

Planning and Licensing Committee

Tuesday, 28 April 2015 at 10:30

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

AGENDA

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Notes

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.
- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

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

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact David Forster (Tel. 0115 977 3552) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.
- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>

Meeting **PLANNING AND LICENSING COMMITTEE**

Date **Tuesday 24 March 2015 (commencing at 10.30 am)**

membership

Persons absent are marked with 'A'

COUNCILLORS

John Wilkinson (Chairman)
Sue Saddington (Vice-Chairman)

Roy Allan	A	Rachel Madden
Andrew Brown		Andy Sissons
Steve Calvert		Keith Walker
Jim Creamer		Yvonne Woodhead
A Stan Heptinstall MBE		

OFFICERS IN ATTENDANCE

David Forster – Democratic Services Officer
Jerry Smith – Team Manager, Development Management
Sally Gill – Group Manager Planning
David Kerfoot – Solicitor
Oliver Meek – Senior Planning Officer
Pete Evans – Principal Officer Highways Development Control
Tim Turner – Senior Practitioner Monitoring and Enforcement
Eddie Brennan - Definitive Map Officer
Neil Lewis – Team Manager Countryside Access
Angus Trundle – Definitive Map Officer

MINUTES OF LAST MEETING HELD ON 24 FEBRUARY 2015

The minutes of the meeting held on 24 February 2015 having been circulated to all Members were taken as read and were confirmed and signed by the Chairman.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Stan Heptinstall MBE (Personal) and Rachel Madden (Personal)

DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

Councillor Sissons declared a private interest in agenda item 6 Replacement school at Former Sherwood Hall School site Stuart Avenue Mansfield due to his wife working as a midday supervisor at the Abbey Primary School

DECLARATIONS OF LOBBYING OF MEMBERS

There were no declarations of lobbying

APPLICATION TO ADD A BRIDLEWAY TO THE NOTTINGHAMSHIRE COUNTY COUNCIL (AREA 3) DEFINITIVE MAP AND STATEMENT

Mr Brennan introduced the report and took members through the various maps and plans showing evidence of the routes in question. He also reported that all the footpaths marked on appendix one, except A1-B are already designated footpaths.

Following Mr Brennan's introduction Mr Morgan-Smith, agent for the estate, spoke against the amendment to the definitive Map and highlighted the following:-

- The estate is not against public access, however these routes are not open for public access
- Individuals have been given permission from the estate owners to ride on this land
- Those seen using the route who have not had permission have been challenged and informed that it is not open to the public
- It is felt that changing use to a bridleway will invite unauthorised motor cyclists to use the paths.

There were no questions

Following the speaker Members discussed the application and asked questions and made comments

- Part of the claim for A1, A2 to C is on user evidence 5 users were interviewed and 4 users completed additional questionnaires and therefore it can be reasonably alleged there has been use over 20 years. This of course would be further investigated through a public Inquiry.
- Footpath No3 runs through an area of trees and it is accessible so in legal terms it is available for use as a path

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

RESOLVED 2015/012

1. That the claim for route A1-B-C-D be accepted and that officers be authorised to make a Definitive Map Modification Order seeking to record it as a public bridleway
2. that the additional user evidence be accepted for route A2-B and that approval be given to make Definitive Map Modification Order seeking to record it as a public bridleway

3. that the additional historic evidence for the route C-E-F-G be accepted and officers be authorised to make a Definitive Map Modification Order seeking to record it as a public bridleway.

REPLACEMENT SCHOOL AT FORMER SHERWOOD HALL SCHOOL SITE STUART AVENUE MANSFIELD

Mr Smith introduced the report and gave a slide presentation. He highlighted that the application is for a new school to be built on what was previously a school site. He also reported to members that a petition signed by 51 signatories had been received by the Council regarding the placement of the school entrance. The petition highlighted that there would be a detrimental impact to the area, parking, access by emergency vehicles, noise impacts on residents with increased traffic and loss of access to drives with poor parking.

Following the opening remarks of Mr Smith, Ms Kabia, local resident, spoke against the application and highlighted the following:-

- Not opposed to a new school being built on the site, what is opposed the entrance to the school off Stuart Avenue.
- The area mainly consists of elderly residents who are not as mobile and therefore need the ability to get out of their drives when needed.
- The dynamics of the school will be different this time as the children will be younger than those who went to the previous school, therefore parents will stay longer to drop off.

Ms Kabia responded to questions as follows:-

- There will be a constant stream of cars dropping off and picking up because of the Nursery, the morning club and the after school club alongside the school start and finish times.
- Currently the view along the entrance to the site is a mess and there doesn't seem to be any responsibility taken regarding the cleaning up of the site. Also two trees have been felled already so it does seem that this is a fait accompli

Mr Smith responded to comment and questions by members as follows:-

- There are 45 car parking spaces so not all staff will have a space, it is expected that the School Travel Plan would encourage car sharing and more sustainable travel by staff members.
- The tree removed did not have tree preservation order so there was no need for any permission to remove them. They were removed to stop nesting taking place.
- An informative could for the condition a liaison committee between the school and local residents.
- With regard to planning terms Sport England would object to any open playing fields being used for an access road and this would be an extremely costly proposal.

- There will be zig zag markings and double yellow lines outside the school

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

RESOLVED 2015/013

That planning permission be granted subject to the conditions set in Appendix 1 attached to the report.

AMENDMENT TO PROCESSING CAPACITY OF SITE TO INCREASE PERMITTED INPUTS TO 150,000 TONNES ANNUAL CAPACITY – BIO DYNAMIC (UK) LIMITED PRIVATE ROAD 4 COLWICK INDUSTRIAL ESTATE

Mr Smith introduced the report and gave a slide presentation, during his presentation he informed members that paragraph 13 (c) should read south eastern boundary and not south western. Plan 2 showed the original south eastern boundary as a straight line. It was explained that the operator was unable to purchase the full extent of land originally envisaged, however a similar sized area had been acquired enabling the previously approved fourth digester to be constructed. An error was corrected on Plan 2 so that the correct digester tank was identified.

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

RESOLVED 2015/014

That planning permission be granted subject to the conditions set in Appendix 1 attached to the report.

ERECTION OF A STEEL FRAMED BUILDING FOR USE AS A MATERIALS RECYCLING FACILITY TRENT SKIP HIRE LIMITED QUARRY FARM TRANSFER STATION BOWBRIDGE LANE NEW BALDERTON NEWARK

Mr Smith introduced the report and gave a slide presentation. He highlighted that the development had had a number of complaints and these are set out in paragraph 26 of the report. He reported that there were late representations from Hawton Parish Council stating that they felt that the size of the building will not be in keeping with the area. They also feel that there are enough HGV's using the roads in the area.

The Materials Recycling Facility has been reduced in size from the original proposals. The routeing of HGVs will also change due to a lorry agreement being suggested to avoid the C3 traffic routes.

Following the opening remarks of Mr Smith, Councillor Wallace, local member, spoke against the application and highlighted the following:-

- The site is close to a large Quarry Landfill site and will add to the HGV's already using the roads.

- There are several Schools in the vicinity which the HGVs will pass thus creating a potential safety issue.
- A proposed Section 106 agreement is being proposed to change the routing of vehicles by up to 6 miles, but how will this be policed?
- There should be some payment made by companies to ensure they are fit for purpose.
- The Newark Relief Road does not appear in the Nottinghamshire Traffic Plan and it will not be built until 2030.

