



11 December 2018

Agenda Item: 9

REPORT OF CORPORATE DIRECTOR – PLACE

APPLICATION 1

BASSETLAW DISTRICT REF. NO.: 2/2017/0525/NCC

PROPOSAL: VARIATION OF CONDITIONS 3 AND 4 OF PLANNING PERMISSION
REF: 1/13/01390/CDM TO ALLOW A FURTHER 5 YEARS FOR THE
PLACEMENT OF MATERIAL AND RESTORATION OF THE SITE

LOCATION: WELBECK COLLIERY, ELKESLEY ROAD, MEDEN VALE, NG20 9PS

APPLICANT: TETRON WELBECK LLP

APPLICATION 2

MANSFIELD DISTRICT REF. NO.: 1/18/00791/CDM

PROPOSAL: PROPOSED VARIATIONS TO THE SOIL MANAGEMENT AREAS, THE
INTERNAL LINKING ACCESS ROAD AND THE INSTALLATION OF
WELFARE AND OFFICE PORTACABINS AND TOILET BLOCK UNIT.

LOCATION: WELBECK COLLIERY, ELKESLEY ROAD, MEDEN VALE, NG20 9PS

APPLICANT: TETRON WELBECK LLP

Purpose of Report

1. To consider two planning applications relating to the restoration of the spoil tip at Welbeck Colliery, Meden Vale:
 - a) The first application relates to the variation of conditions 3 and 4 attached to planning permission ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the spoil tip;
 - b) The second application seeks to make changes to the red line of the existing soil management area to allow for amended access arrangements and an additional 5 years to correspond with the life of the spoil tip restoration. Retrospective permission is also sought for welfare and office cabins and a toilet block.

2. The key issues relate to timescales to restore the former spoil tip, ecology and traffic. The recommendation is to grant planning permission for both applications.

The Site and Surroundings

3. The Welbeck Colliery site spans the Mansfield and Bassetlaw District boundaries, sitting approximately 9.5km north of the centre of Mansfield (see Plans 1 and 2). The colliery complex covers a total area of circa 127 hectares. The colliery was an active coal mine until May 2010, when mining operations ceased.
4. Immediately to the south of the colliery is the village of Meden Vale. Approximately 330m to the south-west is Church Warsop, beyond which is Market Warsop; and 900m to the north is the village of Cuckney.
5. The site is bordered to the north and west by a belt of trees which form plantations. These include the Warsop Hill Plantation, Presley's Plantation and the Hatfield Plantation. Along the eastern half of its southern boundary the site is bordered by Meden Vale, and to the western half of the colliery site's southern boundary agricultural fields border the site. To the east there are further agricultural fields.
6. The colliery site itself comprises three main sections: the un-restored northern half of the spoil tip, the restored southern half of the spoil tip and the former pit head area to the east.
7. The southern section of the spoil tip, which is restored, forms a large engineered hill with its toe at the northern edge of Meden Vale village. The tip slopes northwards rising from 65m Above Ordnance Datum (AOD) to about 123m AOD over approximately 470m. The restored tip section stretches for approximately 1.25km from east to west and is bordered by the Cuckney Hill Road (A60) to the west and the Meden Vale sports ground and football pitches to its east. The majority of the restored area comprises semi-improved grassland and is substantially covered by solar panels. There is a 50m wide belt of trees running along the eastern half of the southern boundary, providing screening for residential properties in Meden Vale. In addition, there are some small areas of tree planting to the north-west of the restored tip area that are yet to mature.
8. To the east of the spoil tip is the site of the former colliery works and pit head complex. Since closure the buildings have been progressively demolished and the area now predominantly comprises a large area of levelled hardstanding. The rail track and rail head remain.
9. The planning application boundary runs along the northern boundary of the colliery site, adjacent to the woodland plantations and curves back on itself to roughly follow the line of the already restored southern half of the spoil tip. The spoil tip area under restoration measures approximately 1.15km in length from the A60 in the west to the former pit head area in the east. In terms of width, the area under restoration measures between 320m to 400m from the northern boundary to the top of the tip where un-restored and restored areas meet.

10. The planning application boundary of Application 1 includes the northern half of the former spoil tip and two spurs off the eastern side of the colliery spoil tip area (see Plan 1). One of the spurs follows the length of the existing colliery access road that heads in a north-east direction and forms the northern boundary of the wider colliery site. The access road runs for approximately 1.1km and connects to the A616. The second spur follows the rail track from the spoil tip in an easterly direction for approximately 650m where the red-line boundary then opens into a wider area for storage purposes for the wastes and materials delivered via rail. In total the planning application area measures approximately 44 hectares.
11. The planning application boundary for Application 2 encompasses a Soil Management Area (SMA) adjacent to the eastern side of the soil tip (SMA(B)), with a spur which follows the access road to the A616 (see Plan 2). There is a secondary spur to the east which opens into a wider area adjacent to the rail head for waste storage and processing (SMA(A)). Parts of the Application 2 site overlap sections of the Application 1 area, however, changes have been made following the expansion of the soil management area operations and other development on the pit head area (an anaerobic digestion facility) which have affected the operational area available to the SMA.
12. There are two vehicular access roads into the wider colliery site. One of the accesses connects to the A616 to the north-east. The other colliery site access is off Elkesley Road at the southern boundary of the former pit head area. Elkesley Road passes through the residential area of Meden Vale where it connects to Netherfield Lane in the south. It is noted that only the A616 access is included within the planning application boundary and is the only access that vehicles use to access the waste operations.
13. In addition to the access roads, there is a rail line which heads into the eastern side of the site. The rail line curves around the eastern side of Meden Vale before heading in a southerly direction.
14. Due to the size of the site, the distances to residential sensitive receptors vary. To the west of the planning application site the nearest sensitive receptor is Metz Lodge which is located off the A60 approximately 100m west of the application boundary. In terms of residential receptors located within Meden Vale, the closest are between 350-400m from the southern application boundary of the unrestored tip area, although there are Meden Vale properties located approximately 130m to the south of the eastern part of the Application 2 site. In relation to the access road there is a single property, Sedan Lodge, which is circa 150m to the west off the A616.
15. The Cuckney Conservation Area is approximately 350m north of the application boundary at its closest point and circa 830m south of the application site is the Church Warsop Conservation Area. Within the Cuckney Conservation Area the most notable heritage assets are the Cuckney Motte and Bailey Castle (Scheduled Ancient Monument) and the Church of St Mary (Grade I Listed). Within the Church Warsop Conservation Area there is the Church of St Peter and St Paul (Grade I Listed) and the Bishops Lodgings (Grade II* Listed). Within

and around both of the conservation areas there are a number of other Grade II Listed Buildings.

