved in writing by the MWPA.

*Reason: To safeguard areas and features of ecological interest elsewhere on the site in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

53. No chemical shall be used to treat weeds on areas of woodland and scrub planting within 50 metres of open water habitats and the Bogs Farm Site of Special Scientific Interest.

*Reason: To safeguard areas and features of ecological interest in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

54. Any tree planting close to the adjacent railway line shall be planted at a distance in excess of their mature height from railway property.

*Reason: To maintain the safety of railway operations.*

## **Aftercare**

55. Upon the completion of restoration works on any phase of the site, as required by Condition 51 above, that phase shall enter into a five year aftercare period. Prior to any phase being entered into aftercare, the extent of the area and its date of entry into aftercare shall be agreed in writing with the MWPA.

*Reason: To ensure the proper restoration of the site in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan and Policy W4.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

56. The aftercare and long-term management of the restored areas shall be carried out in accordance with the details approved under Condition 51 above. Site management meetings shall be held with the MWPA to assess and review the annual programme of landscaping, restoration and site maintenance as approved under Condition 51 above, having regard to the conditions of the land, progress in its rehabilitation and other relevant factors.

*Reason: To ensure the proper restoration of the site in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan and Policy W4.5 of the Nottinghamshire and Nottingham Waste Local Plan.*

## **Alternative Restoration**

57. Should, for any reason, the restoration works hereby permitted not be completed in full or in part within the timescales permitted under Condition 3 above, then, within three months of the receipt of a written request from the MWPA, a revised scheme for the restoration of the site shall be submitted to the MWPA for its approval in writing. Such a scheme shall include details of the regarding of any restoration material and soils on site onto unrestored areas, final contours, sowing, planting of trees and shrubs, drainage and fencing.

*Reason: To secure the proper restoration of the site within an acceptable timescale.*

58. The revised restoration scheme approved under Condition 57 shall be implemented within 12 months of its approval by the MWPA, and shall be subject to the aftercare provisions of Conditions 55-56 above.

*Reason: To secure the proper restoration of the site within an acceptable timescale.*

## **Ongoing operational details**

59. Prior to the golf course and horse riding trail being brought into use, details shall have been submitted to the MWPA and approved in writing by the MWPA setting out how the various ecological features of interest both within and adjacent to the site will be brought to the attention of the users of these facilities. The details shall include but not be limited to:

- (a) The provision of 'out of bounds' markers on the golf course, including a plan detailing the location of such markers;
- (b) The provision of details on the golf scorecards and/or in the clubhouse detailing the ecological features of interest on the site and the need not to disturb these areas;
- (c) The provision of signs on the horse riding trail and at the equestrian centre detailing the need to keep on the trail and off the adjacent Annesley Woodhouse Quarries Site of Special Scientific Interest and other ecological features of interest within the site.

The measures shall be implemented in accordance with the approved details and thereafter maintained to the satisfaction of the MWPA.

*Reason: To safeguard areas and features of ecological interest in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan and Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.*

60. The noise levels associated with the use of the function room in the clubhouse shall not exceed the existing background noise level of 46.0 dB<sub>LA90 (free field)</sub> at High Cliff and The Hollies, Park Lane after the addition of the 5dB(A) penalty to reflect tonal, discrete or impact noise as advised by BS4142:1997 between the hours of 19.00 and 02.00. The operator shall, within two weeks of a written request from the MWPA, undertake and submit the results of a BS4142:1997 noise survey to assess whether noise arising from the use of the function room exceeds the permitted noise levels. The monitored noise levels are to be 'free field' carried out at a height of 1.2 metres to 1.5 metres above ground level and presented as a L<sub>aeq, 5 mins</sub> value. Where the noise survey results indicate that the permitted noise levels are exceeded the survey shall include further measures, to be submitted to the MWPA for its written approval, to be introduced on site to mitigate the noise impact so as to ensure compliance with the noise criterion. Any such measures shall be implemented within 2 weeks of the MWPA's written approval.