Mr Smith responded as follows:-

- Terms of legal agreements can require companies to self-police drivers to ensure the correct routes are being used to deliver waste, however enforcement action could be used.
- Applications are considered on their own merit
- Funding is in place for phase one of the Newark Southern Relief Road.

Members were concerned about the application and the issues raised by the local members therefore upon a motion by the Vice-Chairman, seconded by Councillor Keith Walker it was

RESOLVED 2015/015

That the application be deferred subject to a site visit by the Committee.

DEVELOPMENT MANAGEMENT PROGRESS REPORT

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

RESOLVED 2015/016

That the Development Management Report be noted.

WORK PROGRAMME

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

RESOLVED 2015/017

That the Work Programme be noted

The meeting closed at 13.05 pm.

CHAIRMAN

28 April 2015**Agenda Item:5****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/14/00976/CMA**

PROPOSAL: REMOVAL AND TEMPORARY STORAGE OF 75,000 CUBIC METRES OF COLLIERY SPOIL FROM LAGOON 4 PRIOR TO THE REMOVAL OFF SITE OF APPROXIMATELY 40,000 CUBIC METRES OF COAL MATERIAL; WITH ANY RED SHALE ARISING FROM THE WORKS TO BE EITHER USED ON SITE OR EXPORTED

LOCATION: BILSTHORPE DISUSED COLLIERY, EAKRING ROAD, BILSTHORPE

APPLICANT: HARWORTH ESTATES

Purpose of Report

1. To consider a planning application for the excavation of approximately 40,000 cubic metres of coal material and red shale from a colliery lagoon at the former Bilsthorpe Colliery. The key issues relate to HGV traffic and ecological impacts. The recommendation is to grant planning permission subject to conditions and a legal agreement.

The Site and Surroundings

2. The application site, the core of which is approximately 500 metres to the north east of the closest residential properties in Bilsthorpe, forms part of the former Bilsthorpe Colliery site which, since the colliery closed in 1997, has been partly redeveloped as a business park. This redevelopment includes a new highways depot to the west of the application site which was granted planning permission in 2008, with a variation to that permission granted in 2011. On land between the highways depot and the application site is land for which Members recently resolved to grant planning permission for the Bilsthorpe Energy Centre, although the application has been called in by the Secretary of State. To the immediate north of the application site is a facility which generates electricity from mine gas and there are other industrial units to the north west of the application site. There are also five wind turbines close to the application site and Newark and Sherwood District Council has granted planning permission for a solar farm to the south of the application site, although the permission has yet to be implemented. All of these features are detailed in Plan 1.

3. To the west of the mine gas site, and to the north west of the application site, is another area of land which, in 2012, was subject to works to excavate approximately 60,000 cubic metres of coal material and 20,000 cubic metres of red shale (planning permission reference 3/12/00503/CMA) as part of wider works to address safety issues on one of the tips on the site.
4. The whole area is accessed via an access road off Eakring Road approximately 550 metres to the west (see Plan 1). This access road also forms part of the application site which extends to 5.2 hectares in total. The main part of the application site comprises an area of the former colliery site which appears to have naturally regenerated on colliery spoil and largely consists of grassland with some pockets of shrubs and trees. The site is at its lowest in its north west corner at around 70 metres AOD but a steep ridge running across the centre of the site from south west to north east results in ground levels rising to around 82 metres AOD on the eastern boundary of the site.
5. The application site forms part of a wider area, covering around 23 hectares, which is designated as the Bilsthorpe Colliery Local Wildlife Site (see Plan 1), identified as being an important site for breeding waders. A large pond is to the north of the site immediately east of the mine gas compound whilst there is another pond to the south of the site.

Proposed Development

6. The planning application seeks permission to excavate approximately 40,000 cubic metres of coal fines from a former colliery lagoon in the south eastern half of the site. Operations would commence through the removal of vegetation and soils, with soil bunds being created in the north east corner of the site and also across the centre of the site adjacent to an area of land in the north west corner of the site which extends to around a hectare and which, having been determined to be of ecological interest due to the presence of two species of orchid – bee orchid and common spotted/marsh orchid – would remain undisturbed throughout the development (see Plan 2).
7. The colliery spoil forming the cap on the colliery lagoon would then be removed in phases to facilitate the removal of the coal fines and it is proposed to store 30,000 cubic metres of spoil from the initial box cut in a temporary storage area in the south west corner of the site (see Plan 2). Excavation of the coal fines would begin in the south west corner of the lagoon and would progress in a north easterly direction. This would allow for the creation of a temporary drainage sump in the south west corner of the lagoon whilst there would also be a temporary settlement pond to the north west of this (see Plan 2). The remaining 45,000 cubic metres of spoil would be removed as works progress and would be directly placed in the previously worked void.
8. The coal fines would be excavated and removed from site via the existing access road onto Eakring Road and an internal haul road through the site. The application states that an average of 20 and a maximum of thirty 30-tonne HGVs would remove the coal fines from the site per day using a route that would involve HGVs leaving the site along the access road, turning right onto Eakring Road, left onto Deerdale Lane and onto the A614 (see Plan 1). The

coal fines would then be transported to a power station (understood to be Rugeley in Staffordshire) where it would be blended with higher quality coal to produce a product which meets the power station's requirements.

9. The site would operate between 7am and 7pm Mondays to Saturdays and it is anticipated that the development would take 12 months to complete. The proposed development is anticipated to generate employment for 13 people: two supervisors; two surveyors; three machine drivers; four HGV drivers; and two labourers. Close to where the access road enters the site on the western boundary, a site compound would be set up including a car park and offices (see Plan 2).
10. Following the removal of the coal fines, the colliery spoil previously removed would be replaced to form the final landform on site. This would result in a slackening of the existing landform with slopes no steeper than one in six and would see final levels rise on the replaced colliery spoil heap to a maximum height of around 76 metres AOD on the eastern boundary of the site. The applicant has stated that, due to the amount of coal fines to be extracted and the density of the colliery spoil to be replaced not being precisely known, exact details of some of the features being proposed in the restoration scheme cannot be confirmed but would be submitted towards the end of the development and would accord with the concept restoration plan submitted.
11. The concept restoration plan confirms that it is proposed to restore the site to a mixture of species-rich grassland and wetland habitats (see Plan 3). Running through the centre of the site in a roughly north to south direction on the western toe of the newly formed spoil heap, it is proposed to construct a linear wetland feature interspersed with small wetland ponds. This linear feature would link the existing ponds to the south and north of the site. In addition to this, it is also proposed to create a further two ponds on top of the spoil heap, although the applicant has indicated that these would be designed to be seasonally wet, as permanently wet areas on top of the spoil tip could cause stability issues.
12. It is proposed to use Emorsgate Seed's EM2 seed mix which contains 80% grasses, predominately crested dogtail and slender-creeping red fescue, and 20% wild flowers including common knapweed, yarrow, oxeye daisy and meadow buttercup. The mix is described as being characteristic of traditional meadows and is suitable for a wide range of soil types. The wetland areas would be planted with species agreed with the planning authority and locally sourced plant material would be used where available and appropriate.

Consultations

13. ***Newark and Sherwood District Council*** has no objection to the application provided the County Council is satisfied that the proposed development complies with the relevant development plan policies and that no neighbours are detrimentally impacted upon through noise, nuisance and increased traffic generation. Advice should be sought from Natural England, Nottinghamshire Wildlife Trust and the County Council's Ecologist regarding the Ecological Appraisal to assist consideration of the application against development plan policies which seek to protect ecological assets. The restoration of the site

should ensure an increase in biodiversity, controlled through a management or scheduling plan.