16. The nearest ecological site is the Elkesley Hill Local Wildlife Site (LWS) Site of Importance for Nature Conservation (SINC). This is a small hill with a noteworthy mosaic of scrub and acidic grassland communities located immediately adjacent to the southern boundary of the eastern most section of the planning application area. Also of note is The Bottoms, also aLWS, which is a length of good riparian habitats along the River Meden. The Bottoms is, at its closest point, 500m south of the application site.
17. The nearest statutorily designated ecological sites are the Birklands and Bilhaugh Site of Special Scientific Interest (SSSI); the Birklands and Bilhaugh Special Area of Conservation (SAC), which is within the SSSI area; and the Welbeck Lake SSSI. The Birklands and Bilhaugh sites are located to the south-east of the application area, with the nearest part 1.8km distant and the Welbeck Lake SSSI is approximately 2km away to the north-east.
18. Whilst it is not a designated site, it is still important to note that approximately 1.5km south-east of the application area is the Natural England Indicative Core Area (ICA) and RSPB Important Bird Area (IBA) for breeding Nightjar and Woodlark. These are areas which may form the basis of a Special Protection Area (SPA) in the future for Nightjar and Woodlark. In addition, the site is within the 5km buffer zone of the IBA.
19. The site is not located within an area at risk of flooding. The nearest flood risk area is either side of the River Meden to the south of the site, with the nearest point approximately 500m distant.
20. The geology beneath the site (Sherwood Sandstone Group) is classified as a Principal Aquifer. The site lies within the Environment Agency's total catchment Groundwater Source Protection Zone.
21. The nearest rights of way include a bridleway located approximately 200m to the north-west of the application site, which runs from the A60 to Cuckney. In addition, there is an existing footpath that runs partially along the western side of the application site and then also along the length of the southern boundary of the restored spoil tip and along the northern edge of Meden Vale.

Planning History and Background

22. Planning permission was granted on 19 September 2012 (Ref: 2/2012/0072/NT and 1/60/12/00001) for the restoration of the northern half of the Welbeck Colliery spoil tip using suitable engineering fill, recovered aggregates and other suitable materials including wastes such as pulverised fuel ash (PFA), third party soils and stone. The development was granted a temporary planning permission with the placement of waste and fill material allowed until 21 May 2018 and restoration to be completed by 21 May 2019.
23. The planning permission was granted subject to planning conditions, one of which required a rail line to be in place and in good working order within 6

months of the importation of any fill material (Condition 28). Subsequently a planning permission was granted on 27 March 2014 (Ref: 1/13/01390/CDM) to allow an additional 12 months for the rail line to be in place. This is the permission that the site currently operates under and it retained the same waste deposit and restoration completion dates, within Conditions 3 and 4, as set out below:

"3. The placement of waste and other fill material hereby permitted shall cease no more later than 21 May 2018. Should placement cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP)."

4. The final restoration, as shown on Drawing 103186/P/004 Rev B titled 'Proposed Block Plan – Restoration' received by the WPA on 27 January 2012 and the amended landscaping plan to be submitted under Condition 28, shall be completed by 21 May 2019, or within 12 months of the cessation of waste and other fill material being placed, whichever is earlier.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the WLP and Policy M4.5 of the MLP."

24. In addition to the above, there is a further planning permission which covers operations at the site. The original restoration permission included an area of land to be used for soil management operations, referred to as the Soil Management Area (SMA). The SMA was located adjacent to the rail line on the site of the former pit head. However, planning permission was granted in August 2014 to relocate the SMA to an area of land closer to the spoil tip (Ref: 2/2014/0272/NT), as planning permission was being sought for redevelopment of the pit head area. This permission was granted on a temporary basis until 21 May 2018 to reflect that of the spoil tip restoration permission, within Condition 3 of the SMA planning permission, as set out below:

"3. This planning permission is for a temporary period only, ceasing on 21 May 2018. Should use of the site cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP)."

25. The application highlights that since planning permission was granted there have been genuine and unforeseen material changes concerning the sourcing of a key element of the originally envisaged engineering fill material, namely

PFA (a by-product of coal fired power stations). Since spring 2014 there has been a significant reduction in energy generation from coal fired power stations, as a result of Government policy to move away from the use of coal as part of the energy mix and an intention to close all coal fired power stations by 2025. This has led to a significant reduction in available PFA which was originally intended to form a key part of the restoration scheme. The applicant states that the change in circumstances could not have been reasonably predicted by the applicant at the time of the submission of the original planning application.

26. The applicant highlights that the restoration works involve the residual import of fill, manufacture of aggregate and soil for planting and associated landscaping. The filling process is economically driven and with political and business outlook being uncertain there is a significant risk that the import decreases and the programme increases. As such, the applicant is seeking an addition 5 year period to undertake the restoration works. No changes to the restoration design are proposed.

Proposed Development

Application 1 – Ref: 2/2017/0525/NCC

27. In light of the loss of one of the key fill materials used for the restoration of the spoil tip (i.e. PFA) since the original planning application was approved, the applicant is seeking to extend the life of the restoration operation by five years, by varying Condition 3 and 4 of Planning Permission Ref: 1/13/01390/CDM.
28. Condition 3 is proposed to be varied as follows:

The placement of waste and other fill material hereby permitted shall cease no later than 21 May 2023. Should placement cease prior to this date the WPA shall be notified within 14 days of cessation.

29. Condition 4 is proposed to be varied as follows:

The final restoration, as shown on Drawing 2012-PL003 Rev A titled 'Detailed Restoration Scheme' received by the WPA on 11 April 2013 shall be completed by 21 May 2024, or within 12 months of the cessation of waste and other fill material being placed, whichever is earlier.