*Reason: In the interest of residential amenity and to accord with Policy ST1 of the Ashfield Local Plan Review.*

61. In the event that a complaint is received regarding noise from either of the two wind turbines, which the MWPA considers may be justified, the operator shall, within one month of a written request from the MWPA, undertake and submit to the MWPA for its approval in writing a BS4142:1997 noise assessment to assess whether noise arising from the turbines exceeds the daytime criterion of 10dB(A) above the background noise level and the night-time criterion of 5dB(A) above the background noise level inclusive of the 5dB(A) penalty if deemed appropriate by the MWPA. The submitted survey shall include further measures to mitigate the noise impact so as to ensure compliance with the noise criteria. The measures shall be implemented in accordance with the approved details.

*Reason: In the interest of residential amenity and to accord with Policy ST1 of the Ashfield Local Plan Review.*

62. The wind turbines hereby permitted shall be for a temporary period only to expire 25 years after the date(s) of their commissioning, written confirmation of which shall be provided to the MWPA within one month of such commissioning.

*Reason: These elements of the development hereby permitted are not considered suitable for permanent permission.*

63. No part of the wind turbines hereby permitted shall carry any logo or lettering other than as may be required for health and safety reasons.

*Reason: To ensure the appearance of the development is satisfactory in the interests of the character and appearance of the surrounding area and in the interests of highway safety.*

64. From the commencement of the development hereby permitted, as notified under Condition 2 above, Kirkby Footpath Number 20 shall be maintained in accordance with details previously submitted to and approved in writing by the MWPA, in order to provide for safe and easy access along the route of the footpath. The footpath shall be maintained in accordance with the approved details thereafter.

*Reason: In the interests of public rights of way users.*

65. The use of the office buildings, as detailed on 'Drawing Number 11/1843/06 Revision A – Employment Buildings: Proposed Layouts and Elevations' received by the MWPA on 24 February 2012' shall be restricted to those uses detailed in Class B1 of The Town and Country Planning (Use Classes) Order 1987 (as amended).

*Reason: To minimise the impact of the development hereby permitted on the Green Belt.*

66. The occupation of the site manager's office and accommodation building, as detailed on 'Drawing Number BG 3/8 – Manager/Security Office and Accommodation' received by the MWPA on 24 February 2012, shall be limited to a person solely or mainly working on the site in a role required for the management and security of the site.

*Reason: To provide for suitable accommodation related to a form of development considered appropriate in the Green Belt as defined in the National Planning Policy Framework.*

67. The caravan and camping area, as detailed on Drawing Number BG3/7A received by the MWPA on 17 August 2012, shall only be occupied when the caravan and campsite manager is on site.

*Reason: In the interest of residential amenity and to accord with Policy ST1 of the Ashfield Local Plan Review.*

68. Any horse manure and grass cuttings temporarily stored on the site shall be stored on suitably surfaced areas with raised edges in order to prevent any contaminated surface water flowing onto surrounding land. Horse manure and grass cuttings shall be regularly removed from the site.

*Reason: In order to minimise the impact of the development on features of ecological interest.*

#### **Informatives/notes to applicant**

1. Your attention is drawn to the consultation responses from Sport England dated 26 March 2012 and 27 September 2012, National Grid dated 13 March 2012, the Coal Authority dated 16 March 2012, and the Highways Authority dated 22 October 2012, copies of which are attached to this planning permission.
2. Your attention is drawn to the attached plans drawn by the National Coal Board with respect to the seismic survey works undertaken in 1985.
3. In respect of the legal agreement under Section 278 of the Highways Act 1980 to improve the road alignment at the Kirkby Cross mini-roundabout, the applicant shall ensure that the County Council's Conservation Team is involved in the design of the works which shall be sympathetic to the character, appearance and setting of the Kirkby Cross Conservation Area.