14. **Bilsthorpe Parish Council** objects to the application as the road infrastructure would not cope with the additional HGV movements and the proposal would have a detrimental impact on local wildlife, trees and the landscape. In summary, the proposal would have a significant negative impact on the area.
15. **Eakring Parish Council** objects to the application as it understands that the site owners were given millions of pounds to regenerate the site in an ecologically friendly manner and the proposed development would undo all of this work and affect all the wildlife that has become established. Dust and noise from the scheme would have health and safety implications whilst the additional HGVs would have a safety impact on the A614 junction which is already considered to be problematic by many locals who already avoid it at busy times, and the A614 itself. The cumulative impacts on this site should also be considered as a five turbine wind farm has recently been built, a huge solar farm has been granted planning permission, the highways depot has become operational and there is a planning application for an incinerator. The site and the surrounding infrastructure can only take so much. If the development takes place, all that would be left would be a wasteland denuded of all wildlife. A full scheme of restoration work should be costed and agreed, otherwise the land would only be fit for an industrial plant base.

[Comment: the reference made to an 'incinerator' above relates to the Bilsthorpe Energy Centre which committee has resolved to grant planning permission for, but has subsequently been called in by the Secretary of State, as confirmed in paragraph 2 of this report.]

16. **NCC (Planning Policy)** confirms that Policy M12.6 of the Nottinghamshire Minerals Local Plan (MLP) is the key policy for consideration and that this policy is broadly consistent with paragraph 149 of the National Planning Policy Framework. If the criteria in the MLP cannot be met, benefits should be considered and weighed against the likely impacts. If these benefits exist, this would provide policy support for the proposal.
17. With respect to Policy MP11 of the emerging MLP, it is considered that the criteria in this policy could be used as a material consideration as the only objections received on this policy were an expression of concern that the policy did not allow for the economic benefits of the coal recovery and a questioning of the necessity/suitability of the word 'substantial' in the policy.
18. **The Coal Authority** has no objection to the application and confirms that the application site does not fall within the defined Development High Risk Area. The two recorded mine entries associated with the former colliery are located outside the application boundary and there are no other coal mining hazards affecting the site.
19. **The Environment Agency** has no objection to the application subject to conditions regarding the remediation of any contamination not previously identified at the site and a scheme for the disposal of surface water. An environmental permit would be required for the site.

20. **Natural England** advises that their standing advice is applied to the application with respect to protected species as it is a material consideration in the determination of applications. The proposed development is unlikely to affect any statutorily protected sites or landscapes and no comments are provided regarding soils, land use and reclamation.
21. **NCC (Nature Conservation)** notes that the application site forms part of Bilsthorpe Colliery Local Wildlife Site, designated for its breeding bird interest. The proposals would result in the temporary and short-term loss of habitat used by breeding birds but provides opportunities to deliver enhancements to benefit breeding waders. Whilst the site is also within the five kilometre buffer zone around the 'prospective' Sherwood Special Protection Area, it is considered that the proposed development would not have any significant impact on relevant species.
22. The site supports relatively species-rich grassland as a result of the seeding of the site when it was restored and also through the natural colonisation of two species of orchid, Dyer's greenweed, and lesser centaury, although the precise location of the latter is not clarified. The applicant has agreed to retain and protect an area of existing habitat that includes the location of the two orchids and a condition should secure the temporary fencing of this area. A mitigation strategy for lesser centaury and Dyer's greenweed, which would likely involve translocation, should be secured by condition, although this would not be required for the lesser centaury if it can be confirmed that it is situated in the habitat protection area.
23. NCC (Nature Conservation) considers that great crested newts are not a constraint to the development. No breeding bird surveys have been carried out but survey work in relation to other nearby developments has resulted in the wildlife in the area being well documented. Little ringed plover and oystercatcher have been recorded elsewhere on the former colliery site, lapwing has been recorded foraging within the application site, and other red-listed bird species have been recorded within the wider area. Given the short-term nature of the proposals, any impacts on these bird species is unlikely to be significant but a condition controlling vegetation clearance during the bird nesting season would be required along with a pre-commencement check for ground nesting waders in the event that works commence during the bird breeding season.
24. Parts of the site appear to have the potential to support reptiles and so a condition is recommended requiring the production of a Precautionary Method of Working which would require details to be submitted regarding the passive displacement of reptiles through progressive strimming of grass to make the habitat unfavourable for any reptiles present, along with hand searching.
25. The retention of suitable breeding habitat for dingy skipper butterfly would mitigate against any potential impacts to that species which has been recorded in the wider area in the past.
26. The concept restoration scheme is generally supported with the additional areas of wetland/ponds and species-rich grassland offering the potential to deliver a biodiversity gain at the site by improving the existing habitat and providing enhanced habitat for breeding waders in particular. However, a condition

should secure the submission of a detailed landscaping scheme, including details of species mixes, establishment methods and maintenance regimes; the provision of additional micro-topographical features to benefit butterflies; a soil-handling methodology to include the stripping and storage of the top 100mm of topsoil, separate from the remainder of the topsoil, with its subsequent reinstatement during restoration to maintain the existing seed source; and the submission of a habitat management plan to guide ongoing management and to maximise the biodiversity value of the site. Furthermore, to ensure that the scheme delivers an environmental benefit, an additional five years of aftercare should be secured in addition to the statutory five year period.

27. **Nottinghamshire Wildlife Trust** would be able to support the scheme subject to a number of conditions and undertakings. Whilst a Phase 1 survey and habitat suitability index assessment has been undertaken, a breeding bird survey has not been carried out and so it is not possible to at least partially assess the likely impacts of the proposed scheme on protected species and to properly evaluate the likely effectiveness of the proposed mitigation.
28. The surveys undertaken show the site to be dominated by species-rich grassland with a diverse range of herb species which are a result of the previous restoration scheme for the colliery tip. In addition to this, at least two orchid species have colonised the site naturally and so the sward has developed botanical value and become well established. The scheme has been amended to retain and protect one of the more botanically diverse areas which NWT welcomes but a substantial area of botanically diverse grassland would still be lost. NWT considers that the translocation of turfs in which the orchids are located should be conditioned and details submitted to show the depths of turfs that would be moved, where they would be moved to, and how they would be managed to ensure they survive. Dyer's greenweed, an uncommon species in the county, also occurs on the site and this should also be translocated within the site to an area with suitable substrate conditions, as should the lesser centaury.
29. Great crested newts are not present on site but there are ponds in close proximity that are known to host other amphibians and the application site could be used for terrestrial activity by these species. The restoration scheme should establish suitable foraging habitat for these species and the inclusion of new ponds in the restoration scheme is welcomed by NWT.
30. A reptile survey has not been undertaken and there are habitats present that might host reptiles, particularly common lizard. In order to ensure reptiles are not affected by the scheme, a reptile protection plan should be submitted prior to works on site, including details of how harm to reptiles would be avoided (through manual searching etc) and what mitigation would be provided if they were to be found, including the provision of receptor habitat in a protected area.
31. NWT considers that there are no existing features suitable for use as a bat roost although there is an abundance of suitable foraging habitat. The short term nature of the scheme would have a minimal impact on this species and the restoration proposals have the potential to recreate good foraging habitat within five years. There would be no impacts on water voles or badgers, whilst the

short duration of the scheme and the proposed restoration would result in limited impacts on hares.