Application 2 – Ref: 1/18/00791/CDM

Extension of life

30. This is a partially retrospective planning application to regularise a number of matters associated with the Soil Management Area (SMA) operations, and also to extend the life of the SMA planning permission (Ref: 2/2014/0272/NT) for a further 5 years, to 2023. It has been submitted as an entirely new planning application, rather than a variation (Section 73), because of changes to the planning application area.

Change to the Planning Application Area

31. There are two main areas to the Soil Management Area (SMA) operations. SMA(A) is the original Soil Management Area adjacent to the rail head, and SMA(B) is the current, main SMA which is adjacent to the eastern end of the spoil tip (see Plan 2).
32. Changes to the red-line boundary of the original SMA planning permission are as a result of the construction of an Anaerobic Digestion plant (AD plant), which formed part of a hybrid planning application that also granted outline consent for the redevelopment of the pit-head area. This planning permission in part overlaps some of the site area associated with the SMA(B) and the internal access road serving SMA(B). The hybrid planning application which included the AD Plant was granted by Bassetlaw District Council (Ref: 14/01162/FUL).
33. The applicant has outlined that the former site compound for the AD plant was offered by the site owner to the applicant as compensation for the loss of part of SMA(B) to the AD plant. The former site compound is only used for the parking of vehicles associated with the approved site restoration works and the storage of non-waste materials. The area of the red-line extension is only used for the relocated access road between both SMAs and the consequential, compensatory movement of the boundary of SMA(B). The applicant states that there is no resulting intensification of the authorised use of the SMA(B) site and no net environmental impacts arising from its use.

Changes to the Stockpile Heights

34. Amendments to the allowed stockpile heights of at SMA(A) and SMA(B) are sought. A Construction Environment Management Plan (CEMP) was submitted under Condition 19 of the original planning permission and the CEMP restricted stockpile heights to 3m with gradients not exceeding 1:2. The applicant proposes revised maximum stockpile heights of 6m for SMA(A) (see Plan 3) and 12m for SMA(B) (see Plan 4), with gradients not exceeding 1:2. The applicant has submitted a revised CEMP as part of this application to reflect this.

Use of SMA(A)

35. Condition 6 of the SMA planning permission (Ref: 2/2014/0272/NT) restricted the use of the SMA(A) area (granted under planning permission 2/2012/0072/NT and 1/60/12/00001) so that it could only be used in connection with soil management for material imported by rail. This condition was attached to prevent the establishment of two soil management areas.
36. Whilst no materials or waste have ever been imported to the site by rail, the SMA(A) area has been used for the storage and processing of materials which have been imported by road for a number of years, despite the restrictions imposed by Condition 6.
37. This new, full planning application seeks retrospective planning permission for the use of SMA(A) for both rail and road importation of restoration of materials.

38. It is also proposed that the operations in SMA(A) include the reprocessing of material to be exported off-site for re-use by other commercial operators. Residual wastes and material that cannot be recycled would then be used and incorporated as additional fill for the restoration of the spoil tip. The applicant indicates that the ash material imported into SMA(A) is as an additional material, over and above those materials imported for the restoration of the former colliery spoil tip.

39. The layout of SMA(A) and SMA(B) are shown on Plans 3 and 4.

Welfare/Office Portacabins and Toilet Block

40. Retrospective planning permission is sought for a welfare and office unit, and a toilet block, which are located towards the northern side of the SMA(B) area. The welfare and office unit comprise two stacked portacabin units, with the welfare unit and ticket office at ground level and the office/briefing room at first floor level. External stairs are used to access the first floor. The building measures approximately 7m in length, 2.5m in width and 5m in height.
41. The toilet block is located to the east of the office and is a single storey portacabin style structure. The building measures approximately 5m in length, 2.5m in width and 2.5m in height.

Consultations

Application 1 – Spoil Tip Restoration (Ref: 2/2017/0525/NCC)

42. **Bassetlaw District Council – No objection.**
43. **Mansfield District Council – No objection.**
44. **NCC (Planning Policy) – No objection.**

Waste

45. *If the proposal does not have any unacceptable environmental impacts, there is policy support for the continuation of operations on previously developed land, in accordance with Nottinghamshire and Nottingham Waste Core Strategy (WCS) policy WCS7.*
46. *In seeking an extension to secure the completion of a restoration scheme the application seeks to enhance the local environment through the provision of landscape and habitat improvement, therefore according with policy WCS13.*
47. *Policy WCS12 states criteria under which the management of non-local waste would potentially be permitted and although it is stated in the application that material may come from a broader area from outside Nottinghamshire (within a 20 mile radius of the site, as stated on page 7 of the Operational Statement), the proposals comply with the policy by proposing economic, environmental and social sustainability benefits through the reclamation of the Welbeck Colliery site. In bringing material in from a wider area the number*

and distance of vehicle movements should be minimised in accordance with WCS11. Should transport of material by rail be possible, then it is preferable that this means of transport is prioritised over road in accordance with WCS11.

48. *Under Nottinghamshire and Nottingham Waste Local Plan saved policy W4.2 there is a requirement for satisfactory evidence to be provided to show that sufficient waste material is likely to be available to achieve reclamation within the proposed timescale. The applicant recognises that the application for an extension of time is due to reduction in the supply of PFA. While potential sources of (predominantly soil) material are stated and a region across which it could be supplied defined, further detail is not provided. Soil production arising as a result of construction projects across a wider region may vary according to a variety of factors and the proposal of an extended 6 year period (as opposed to 4 year) is a pragmatic proposal which may assist the scheme's completion within the proposed time period.*
49. *National Planning Policy for Waste 2014 (section 7) states that applicants should only be expected to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan. If this development does not have any unacceptable environmental impacts (and therefore complies with the local plan) no demonstration of quantitative/market need is required.*
50. *The inert waste used in the restoration should be material that requires disposal and cannot be economically recycled in accordance with policy WCS3. It is noted that in the 2015-2016 Annual Monitoring Report for the Nottinghamshire and Nottingham Waste Local Plan it was stated that there is a shortage of operational inert landfill sites in northern parts of Nottinghamshire.*

Minerals

51. *The proposed location of the development would not be within a Minerals Safeguard Area/Minerals Consultation Area. There are no nearby active or permitted minerals facilities.*
52. *Nottinghamshire Minerals Local Plan (adopted December 2005) Policy M4.5 states clearly that schemes relying on the long term importation of waste for reclamation must include satisfactory evidence that the waste will be available in the categories and quantities assumed and that this is waste that cannot be practically re-used or recycled. As previously stated, in estimating soils production over a period there is a degree of fluctuation in waste arising over time, with the pragmatic approach to proposed timescales for completion of the scheme being welcome.*
53. **EA (Waste)** – Permanent deposits of waste require an Environmental Permit. To date the Environment Agency's records do not show an Environmental Permit for the deposit of waste at the given location.