32. *The lack of a breeding bird survey is disappointing to NWT given the site's designation as a local wildlife site notable for its population of waders. The scheme would result in the loss of habitat potentially used by grey partridge, lapwing, skylark and possibly scrub nesting birds such as turtle dove. The lack of survey means that it is not possible to determine which of these species, if any, breed on the site and could therefore be impacted by the proposed development. The retention of part of the site would help to mitigate some of the habitat losses.*
33. *In the absence of the bird survey NWT has assumed that red list Birds of Conservation Concern are present and so it is essential that, if planning permission is granted, the site is restored at the earliest opportunity and that the lost habitats are replicated as far as possible in the restoration scheme. The proposed wetlands and grassland would be beneficial in this regard but must be managed appropriately in order to develop suitable interest for wading birds and to retain this interest in the long term.*
34. *NWT considers that the proposed development would not result in 'pollution or deterioration of habitat' used by nightjar or woodlark.*
35. *Dingy skipper butterfly has been known to be historically present on the site and its food plant is still present. The habitat protection area would conserve some of this food plant but provision should be made to ensure that it persists through the restoration scheme.*
36. *The restoration concept contains suitable habitats to replace those that would be lost and the creation of new ponds and shallow wetlands is welcomed by NWT and could increase the biodiversity of the site in the long term to ensure a net gain for biodiversity in accordance with the NPPF and the Minerals Local Plan. NWT considers that the restoration scheme should maximise the quality of the restored habitats and ensure that they persist in the long term through the submission of a detailed restoration scheme, a long term management plan, and a commitment to an additional five years of aftercare over and above the statutory five year period. Subject to these conditions being met, NWT would be able to support the scheme.*
37. **The Highways Agency** *considers that the proposed development would not have a material impact on the closest strategic route, the A1. Therefore, no objection is raised.*
38. **NCC (Highways)** *has no objection to the application based on the works taking 12 months to complete, resulting in 30 HGVs per day, using a proposed route via the A614, Deerdale Lane and Eakring Road into the site, and the hours of operation being 7am to 7pm Monday to Saturday.*
39. **NCC (Landscape)** *has no objection in principle to the application but a method statement for the restoration of the site should be provided along with details of seeding and planting, including specification and details of establishment and maintenance.*

40. **NCC (Reclamation)** supports the application as it would result in an environmental improvement. A potential contamination source would be removed and drainage in the area would be improved.
41. The proposed excavation and subsequent exposure of underlying spoil and coal fines has the potential to result in sedimentation run-off during storm events and prolonged seepage of mobile contaminants from within the deposited spoil material. Controls would need to be in place to ensure that local water bodies are not contaminated. The proposed drainage ditch should take into consideration the potential for contaminants from the spoil material leaching into the water course.
42. The excavation and removal of coal fines would improve the environmental situation by removing a combustion risk and potential contamination source. It would also allow the slope of the tip to be re-engineered to an acceptable gradient and the drainage requirements for the spoil tip at higher elevation to be incorporated within the restoration proposals. Further details of the final restoration levels and gradients are required.
43. Soils stripped, stockpiled and re-used should be done so in accordance with good practice guidelines. Issues such as noise, dust and discharges to water courses should be controlled to minimise adverse environmental impacts.
44. **NCC (Noise Engineer)** has no objection to the application and notes that a similar operation in Bilsthorpe took place in 2012, with similar quantities of material exported, using the same operating hours and HGV numbers, without any complaints being made to the County Council. Given this, it is not anticipated that the proposed development would give rise to adverse noise impacts on noise sensitive receptors as the nearest receptor is around 600 metres away.
45. Conditions are recommended regarding the maximum number of HGVs per day, the hours of working, HGV routeing, the regular servicing and maintenance of all plant and machinery, and the fitting of broadband reversing alarms on vehicles and plant under the operator's control.
46. **NCC (Countryside Access)** has no objection as there are no public rights of way affected by the proposals.
47. **National Grid (Gas)** and **National Grid Company PLC** have apparatus in the vicinity of the site which might be affected by the proposed development.
48. **Severn Trent Water Limited, Western Power Distribution** and **NCC (Archaeology)** have not responded on the application. Any response received will be orally reported.

Publicity

49. The application has been advertised by a press notice in the Newark Advertiser and site notices on the site itself, on the corner of the access road and Eakring Road and further south on Eakring Road next to a footpath which leads to

residential properties closest to the site. Neighbour notification letters have been sent to 11 businesses on the business park and eight residential properties off Deerdale Lane in accordance with the County Council's Adopted Statement of Community Involvement Review.

50. A letter of objection has been received from a local resident in Bilsthorpe who considers that the area is already established with wildlife, including little ringed plovers, whilst the 30 HGVs per day would create noise and air pollution for residents on Eakring Road and create more traffic at the junction with the A614 which is already dangerous.
51. An action group called Residents Against Gasification Experiment (RAGE) has submitted an objection to the application. Concerns have been raised regarding the increase in HGVs and the impact of these on the Deerdale Lane junction when accessing the site. The junction is also used by residents of the village who would have their journey times affected and face increased risk to their safety. There is also concern that HGVs would accidentally come through the village, despite restrictions being in place, and impact upon the safety of school children who use the road as a route to school. The additional HGVs need to be considered alongside those associated with the maintenance of the wind farm and traffic to construct the permitted solar farm if it is implemented. Reference is made to RAGE's objection to the Bilsthorpe Energy Centre application which contains more detailed objections regarding HGVs entering the site.
52. RAGE is also concerned about the impact on wildlife as the site is designated as a local wildlife site and little ringed plovers and oystercatchers have been observed at the site, which need to be protected. If planning permission is granted, the site should be monitored to ensure that all impacts are confined to the application site and not surrounding areas. It is felt that this was not the case during the construction of the wind farm and more areas of wildlife were destroyed than had been permitted.
53. The application would also impact on the £2 million spent on landscaping the area. Even if the site is restored to how it was previously, the wildlife and horticulture would take a long time to regenerate to its present state.
54. Councillor Roger Jackson and Councillor John Peck have been notified of the application.
55. The issues raised are considered in the Observations Section of this report.

Observations

Planning policy context for the reworking of colliery spoil tips

56. The assessment of applications for the reworking of former colliery spoil tips has been established in the adopted Minerals Local Plan (MLP) and continues in the emerging Minerals Local Plan (Preferred Approach) (MLPPA).
57. Policy M12.6 (Reworking of Colliery Spoil Tips) of the MLP states that:

“Planning permission will only be granted for the reworking of spoil tips if:

- (a) It has not become an established, attractive landscape or wildlife feature;*
- (b) It will not cause an unacceptable environmental impact;*
- (c) It will not cause an unacceptable impact to local communities;*
- (d) It will result in a substantial environmental improvement of the site.”*

58. Policy MP11 of the MLPPA states that:

“Permission for the extraction of coal will only be granted where:

- (a) The proposal is environmentally acceptable, or can be made so by mitigation; or*
- (b) The proposal provides national, local or community benefits which clearly outweigh the likely adverse impacts.”*

59. In addition to this, and in particular in relation to applications for the reworking of colliery spoil tips, Policy MP11 states that:

“Applications will be supported for the reworking of colliery spoil tips where the benefits of the development, including addressing the likelihood of spontaneous combustion and substantial environmental improvement of the site, outweigh the environmental or amenity impacts of the development or the loss of established landscape and wildlife features.”

60. There is an interesting distinction between the two policies insofar as Policy M12.6 in effect does not allow for the reworking of colliery spoil tips if the site has become an established, attractive landscape or wildlife feature, irrespective of whether the other three criteria in the policy can be met or not. Policy MP11 meanwhile provides for the potential offsetting of the loss of an established landscape and wildlife feature through the benefits of the development, such as substantial environmental improvements to the site.

61. The site is designated as a Local Wildlife Site and so it is considered that it is already an established wildlife feature. There would therefore appear to be a clear policy objection to the application when assessing it against Policy M12.6. However, given the direction that the emerging Policy MP11 is taking insofar as requiring all material considerations to be taken into account as a whole, it is considered reasonable to also assess the first criteria in Policy M12.6 within the context of the entire policy. In this respect, it is therefore considered essential that any impacts on the designated Local Wildlife Site are minimised, along with other environmental impacts and impacts on amenity, whilst it is also considered imperative that the restoration scheme is designed to maximise environmental and biodiversity benefits. This is all the more relevant given that both Bilsthorpe and Eakring Parish Councils, along with a local action group and a local resident, have raised concerns that that the proposed development would impact on the local area in terms of wildlife and landscape impacts, in addition to the impacts of HGVs on local roads.

62. Revisions to how the site would be worked now ensure that an area in the north west corner of the site, extending to over a hectare, would remain undisturbed throughout the life of the development and would not be subject to any additional treatment as part of the restoration of the site. The County Council's Ecologist considers this area to be the most sensitive area of habitat on the site as it contains the two species of orchids identified in the ecological surveys and could potentially support the dingy skipper butterfly, a species protected under Section 41 of the Natural Environment and Rural Communities Act. This matter is considered in greater detail in the ecological observations below but it is considered that the protection of this area is an important policy consideration.
63. No objection has been raised by the County Council's Landscape Team and it is considered that, whilst the site is not an unattractive feature on the local landscape, the wider area is one that comprises a number of incoherent features including arable land, industrial units, wind turbines, mine gas equipment and former colliery workings. It is considered that improvements could be made to the landscape through the proposed development. The extent of these improvements is considered in detail below.
64. The reworking of colliery spoil tips has the potential to cause unacceptable environmental impacts and impacts to local communities through issues such as noise, dust and traffic impacts. Consideration of all these matters is detailed below and again would determine the acceptability of the proposed development against Policy M12.6 and Policy MP11.

Highways

65. Policy M3.13 of the MLP only allows for minerals development where the traffic to be generated can be satisfactorily accommodated by the highway network and would not cause unacceptable impact upon the environment and disturbance to local amenity. Policy M3.14 seeks to secure specified agreed vehicular routes for HGVs and require instructions to be issued to drivers in relation to these routes, in addition to securing highways improvements. Policy M3.12 requires measures to be put in place, such as wheel cleaning facilities and the sheeting of lorries, to prevent mud from being carried onto the public highway. Concerns regarding HGVs associated with the proposed development have been raised by Bilsthorpe and Eakring Parish Councils, a local resident and the local action group.
66. No objection has been raised from either the Highways Agency or the Highways Authority. The proposed development would generate a maximum of 30 HGVs per day and the route being proposed for these HGVs, along Eakring Road and Deerdale Lane onto the A614, is a long established HGV route into and out of the former colliery area, with signposts already in place directing HGVs to Bilsthorpe Business Park and the former landfill site. This route passes very few residential properties with only four fronting Deerdale Lane with seven more close by on a narrow lane off Deerdale Lane.
67. Given the proposed hours of operation at the site (7am to 7pm), the proposed development would result in an average of five HGVs travelling along the proposed route per hour; three in one direction and two in the other. This level

of traffic is similar to that generated by the scheme to remove coal material and red shale from another area of the former colliery site in 2012 with Condition 11 of that permission restricting the number of HGVs leaving that site to 30 per day. These HGVs followed the same route as is being proposed in this application and the site operated between the hours of 7am and 7pm, although the anticipated timeframe for that development was only 22 weeks, around half the time proposed for the development under consideration in this application. However, it can be confirmed that this development proceeded without any complaints regarding HGV movements.

68. It is considered that the local highways network could accommodate the level of HGV traffic proposed for the proposed 12 month period, although it is considered prudent to allow for an 18 month extraction period in case inclement weather conditions result in delays to operations on site. It is therefore considered that the application accords with Policy M3.13 of the MLP. A legal agreement would need to be secured to ensure that the HGV route is observed, a concern raised by the action group, in accordance with Policy M3.14. The legal agreement would also need to set out how the HGV route would be observed, through the issuing of instructions to HGV drivers etc, also as required by Policy M3.14. Conditions requiring details of the measures to be provided to prevent mud from being trafficked onto the highway and to require all HGVs leaving the site to be sheeted, are also considered reasonable and would accord with Policy M3.12.

Ecology

69. Policy M3.17 of the MLP protects habitats or features identified as priorities in the UK or Nottinghamshire Local Biodiversity Action Plan unless an overriding need for the development is demonstrated which outweighs the nature conservation importance of the feature. If the loss of habitat cannot be avoided, provision is required, where practicable, for the creation of equivalent habitat either on site or at a suitable alternative location. Policy M3.20 only allows for minerals development in areas designated as Local Wildlife Sites where the importance of the development outweighs the value of the site, taking into account measures to mitigate or compensate against any adverse impact. Policy M3.21 safeguards protected species or their habitats from minerals development.
70. The ecological impact of the proposed development on the site is an important consideration as the site is designated as a Local Wildlife Site on account of its interest for wading birds. There are two lakes to the north and to the south of the application site and the site itself is considered suitable habitat for a number of bird species, including grey partridge, lapwing, skylark and turtle dove. Other species that have been recorded in the area in the recent past include little ringed plover and oystercatcher. Despite the proposed development seeking to retain and protect an area of around a hectare which has been identified as being the area of most diverse grassland on the site, including bee orchids and common spotted/marsh orchids, other areas of species-rich grassland suitable for these bird species would be lost to facilitate the proposed development.

71. In order to mitigate against this loss and meet the tests in Policies M3.17 and M3.20, a number of matters have been identified by consultees as requiring suitable mitigation prior to and during the development. Prior to the commencement of the development, it would be necessary to fence off the area of existing habitat which has been identified as being retained and protected throughout the development, given the species-rich nature of this area which is good habitat for dingy skipper butterflies, a rare species in the county. Furthermore, a scheme to transplant Dyer's greenweed and possibly lesser centaury (once its precise location on site has been established, another matter which would be secured by condition) would need to be submitted, approved and implemented prior to any works commencing on site. This would ensure the protection of these rare species. Contrary to the consultation response from Nottinghamshire Wildlife Trust, it would not be necessary to translocate turf containing the orchid species as these are already located within the area to be retained and protected.
72. A condition is also recommended to ensure that vegetation clearance does not take place during the bird breeding season, unless preceded by pre-commencement checks by a suitably qualified ecologist. These checks would also search for reptiles, with the vegetation having been previously strimmed to make it unfavourable for any reptiles present, a matter which would also be secured by condition. A recent site visit observed that vegetation on site, but outside the proposed habitat protection area, has recently been cut.
73. It is also considered vital that the restoration scheme delivers not only replacement habitat equal to that which would be lost, but also provides, where possible, improved habitat. Regarding the requirement in Policy M3.17 to provide equivalent habitat either on or off site, this is not considered necessary in this instance given the short term nature of the proposals.
74. The restoration proposals seek to provide areas of restored grassland, a linear wetland feature linking the two existing ponds to the north and south of the site, and two further seasonal wetland areas on the top of the restored colliery spoil tip. The County Council's Ecologist considers that the concept scheme provided through the application has the potential to deliver biodiversity gains and it is considered that a condition requiring the submission of greater details, including species mixes, establishment methods, maintenance regimes, micro-topographical features, a soil handling methodology, a habitat management plan, and a total of ten years of aftercare, five of which would need to be secured by a legal agreement, would ensure that the site would be restored to a condition of greater benefit than it provides at present and would ensure that the proposals accord with Policy M3.20 of the MLP.