54. **NCC (Highways) Bassettlaw** – *The Highways Authority has no objection to an extension of time for the placement of material and final restoration on the understanding that lorry movements will not exceed permitted levels.*
55. **Via (Countryside Access)** – *As this application relates to an extension of time for the operational works in the existing area, the nearby Public Rights of Way would remain unaffected. As such there are no objection to the proposed request. Nevertheless, the applicant is reminded that the public footpath that borders the southern and western boundaries of the site should remain free from obstruction and available for public use at all times.*
56. **NCC (Nature Conservation)** – *The delay in achieving the restoration of acid grassland, heathland and associated habitats is disappointing, however, the reasons for this is understood and it is hoped that the restoration will be achieved before the end of the 5 year extension period. An ecological statement has been supplied with the application which indicates that the site is being restored in accordance with the relevant details. There is no objection to the proposed extension of time.*
57. **Nottinghamshire Wildlife Trust** – *The application cannot be supported until certain matters are resolved.*
58. *A delay of 5 years means that there would be a substantial opportunity cost for when habitats should have been completed and contributing to the local ecological network of acid grassland and heathland sites. Thus the result would be a further 5 years when this site acts as a gap in the ecological network. To mitigate for this, other measures should be sought that would help to bring forward connectivity between habitats on this site and surrounding habitats and which could be implemented soon, such as habitat corridors, buffer strips or stepping stones. If this is not possible, then extended aftercare will be required to recompense for the opportunity cost at the end of the scheme.*
59. *NWT can see no reason why the installation of bird and bat boxes should be delayed. It seems unlikely that there are no suitable locations on the current site.*
60. *NWT raises concerns about the lack of PFA availability (which is not likely to be available again), and how this might result in changes to the mix of fill. It is highlighted that the correct conditions for the establishment of acid grassland and heathland habitats are created. In this regard, the pH of imported material is particularly important, and the applicant is reminded about the potential sources of local plant material. Assurances that these standards for restoration are met is sought.*
61. **Natural England** – *No objection.*
62. *Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Birklands and Billhaugh Special Area of Conservation.*
63. *With regard to the Birklands and Billhaugh Site of Special Scientific Interest (SSSI) and Thoresby Lake SSSI, Natural England considers that the proposed*

development will not damage or destroy the interest features for which the sites have been notified.

64. *Natural England notes that the variation in conditions is to delay the completion of the restoration plan for 5 years, due to an unavoidable reduction in the rate of import of inert fill. However, as there is no additional alteration Natural England has no objection to the proposal while the details of the agreed restoration plan are followed.*
65. **NCC (Reclamation)** – *Providing the existing environmental controls and procedures are maintained there is no objection to the proposed extension to the existing restoration works.*
66. **NCC (Noise Engineer)** – *No objection to the proposed extension of time.*
67. **NCC (Landscape)** – *No comments.*
68. **Anglian Water Services Limited** - *No comments.*
69. **NCC (Flood Risk) Statutory** – *No comments.*
70. No consultation responses has been received from **Cuckney & Norton Parish Council, Warsop Parish Council** and **Severn Trent Water Limited**. Any responses received will be orally reported.

Application 2 – Soil Management Area (Ref: 1/18/00791/CDM)

71. **Bassetlaw District Council** – *No objection.*
72. **NCC (Planning Policy)** – *No objection.*
73. *The comments made in relation to the spoil tip restoration application (Ref: 2/2017/0525/NCC), as set out above, also apply to this application.*
74. **NCC (Highways) Bassetlaw** – *It is understood that there would be no net increase in the importation of materials associated with this proposal.*
75. *The proposed office and welfare facilities are likely to be largely ancillary to the current restoration project and therefore would not materially impact on traffic conditions.*
76. *The Highway Authority has previously approved alterations to the existing internal spine road as part of the pit head restoration application (Bassetlaw planning Ref: 15/01037/FUL).*
77. *No objection on highway grounds provided existing restrictions in terms of vehicle movements and lorry routeing remain unchanged.*
78. **Via (Countryside Access)** – *Warsop Public Footpaths numbers 5 and 39 border the proposed development site but will not be affected by the development.*

79. *The County Council is in receipt of a claim for footpath rights that cross the site access [see Plan 1]. Should it be determined that footpath rights have either been acquired through public usage, or that public rights can be reasonably alleged to exist, then the route will be added to the Definitive Map. The claimed route is external to the operational part of the proposed development site but does cross the access road from the A616. The applicant should be made aware that there is the possibility that a footpath may cross the access road. If the route is added to the Definitive Map then signage will be installed at the crossing point to clearly indicate the route to footpath users and the drivers of vehicles using the access road.*
80. **Via (Noise Engineer)** – No objections.
81. *The proposals appear to seek to regularise matters relating to the SMAs (primarily stockpile heights), the installation of welfare and office portacabins and toilet block, and the variation to the internal linking road between the two SMAs.*
82. *The proposals do not appear to significantly alter the noise impacts of the ongoing restoration works and the CEMP with respect to noise remains valid.*
83. **Via (Landscape)** – No objection.
84. *The works are minor in nature and the proposed areas are contained within the existing colliery area. Views of these adjustments are screened from adjacent residential areas by existing spoil mounds or noise bunds. The proposed works would not lead to any changes in the approved final restoration scheme.*
85. **NCC (Flood Risk) Statutory** – No comments.
86. **Nottinghamshire Wildlife Trust** – *The proposed changes appear not to impact the areas set aside for restoration, but the applicant has not specifically stated this. Assurances from the applicant that this is the case would be welcomed.*
87. **Natural England** – *No objection. The development will not have likely significant effects on the Birklands and Bilhaugh SAC and will not damage or destroy the interest features of the Birklands and Bilhaugh SSSI and Thoresby Lake SSSI.*
88. **NCC (Nature Conservation)** – No objection.
89. **Via (Reclamation)** – *No objection. The submission does not change what is taking place on site. Providing the existing environmental controls and procedures are maintained there is no objection.*
90. No consultation responses has been received from **Cuckney & Norton Parish Council, Warsop Parish Council, Severn Trent Water Limited, the Environment Agency and Anglian Water Services Limited**. Any responses received will be orally reported.