Landscape

75. Policy M3.3 of the MLP requires the visual impact of developments to be kept to acceptable levels with any plant, buildings and storage areas located so as to minimise their impact. Policy M3.4 seeks to reduce visual impacts through screening and landscape proposals. Policy M4.4 requires the submission of landscaping proposals and Policy M4.9 allows for the provision of aftercare conditions for minerals planning permissions.

76. No objection has been raised by the County Council's Landscape Officer and the site benefits from being relatively remote from residential properties in Bilsthorpe to the south and the nearest public right of way is around 500 metres to the east. It is therefore considered that the proposed development would not result in any adverse visual impact. A condition regarding any floodlighting to be installed is considered appropriate as, given the proposed hours of working (7am to 7pm), floodlighting would be required at certain times. The condition would require details to be provided confirming that light spill from any floodlighting would be restricted to the working areas only and that lights would not be left on outside operating hours.
77. The Landscape Officer has recommended that the restoration of the site is subject to a suitable method statement providing details of seeding and planting, including establishment and maintenance methods. This is considered acceptable, albeit only with respect to the seeding of the site given that no tree, shrub or hedgerow planting is proposed, and would accord with Policy M4.4 and Policy M4.9 of the MLP.

Noise

78. Policy M3.5 of the MLP requires noise levels generated by minerals development to not exceed acceptable levels and conditions regarding matters such as the hours of operation and the soundproofing of fixed and mobile plant should be considered. The reworking of colliery spoil tips has the potential to generate noise complaints, although the County Council's Noise Engineer has noted that no such complaints were received regarding the previous scheme on a nearby site in 2012. The closest noise sensitive receptors from the application site are around 600 metres away and no adverse noise impacts are anticipated as a result.
79. The Noise Engineer has recommended conditions restricting the number of HGVs entering and leaving the site; providing for the specified HGV route so that Bilsthorpe village is avoided; restricting the hours of operation; ensuring that all plant and machinery is regularly serviced and maintained; and the fitting of broadband reversing alarms on all vehicles and mobile plant under the operator's control. All these measures are considered appropriate and, with them in place, it is considered that the proposed development would accord with Policy M3.5 of the MLP, in addition to Policy M12.6 of the MLP and Policy MP11 of the MLPPA.

Dust

80. Policy M3.7 of the MLP seeks to control the generation of dust at minerals sites and identifies a number of ways in which this can be achieved, such as through the use of water bowsers, limiting on-site vehicle speeds, and soil handling strategies. It is considered important to not only control dust for the benefit of local residents but also in light of the surrounding flora which could be adversely affected by the deposit of dust. The application proposes to control dust through the use of water bowsers, road sweepers and sprays, in addition to the sheeting of all vehicles leaving the site. There is no indication that a wheelwash

would be provided, although HGVs leaving the site would travel approximately 650 metres along hard surfaced roads within the business park before turning onto Eakring Road.

81. In the absence of any advice from the district council's environmental health officer, it is considered reasonable to attach a condition to any planning permission granted requiring a dust management plan to be provided prior to the commencement of the development setting out in detail the measures that would be incorporated into the working of the site, with the suggested measures reflecting those detailed in Policy M3.7 where relevant to this proposal. Reference would also be included to the need for the measures to protect not only local amenity but also nearby habitats. With such measures in place it is considered that the proposed development would also accord with Policy M12.6 of the MLP and Policy MP11 of the MLPPA by minimising the impacts of the development on local communities and the local environment. The proposed development would also accord with the National Planning Policy Framework (NPPF) which, at paragraph 118, requires significant harm to biodiversity to be avoided or adequately mitigated.

Ground and water contamination issues

82. Policy M3.8 of the MLP requires surface water flows and groundwater levels not to be affected, and ground and surface waters not to be polluted. The Environment Agency raises no objection to the application subject to a condition requiring any unforeseen contamination not previously identified to be remediated in accordance with an approved strategy, and a condition requiring a scheme for the disposal of surface water to be submitted to prevent the deposit of suspended solids into Gallow Hole Dyke which runs to the north east of the site.
83. The County Council's Reclamation Officer has also raised concerns about the potential for sediments and contaminants to enter local water bodies if not properly controlled. The Site Working Arrangements Plan submitted with the application does show a temporary drainage sump in the south west corner of the lagoon to be excavated, along with a temporary settlement pond to the north west of this. However, the plan is quite schematic in nature with little detail of how these features would work together and ensure that no nearby waterbodies are polluted. The need for the recommended condition is accepted but it is considered that what it is seeking to achieve is similar to the Environment Agency's recommended condition on the disposal of surface water and so does not need repeating. With these conditions in place, it is considered that the proposed development would accord with Policy M3.8 of the MLP.

Cumulative impact with other developments nearby

84. Eakring Parish Council has raised concerns regarding the cumulative impact the proposed development would have in conjunction with a number of other developments nearby, including the construction of five wind turbines, the granting of planning permission for a solar farm, the recently constructed highways depot and the planning application for the Bilsthorpe Energy Centre.

In response to this, the five wind turbines highlighted are already operational so any disturbance through their construction has taken place. However, they clearly have a lasting impact on the landscape and the Inspector presiding over the appeal inquiry for that application considered that the proposal would have an adverse impact on the rural landscape but that the impact would be 'limited in extent'. The Inspector considered that the benefits of the proposed development in terms of the generation of energy from renewable sources, the contribution it would make to tackling climate change, and the contribution to meeting regional renewable energy targets were sufficient to outweigh the harm identified.

85. Regarding the solar farm, the site covers an extensive area to the south of the application site under consideration in this report, although the solar farm permission has yet to be implemented. Similarly, with respect to the Bilsthorpe Energy Centre, this application has been called in by the Secretary of State for determination and so there is no certainty that this is going to be developed. Even if it is, there is the possibility that the coal recovery proposal could have been worked by the time the Bilsthorpe Energy Centre, and the solar farm, have even become operational.
86. Regarding cumulative impact, it is considered that the biggest matter to take into account is the fact that the proposed development would be a temporary operation, with the applicant anticipating that the excavation of coal would last for only around 12 months, although it is considered acceptable to condition the length of the extraction period to 18 months to allow for any delays in operations due to bad weather. Following this, the site would be restored and it would have no lasting impact cumulatively with other developments in the area. For this reason, whilst it is accepted that there are a number of developments in the immediate surrounding area, it is considered that the proposed development would not result in a significant cumulative impact.

Legal Agreement

87. As detailed in the highways observations above, it is considered appropriate to require a legal agreement to be attached to any planning permission granted detailing the HGV route to be used and measures to be undertaken to ensure that it is complied with by all hauliers. As the HGV route is outside the application area, this matter cannot be secured by a condition, hence the need for the legal agreement.
88. A condition requiring the restored site to be subject to five years of aftercare is recommended by consultees but they have also recommended that a further five years of aftercare be provided to ensure the establishment of the habitats proposed in the restoration scheme. This additional five year period can only be secured through a legal agreement.

Other Options Considered

89. 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

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

Human Rights Implications

91. 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

92. These are considered in the Observations section of this report.
93. There are no service user, financial, equalities, crime and disorder, safeguarding of children, or human resource implications.