Publicity

91. The applications have been publicised by means of site notices and press notice in accordance with the County Council's adopted Statement of Community Involvement.
92. No representations from members of the public have been received in relation to the planning applications. However, the site has been the subject of a recent complaint received in November 2018. The complaint raises concerns about HGVs accessing the site through Cuckney along the A616, contrary to the routeing detailed in the current permissions, and also the number, weight and speed of HGVs and the impact that this is having on safety and the road condition. The complaint raises the time that HGVs are using this stretch of road, noting that they have been seen and heard as early as 5am on weekdays.
93. Whilst not an objection directly relating to the applications under consideration, this matter is considered in the Observations section below.
94. Councillors Kevin Greaves and Andy Wetton have been notified of the applications.

Observations

95. Two planning applications have been submitted in relation to ongoing restoration development at Welbeck Colliery. The first application is seeking an additional 5 years to complete the ongoing restoration works to the spoil tip. The second application seeks an additional 5 years for soil and waste management activities that supply restoration fill material to the spoil tip. The second application is also partially retrospective, seeking to address a number of operational matters that require regularisation.

Policy

National Planning Policy Framework (Published July 2018)

96. Paragraph 205 e) of the NPPF states that when dealing with planning applications minerals planning authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions.

National Planning Policy for Waste - NPPW (Published October 2014)

97. Paragraph 7 seeks to ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.

Nottinghamshire and Nottingham Waste Local Plan (adopted January 2002)

98. Policy W4.2 (Availability and timescales) – Proposals for waste disposal will only be permitted where satisfactory evidence has been provided to show that

sufficient waste material is likely to be available to achieve reclamation of the site within an acceptable timescale.

*Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1
Waste Core Strategy – WCS (adopted December 2013)*

99. Policy WCS3 (Future waste management provision) – Proposals will be assessed as follows:
 - a) Priority will be given to the development of new or extended waste recycling, composting and anaerobic digestion facilities;
 - b) New or extended energy recovery facilities will be permitted only where it can be shown that this would divert waste that would otherwise need to be disposed of and the heat and/or power generated can be used locally or fed into the national grid;
 - c) New or extended disposal capacity will be permitted only where it can be shown that this is necessary to manage residual waste that cannot economically be recycled or recovered.
100. Policy WCS5 (Disposal sites for hazardous, non-hazardous and inert waste) – Where it is shown that additional inert landfill capacity is needed, the policy gives priority to sites within the main shortfall areas around Nottingham and Mansfield. In addition, preference will be given to the development of disposal sites for inert waste in the following order:
 - a) the extension of existing sites;
 - b) the restoration and/or re-working of old colliery tips;
 - c) disposal on greenfield sites.
101. Policy WCS7 (General Site Criteria) – Sets out the general locations that waste management facilities will be supported, subject to there being no unacceptable environmental impacts. This policy identifies that disposal is generally acceptable at derelict land/other previously restored land, such as un-restored or poorly restored colliery land in need of restoration.
102. Policy WCS12 (Managing Non-Local Waste) – Waste management proposals which are likely to dispose of waste from areas outside Nottinghamshire and Nottingham will be permitted where they demonstrate that:
 - a) the envisaged facility makes a significant contribution to the movement of waste up the waste hierarchy, or
 - b) there are no facilities or potential sites in more sustainable locations in relation to the anticipated source of the identified waste stream, or
 - c) there are wider social, economic or environmental sustainability benefits which clearly support the proposal.

103. Policy WCS13 (Protecting and enhancing our environment) – New or extended waste disposal facilities will only be supported where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities.

Nottinghamshire Minerals Local Plan (adopted December 2005)

104. Policy M4.5 (Reclamation with fill – long term schemes) – Mineral extraction proposals which rely on the long term importation of waste for reclamation, must include satisfactory evidence that the waste will be available in the categories and quantities assumed, and that it is not practical to re-use or recycle the waste.

Bassetlaw Core Strategy & Development Management Policies DPD (Adopted December 2011)

105. There are no policies within the Bassetlaw Core Strategy which relate to waste or minerals development. Policy DM1 relates to economic development in the countryside (e.g. tourist attractions, equine enterprises, rural businesses and farm diversification) and Policy DM3 relates to general development in the Countryside (replacement of buildings, re-use of previously developed land in rural areas and agricultural/forestry buildings and domestic equine facilities). These polies are not written with waste and minerals development in mind and, therefore, are of limited applicability and no further consideration is given to them.

Mansfield District Local Plan (adopted November 1998)

106. Policy DWM1 states that planning permission will be granted for developments to reclaim sites and bring them into appropriate beneficial use, on land that may be derelict, despoiled or contaminated, provided that they would meet all of the following criteria:

- a) Have regard to ground conditions and where appropriate recommendations for remedial treatment;
- b) Undertake any necessary remedial treatment prior to construction or occupation;
- c) Not cause, or lead to an increased, pollution threat to any nearby land or watercourses;
- d) Have regard to any wildlife and/or geological issues relative to the site.

Mansfield District Local Plan 2013 – 2033 – Publication Draft September 2018

107. Policy S5 (Development in the Countryside) – The policy does not make any reference to sites for waste management, but does support proposals for the redevelopment of previously developed land, and recreation and tourism. As the

site will be restored to habitat and will incorporate public access, the proposed development is in accordance with this policy.

Nottinghamshire Minerals Local Plan – Draft Plan Consultation (27th July 2018 – 28th September 2018)

108. Given the early stage of the plan only limited weight is given to it at this stage.

Planning Practice Guidance (PPG)

109. The PPG states that the WPA should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant. Engagement with the local communities affected by previous waste disposal decisions will help in these considerations (Paragraph: 047 Reference ID: 28-047-20141016).
110. The PPG also states that WPAs should be aware that the continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England's waste. In addition, the continued movement of waste up the Waste Hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time to exercise the planning permission may be needed in some circumstances, provided this is in accordance with the Local Plan and having taken into account all material considerations (Paragraph: 048 Reference ID: 28-048-20141016).

Policy Consideration

111. Based on the above policy and guidance there is general support for the use of waste to restore former colliery sites, provided there is satisfactory waste available in the quantities available, in Policy M4.5 of the Nottinghamshire Minerals Local Plan; Policy DM12 of the emerging Nottinghamshire Minerals Local Plan; and Policies WCS5 and WCS7 of the Nottinghamshire and Nottingham Waste Core Strategy (WCS). In addition, Policy DWM1 of the Mansfield District Local Plan supports development which reclaims derelict, despoiled or contaminated land and brings it back into a beneficial use.
112. Planning permission was originally granted in September 2012 for the restoration of the spoil tip through the importation of 1.9 million cubic metres of fill material, including waste. At the time of the original application a large proportion of the anticipated material to be imported was Pulverised Fuel Ash (PFA), a by-product from coal fired power stations. Since spring 2014 there has been a significant reduction in energy generation from coal fired power stations and an intention to close them all by 2025. This has correspondingly led to a significant reduction in PFA available for use at the site. During 2013-2014 the rate of import to the site was over 500,000 m³ per annum. However, the applicant states that current data shows that import rates are now approximately 170,000m³ per annum.

113. Based on the topographical survey undertaken in January 2017, approximately 1,300,000m³ has been imported to the site since it commenced in May 2013 and a void of 600,000m³ remains. The applicant states that current data shows that import rates are now approximately 170,000m³ per annum. As such, the estimated timescales for completion are set out in the table below:

Cumulative Residual Void Space

Year	Rate of Import (m³ per year)	Residual Void Space (m³)
May 2017	170,000	600,000
May 2018	170,000	430,000
May 2019	170,000	260,000
May 2020	170,000	90,000
May 2021	90,000	0
May 2022	0	0
May 2023	0	0

114. The applicant has indicated that they expect importation of materials would be completed within 4 operational years. However, due to economic uncertainty, the applicant is seeking a contingency period, up to 2023.
115. Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan; Paragraph 205 of the NPPF; and Paragraph 7 of the NPPW seek restoration and aftercare of mineral sites at the earliest opportunity available. The WPA understands that since the submission of the original application there have been unforeseen circumstances which have affected the quantity of material available. As such, to ensure the high environmental standards that are to be achieved through the approved restoration scheme, there is justification for extending the life of the site.
116. Materials enter the Soil Management Area, prior to use in the restoration of the spoil tip, so that they can be sorted for recycling and/or reuse where possible. This process is supported by Policy WCS3 of the Nottinghamshire and Nottingham Waste Core Strategy, by showing that disposal at the site is only for residual waste which cannot be economically recycled. Whilst recycling and reusing material delays the restoration of the site the Planning Practice Guidance (PPG) acknowledges that the speed at which the site is to be restored should not come at the expense of moving waste up the Waste Hierarchy and as a result landfill sites may take longer to reach their capacity.
117. The applicant has not set out within the planning application whether the development would accept waste from areas outside of Nottinghamshire. However, the WPA is aware that the site has as part of its current operations. This, coupled with the fact that there has been a reduction in the applicant's anticipated fill material, the WPA considers it highly likely that waste will come from outside of Nottinghamshire. The use of the SMA ensures that only material which can be disposed of will be used in the restoration of the spoil tip. In addition, the restoration has wider social, economic and environmental sustainability benefits in that it will provide a restored site, open to the public and with ecological habitat provision. In addition, it will provide a more attractive area and potentially encourage investment in the adjacent pit head, which has planning permission for restoration. As such, the development meets the requirements of Policy WCS12 of the WCS.

Environmental Permit

118. In consulting the Environment Agency on the planning application, their response to the planning application states:

"Permanent deposits of waste require an Environmental Permit. To date the Environment Agency's records do not show an Environmental Permit for the deposit of waste at the given location".

119. As a result of the above statement, the WPA drew the applicant's attention to the comments from the Environment Agency and sought further information from them as to what permit(s) and/or exemption(s) the spoil tip restoration and SMA activities are operating under. The applicant responded with the following:

"The Environment Agency comment is noted and as the organisation's officers are aware, all imported materials are treated under an Environmental Permit to generate a site product in accordance with the agreed project specification".

120. In undertaking a search of the Environment Agency's permit database, the WPA has established that the site is registered on the Waste Exemptions Registration for England (EPR/AE5645EE/A001 – Teton Welbeck LLP). It has the following exemptions: S2 (Storing waste in a secure place); T4 (Preparatory treatments – bailing, sorting, shredding etc); T5 (Screening and blending waste); T6 (Treating waste wood and waste plant matter by chipping, shredding, cutting or pulverising); and U1 (Use of waste in construction). It is noteworthy that the expiry date for each of these exemptions is 10th December 2018.

121. The site is also registered on the Environmental Permitting Regulations – Waste Operations for England (LB3933RK/V005 – Teton Welbeck LLP and Waste Management Licence No. 104834). Under this permit the site type is registered as A16: Physical Treatment Facility.

122. The consultation response from the Environment Agency does not object to the proposed development. However, in drawing attention to the absence of a waste disposal permit, but not referencing any of the other permits/exemptions that the site benefits from, it suggests that the Environment Agency consider that the site may require a waste disposal permit. Whilst this may be the case, the site has been operational since 21st May 2013 and the Environment Agency has not taken enforcement action, which is an indication that a waste disposal permit is not necessary for the ongoing operations. Paragraph 183 of the NPPF states:

"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively."

123. Ultimately, the ongoing processing and placement of waste at the site is subject to a separate pollution control regime, through the Environment Agency and their Environmental Permit and/or waste exemption regulatory system. The

WPA should focus on whether this is a suitable use of land, rather than the control of the process, in line with NPPF.