Statement of Positive and Proactive Engagement

94. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework, including the accompanying technical guidance. The Minerals 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 the working of the site and the restoration proposals, and these 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

95. It is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be instructed to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 to secure a lorry routeing agreement requiring HGVs to avoid passing through Bilsthorpe village and measures to ensure the route is complied with, and an additional five years of aftercare.
96. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement within three months of the date of this report, the 28th July 2015, or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman, 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. In the event that the legal agreement is not signed by the 28th July 2015, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director for Policy, Planning and Corporate Services be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments [SLB 09/04/2015]

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

Comments of the Service Director - Finance [SES 9/04/15]

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

Background Papers Available for Inspection

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

Electoral Divisions and Members Affected

Farnsfield and Lowdham
Rufford

Councillor Roger Jackson
Councillor John Peck

Report Author/Case Officer

Jonathan Smith

0115 9932580

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

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RECOMMENDED PLANNING CONDITIONS

Commencement and duration of the development

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 Planning Authority (MPA) shall be notified in writing of the date of commencement of the following at least seven days, but not more than 14 days, prior to their commencement:

- (a) The commencement of site preparation works associated with the stripping of soils and the setting up of on-site facilities;
- (b) The commencement of the winning and working of coal or red shale;
- (c) The commencement of the export of coal or red shale from the site.

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

3. The extraction of coal and red shale from the site shall be completed no later than 18 months from the date of the commencement of the winning and working of coal or red shale from the site, as notified under the requirements of Condition 2(b) above. The MPA shall be notified in writing of the date of the cessation of mineral extraction within 14 days of its occurrence.

Reason: To ensure that mineral extraction is completed within an acceptable timeframe.

4. All soil replacement operations required in accordance with Conditions 27 – 29 below shall be completed no later than 12 months from the date of the cessation of mineral extraction, as notified under the requirements of Condition 3 above, during which time all on-site facilities shall be removed from the site.

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

Approved plans

5. From the completion of the installation of the on-site facilities until their removal under Condition 4 above, a copy of this permission including all plans and documents hereby approved, any other plans and documents subsequently approved in accordance with this permission, and a copy of the legal agreement

accompanying this permission, shall always be available at the site offices for inspection by the MPA during normal working hours.

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

6. The development hereby permitted shall only be carried out in accordance with the following details, unless amendments are made pursuant to the other conditions below:

- (a) Planning application forms received by the MPA on 6 May 2014;
- (b) Document entitled 'Ref. Policy M3.1 – Information in Support of Planning Application – Lagoon 4' received by the MPA on 18 February 2015;
- (c) Drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015;
- (d) Drawing entitled 'Site Plan Showing Section' received by the MPA on 18 February 2015;
- (e) Drawing entitled 'Concept Restoration Plan' received by the MPA on 18 February 2015;

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

Site compound area

7. No development on site shall commence until details of the site car park and office compound area, as indicated on the drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015, have been submitted to, and been approved in writing by, the MPA. The site car park and office compound area shall thereafter be installed in accordance with the approved details.

Reason: The development cannot commence until the contractors' compound and site car park are in place and any potential impacts associated with them require consideration in the interest of visual amenity to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

8. No floodlighting shall be used at the site until their details have been submitted to, and been approved in writing by, the MPA. The details shall ensure that the floodlighting shall be angled downwards and suitably shielded to ensure that it does not result in glare or dazzle to surrounding land. The floodlighting shall not be used outside the operating hours detailed in Condition 9 below. Outside these hours any external lighting shall be individually operated through a movement sensor switch with a maximum lighting cycle not exceeding 5 minutes.

The floodlighting shall be implemented and maintained for the life of the development in accordance with the approved details.

Reason: In the interest of visual amenity to ensure compliance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

Hours of working

9. Except in the case of an emergency when life, limb or property are in danger (with such instances being notified in writing to the MPA within 48 hours of their occurrence), the development hereby permitted shall only take place between the hours of 7am and 7pm Monday to Saturday. There shall be no working on Sundays, Public and Bank Holidays.

Reason: To minimise the impact of the development on the amenity of the local area in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Noise

10. All mobile plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the operator) used on the site shall incorporate broadband reversing warning devices, be fitted with silencers maintained in accordance with the manufacturers' recommendations and specifications, and shall be serviced and maintained to ensure that noise emissions do not exceed the manufacturers' specifications.

Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Highways

11. No HGVs movements associated with the haulage of coal or red shale shall enter or leave the site until measures to prevent the deposit of mud or other deleterious material on the public highway have been provided on the site in accordance with details previously submitted to, and approved in writing by, the MPA. The approved measures shall be implemented throughout the life of the development.

Reason: In the interests of highway safety and to accord with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

12. There shall be no more than 60 HGV movements to and from the site in any one working day (30 in, 30 out). Written records shall be maintained of all HGV movements into and out of the site and copies of HGV movement records shall be made available to the MPA in writing within 7 days of a written request being made by the MPA.

Reason: To limit HGV movements at the site and minimise the noise impacts on local residents in accordance with Policy M3.13 and Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Dust

13. No development on site shall commence until a dust management plan has been submitted to, and been approved in writing by, the MPA. The dust management plan shall set out measures to minimise the generation of dust and reduce its impact on nearby dust sensitive receptors, including adjacent habitats of ecological importance, to acceptable levels and provide a scheme for dealing with complaints. The dust management plan shall include, but not necessarily be limited to, any or all of the following steps as appropriate:
- (a) The use of water bowsters, sprays and vapour masts to dampen haul roads, coal and colliery spoil stockpiles, 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 coal and red shale;
 - (d) Limiting on-site vehicle speeds;
 - (e) Provisions for the temporary suspension of mineral extraction, soil movements or vehicle movements during periods of unfavourably dry or windy weather conditions;
 - (f) Details of the mechanism for dealing with any complaints received either directly from members of the public or via the MPA.

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

Reason: The development cannot commence until full consideration of detailed dust mitigation measures have been considered to ensure any impacts associated with the operation of the development are minimised in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

14. All HGVs leaving the site with coal or red shale shall be sheeted.

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.

Ground and surface water protection

15. If, during the course of the development hereby permitted, contamination not previously identified is found to be present at the site, then no further

development shall be carried out until a remediation strategy has been submitted to, and approved in writing by, the MPA detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented in accordance with the approved details prior to the recommencement of the development.

Reason: To reduce the risk of groundwater pollution in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

16. No development shall commence until a scheme to dispose of surface water has been submitted to, and approved in writing by, the MPA. The scheme shall set out measures to prevent any deterioration to the quality of Gallow Hole Dyke through the discharge of suspended solids and shall include a surface water drainage schematic, a scheme to manage silty run-off from exposed surfaces and dewatering operations and the subsequent treatment of this water prior to discharge from the site, and pollution prevention measures to deal with any spillages. The scheme shall be implemented in accordance with the approved details.

Reason: The development cannot commence until full drainage details have been submitted which ensure that there is no risk of surface water pollution in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

Protection of features of ecological importance

17. No development shall commence until the area identified as the 'Habitat Protection Area' on Drawing Number BC5 – Site Working Arrangements received by the MPA on 18 February 2015 has been fenced off in accordance with details previously submitted to, and approved in writing by, the MPA. The details shall include a plan showing where the fencing would be located and details of the type of fencing to be used. The fencing shall be erected in accordance with the approved details and shall be maintained throughout the life of the development until the protected area needs to be accessed as part of the restoration of the site.