Traffic and Transportation

124. The applicant sets out that, historically, Welbeck Colliery was likely to have generated in the region of 750-850 vehicle movements per day (including employee journeys).

125. Condition 29 of the spoil tip planning permission (Ref: 1/13/01390/CDM) and Condition 17 of the SMA planning permission (Ref: 2/2014/0272/NT) restrict HGV movements associated with the restoration development. Both Conditions state:

"The number of HGV movements associated with the site shall not exceed 300 per weekday (150 in, 150 out) and 150 (75 in, 75 out) on a Saturday. There shall be no HGV deliveries to the site on Sundays, Public or Bank Holidays. A record shall be kept by the operator of the number of HGV movements into and out of the site on a daily basis. These records shall be made available to the WPA within seven days of a written request from the WPA. All such records shall be kept for at least 12 months."

126. The site access is to the north, off the A616. There is a routeing condition which prevents HGVs from passing through Cuckney (see vehicle routeing strategy on Plan 5). This means that HGVs would only turn left into/right out of the site. The routeing is secured by Conditions 28 and 16 of the two existing planning permissions (Ref: 1/13/01390/CDM and 2/2014/0272/NT respectively), which both state:

"All Heavy Goods Vehicle (HGV) movements and construction workforce traffic shall only use the routes shown on Figure 9.1 of the Environmental Statement - Volume 2 titled 'Vehicle Routing Strategy' received by the WPA on 27 January 2012. Vehicles shall only use the existing access / egress off the A616 when travelling to and from the site from all directions."

127. Since planning permission was granted for the soil tip restoration and the SMA, Bassetlaw District Council has granted planning permission for an Anaerobic Digestion (AD) facility (Ref: 14/01162/FUL). Condition 6 of the AD facility planning permission restricts vehicle movements to 378 per day. The applicant highlights that cumulatively, traffic movements associated with the restoration operations and the AD facility remain below those of the site's former use as a colliery.

128. The Highways Authority has commented on both the spoil tip restoration and SMA planning applications and state that there are no objections provided that vehicle movements and lorry routeing remain unchanged. There have been no public comments on the planning application.

129. There are implications that have arisen from the spoil tip restoration and SMA operations having become decoupled from a planning perspective, and now being subject to two separate planning permissions. Both permissions allow for up to 300 movements per day each, which could in theory allow the operation to result in 600 movements per day. This is not the intended situation and therefore it is recommended that any new permissions granted allows a total of 300 HGV movements across the two permissions. This will require the conditions in the respective planning permissions to cross reference one another.
130. The recent complaint relating to the HGVs have been investigated by the Monitoring and Enforcement Team and there is evidence that HGVs associated with the spoil tip restoration works have breached the existing conditions that relate to routeing and possibly hours. The MPA has reminded the operator of the conditions that control their operations and the requirement for these to be adhered to. It was also noted during a site visit that a sign directing drivers to the approved route had been removed, and that this would need to be reinstated. The MPA will continue to monitor the situation and further action can be taken if necessary. However, in relation to the two planning applications currently being determined, the MPA recommends that the opportunity is taken to redraft the conditions relating to HGV routeing (condition 28 in Appendix 1 and Condition 14 in Appendix 2) to add a level of clarity to the operator's requirements to issue routing instructions to drivers and maintain signage at the site entrance.
131. Notwithstanding the above, HGV traffic associated with the Anaerobic Digestion facility, granted planning permission by Bassetlaw District Council, uses the same former colliery access off the A616 and there are no restrictions on these HGVs in terms of routeing or hours of operation. As such, HGVs associated with the Anaerobic Digestion facility, which can number up to 378 per day, are allowed to travel along the stretch of road to and from Cuckney 24 hours a day. Therefore, it is important to highlight that HGVs will always travel along this stretch of road.
132. The proposed development would effectively be a continuation of existing activities and would not have an adverse impact on the capacity or safety of the surrounding highways network. Therefore, the development is in accordance with Policy W3.14 (Vehicular Movements) of the Nottinghamshire and Nottingham Waste Local Plan; Policy WCS13 (Protecting and Enhancing our Environment) of the Nottinghamshire and Nottingham Replacement Waste Local Plan; Policy M3.13 (Vehicular Movements) of the Nottinghamshire Minerals Local Plan; Policy IN9 of the Mansfield District Local Plan 2013-2033 Publication Draft; and the NPPF.

Ecology

133. NCC Ecology expresses disappointment that extending the life of the operations will delay the habitats associated with the restoration scheme (acid grassland, heathland and associated habitats). However, the reason the extension is being sought is accepted. NCC Ecology welcome the provision of an ecological

statement which outlines the restoration progress of the site to date. NCC Ecology has no comments to make in relation to the SMA application.

134. Natural England has considered both applications and have raised no objections. They have considered the applications in relation to the Birklands and Billhaugh SAC, SSSI and Thorseby Lane SSSI.
135. Nottinghamshire Wildlife Trust note the reasons for the delay but highlight that as a result there will be an ‘opportunity cost’ in the time from which those habitats would have been completed and contributing to the local ecological network of acid grassland and heathland. As such, NWT suggest to compensate for the ‘opportunity cost’, other measures should be brought forward such as habitat corridors, buffer strips or stepping stones. If this is not possible, NWT recommend extended aftercare to recompense for the opportunity cost at the end of the scheme.
136. This suggestion has been put to the applicant and they highlight that the restoration plan was, in part, developed to ensure habitat was generated in a progressive manner working from the south-west where it connects with the grasslands of the former restored slopes, progressing eastwards. In addition, tree planting has been occurring progressively on the northern edge in line with the landscape proposals. They state that there are no isolated habitats being generated and within a few years the scheme will be complete. As such, they do not consider that any further mitigation is required on an interim or permanent basis. The WPA is of the view that, whilst additional mitigation for the delay in the scheme would be of benefit, it is not necessary to make the development acceptable in planning terms.
137. NWT also suggest the installation of bat and bird boxes at this point in time, stating that there is no reason to delay their installation.
138. This suggestion has been made to the applicant. The applicant has stated that they will construct an artificial Sand Martin bank as replacement nesting habitat. The bank would be installed with nests by early spring 2019 and these would be located in the restored western section of the project to ensure disturbance is minimised during the residual restoration period. The Sand Martin bank is already required as part of the restoration scheme. However, the applicant has not addressed the query about the installation of bat and bird boxes. The WPA notes that the applicant intends to install these on existing trees. As such, the WPA agrees that there is no reason why these cannot be installed at this stage and recommends a condition requiring this.
139. Concern has also been raised by NWT that the changes to the mix of infill (as a result of the lack of PFA) mean that the correct conditions for the establishment of acid grassland and heathland habitats may no longer be achievable. As such, NWT seek assurances that the standards for restoration are being met.
140. The applicant has clarified that PFA is actually alkaline with pH typically ranging between 10 and 11. As such, it was never the intention of the operator to use the material in the upper restored soils, with it intended to be used as bulk fill. The acidic habitat is manufactured from low nutrient soils with a high proportion of naturally occurring sand which has a pH of around 6 or below. As such, the

WPA is satisfied that the reduction in PFA as a fill material will not impact on the type of habitats that can be created in the restoration scheme.

141. Given that there will be no adverse impact on any European, national or locally designated ecological sites the proposed development is in accordance with Policy M3.18 (Special Areas of Conservation) and Policy M3.19 (Sites of Special Scientific Interest) of the Nottinghamshire Minerals Local Plan; Policy W3.23 (Nature Conservation and Geological Sites) of the Nottinghamshire and Nottingham Waste Local Plan; Policy NE12 of the Mansfield Local Plan; Policy NE2 (Biodiversity and Geodiversity) of the emerging Mansfield District Local Plan – Publication Draft; and DM9 (Green Infrastructure; Biodiversity & Geodiversity; Landscape; Open Space and Sports Facilities) of the Bassetlaw District Local Development Framework – Core Strategy & Development Management Policies DPD.
142. The currently approved restoration scheme (see Plan 6) resulted in an increase in biodiversity habitat, including priority Biodiversity Action Plan (BAP) habitat, over the original restoration scheme. Proposed habitats include ponds, ditches, wetland, woodland, and acid grassland.
143. This application does not change the approved restoration scheme and it is accepted that the creation of habitats will now be delayed. However, in allowing an extension of life for the proposed development it will ultimately enable the biodiversity habitat to be created. As such, the proposed development is in accordance with Policy M3.17 (Biodiversity) of the Nottinghamshire Minerals Local Plan; Policy W3.22 (Biodiversity) of the Nottinghamshire and Nottingham Waste Local Plan; Policy NE15 of the Mansfield Local Plan; Policy NE2 (Biodiversity and Geodiversity) of the emerging Mansfield District Local Plan – Publication Draft; and DM9 of the Bassetlaw Core Strategy.

Restoration

144. As set out above, a hybrid planning permission was granted by Bassetlaw District Council for the redevelopment of the former pit head area and an Anaerobic Digestion plant (Ref: 15/01037/FUL). This includes internal access roads; a car parking area for use in connection with the restored spoil tip; and open storage (Use Class B8), Offices (Use Class B1a); Employment Uses (B1b/c, B2 and B8); Residential Development (Use Class C3) and ancillary food and drink uses (Use Class A1 and A3). The mixed-use scheme is in the process of being developed and the AD plant is operational.
145. The mixed-use scheme does not intrude upon the approved restoration of the spoil tip. However, it does overlap much of the SMA. This means that long term land use of the SMA, once the temporary permission ceases, is either covered by the mixed-use development of the pit-head, or the restoration of the former spoil tip. There is no need for a stand-alone restoration condition for the SMA and it is recommended that this condition is removed from the extant planning permission.

Other Issues

146. Phasing plans were submitted with the original application. Over the course of the development it has transpired that the site has progressed slightly differently. New phasing plans have been submitted with the spoil tip application and it is recommended that these are referenced in the new planning permission.
147. With regard to the application to extend the life for restoration of the spoil tip, conditions relating to hours of working; dust; noise; ecology; landscaping; traffic and transportation; contamination and stability; rights of way; soil placement; aftercare; and alternative restoration remain unchanged.
148. The extant planning permission included a number of conditions which required further information to be submitted prior to commencement or other stages of the development, including drainage, ecology, landscaping and aftercare. Where this information has been submitted, the conditions have been updated in Appendix 1 to reference the approved reports/plans.
149. Due to changes in the site area of the Soil Management Area, it is being dealt with as a full planning application rather than a variation. However, the conditions relating to hours of working; dust; noise; ecology; contamination remain unchanged. The extant planning permission included another condition relating to a soil management scheme, which required further information to be provided prior to the commencement of the development. As this information has been provided the condition in Appendix 2 has been updated to reflect the approved information.
150. Overall, the development will not have an unacceptable impact on the amenity of those living and working nearby, or on the environment, as has been confirmed in consultation responses. As such, the development is in accordance with Policy WCS13 of the Waste Core Strategy.

Other Options Considered

151. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

152. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

153. The site has previously suffered from trespassing, vandalism, and metal theft particularly in relation to elements of the rail head. The continuation of the restoration of the site would provide an active presence which would, to a certain degree, deter trespass.

Data Protection and Information Governance

154. Given that no representations have been received from the public, it is considered that no data protection issues have been raised.

Human Rights Implications

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

Implications for Sustainability and the Environment

156. This application seeks permission to delay the restoration of the spoil tip and, as such, completion of restoration will take longer with the associated continuation of vehicular movements and a delay in establishing habitats. Conversely, the application would enable the full restoration of the spoil tip, which otherwise would remain part finished, with large parts of the restored habitats absent.

Financial, Human Resources, Public Sector Equality Duty, Safeguarding of Children and Adults at Risk and Service Users Implications

157. No implications.

Statement of Positive and Proactive Engagement

158. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies; the National Planning Policy Framework and the Planning Practice Guidance. The Waste Planning Authority has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as impacts of traffic and ecology and have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

Recommendation 1 (2/2017/0525/NCC) – Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site

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

Recommendation 2 (1/18/00791/CDM) – Proposed variations to the Soil Management Areas

160. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 2. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 29/11/2018]

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

Financial Comments [RWK 29/11/2018]

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

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

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