Reason: The development cannot commence until an area of species-rich grassland and rare plant species on the site which form part of a designated Local Wildlife Site have been protected in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

18. No development shall commence until a Precautionary Method of Working in Relation to Reptiles has been submitted to, and approved in writing by, the MPA. The submitted method of working shall set out measures to be implemented to make any potential reptile habitat unsuitable for these species, including passive displacement through the progressive strimming of grassland in areas with the potential to support reptiles, along with the hand searching of vegetation prior to any vegetation clearance, and details of the provision of receptor habitat in the Habitat Protection Area should reptiles be discovered. The method of working shall be implemented in accordance with the approved details.

Reason: The development cannot commence until it has been confirmed that the protection and conservation of any reptiles on the site has been secured in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

19. No development shall commence until a Mitigation and Translocation Strategy for Lesser Centaury and Dyer's Greenweed has been submitted to, and approved in writing by, the MPA. The strategy shall include:
- (a) A map identifying the location of these plant species which are within the site but outside the 'Habitat Protection Area' on Drawing Number BC5 – Site Working Arrangements received by the MPA on 18 February 2015;
 - (b) Identify the locations within the Habitat Protection Area where it is proposed to translocate these species, which should take account of the substrate, aspect and drainage conditions of the species' existing locations;
 - (c) Details of the method of translocation, including the depths of turfs to be moved;
 - (d) The management of the translocated species to ensure they survive.

The plant species shall be translocated and subsequently managed in accordance with the approved details.

Reason: The development cannot commence until rare plant species on the site which form part of a designated Local Wildlife Site have been translocated and protected in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

20. Operations that involve the removal and/or destruction of vegetation shall not be undertaken during the months of March to August inclusive except with the prior written approval of the MPA which shall only follow the submission and approval of a report to the MPA confirming that the vegetation to be removed and/or destroyed has been checked for nesting birds by a suitably qualified ecologist and that any necessary mitigation measures to protect active nests have been (or shall be) put in place, and provides for a further check immediately prior to the vegetation being removed and/or destroyed following the MPA's approval in writing.

Reason: To avoid disturbance to breeding birds in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

Soil stripping, handling and storage

21. The MPA shall be notified in writing at least 5 working days before any soil stripping campaign is due to commence on site.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

22. No development shall commence until a detailed soil handling scheme has been submitted to, and approved in writing by, the MPA. Such a scheme shall include the following details:
- (a) A methodology statement for the stripping and storage of soils, including the depths of topsoil and subsoil to be stripped and which shall provide for the separate stripping of the top 100mm of soil from the site and its storage in separation from the remaining topsoils on site in order to maintain the existing seed source;
 - (b) The types of machinery to be used;
 - (c) The routes to be taken by plant and machinery involved in soil handling operations;
 - (d) The size, location, volume and composition of soil storage mounds, taking into account the separate stripping and storage of the top 100mm of topsoil as detailed in (a) above.

The soil handling schemes shall be carried out in accordance with the approved details.

Reason: The development cannot commence until it has been demonstrated that all available soil resources on site can be managed and conserved to ensure the proper restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

23. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. Essential trafficking routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated, traversed or used as a road, or used for the storage of topsoil, subsoil or mineral deposits (except where topsoil is to be stored on topsoil and subsoil is to be stored on subsoil), until all available topsoil and subsoil has been stripped from that part.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

24. Soil stripping shall not commence until any standing crop or vegetation has been harvested and the harvested crop removed.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

25. Topsoil, subsoil, and soil making material shall only be stripped when they are in a dry and friable condition and movements of soils shall only occur:
- (a) When all soil above a depth of 300mm is in a suitably dry and friable condition so that it is not subject to smearing;
 - (b) When topsoil is sufficiently dry so that it can be separated from subsoil without difficulty;
 - (c) When there are no areas of standing water on the surface of soils in the area to be stripped, traversed or used for soil storage.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

26. The topsoil and subsoil mounds identified on the drawing entitled 'Site Working Arrangements' received by the MPA on 18 February 2015, taking into account any additional storage mounds required for the top 100mm of topsoil to be separately stripped in accordance with the details in Condition 22 above, shall be seeded at the first available opportunity and no later than the end of the first available seeding season following the construction of any topsoil or subsoil mound in accordance with details which have been previously agreed in writing by the MPA and which shall include details of the seed mix to be used and a schedule of maintenance. The mounds shall thereafter be maintained in accordance with the approved details until required for backfilling/restoration purposes.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Soil replacement

27. The MPA shall be notified in writing at least 5 working days before each of the following:
- (a) The final post-excavation landform has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out; and
 - (b) When subsoil has been prepared ready for topsoil replacement to allow inspection of the area before further restoration of this part is carried out; and
 - (c) On completion of topsoil replacement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operation.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

28. Topsoils and subsoils shall only be replaced when they and the ground on which they are to be placed are in a dry and friable condition and no movements, resspreading, levelling, ripping or loosening of subsoils or topsoils shall occur:

- (a) When it is raining; or
- (b) When there are pools of water on the surface of the storage mound or receiving area.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

29. Plant and vehicles shall not cross any area of replaced and loosened ground, replaced subsoil, or replaced topsoil except where essential and unavoidable for the purposes of carrying out soil replacement, ripping and stone picking or beneficially treating such areas. Only low ground pressure machines shall work on prepared ground.

Reason: To ensure the proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Restoration

30. The site shall be restored broadly in accordance with the drawing entitled 'Concept Restoration Plan received by the MPA on 18 February 2015 and, furthermore, in accordance with a detailed restoration plan which shall have been submitted to the MPA for its approval in writing within six months of the date of commencement of the development, as notified under Condition 2 above. The detailed restoration plan shall provide details of the following:

- (a) The final topography of the site;
- (b) The provision of additional micro-topographical features to benefit butterflies (particularly Dingy Skipper), such as the provision of 'butterfly banks' constructed from low-nutrient colliery shale left in low banks running in an east-west direction, or constructed from piles of granite ballast or limestone chippings;
- (c) Ensuring that the restored habitats provide feeding and breeding habitat for wading birds;
- (d) Seed mixes to be used in the species-rich grassland areas, which should be Emorsgate Seed's EM2 seed mix, including details of ground preparation; seed sources (which should be of local provenance); sowing

rates; establishment methods; and the provision of areas left for natural regeneration;

- (e) Establishment of wetland areas, including cross-sections of the linear water feature and all the ponds to be provided; proposed planting and seeding; planting and sowing rates; establishment methods; and the replacement of any planting which fails during the first five years following planting.

The site shall be restored in accordance with the approved details.

Reason: To accord with Policy M4.4 of the Nottinghamshire Minerals Local Plan and to ensure that the restoration of the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

- 31. The seeding and establishment of the species-rich grassland and wetland areas shall be undertaken during the first seeding season following replacement of topsoils. Wetland planting shall be carried out in the first available planting season following the establishment of the grass sward in these areas. Any planting and seeding that dies or becomes diseased, damaged or removed within 5 years shall be replaced during the first planting season thereafter with others of similar size and species and maintained, unless the MPA gives written consent for a variation to be replanted.

Reason: To accord with Policy M4.4 of the Nottinghamshire Minerals Local Plan and to ensure that the restoration of the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

Aftercare

- 32. Following the restoration of the site, it shall undergo aftercare management for a 5 year period.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

- 33. The site shall be managed during the five year aftercare period in accordance with a Habitat Management Plan which shall have been submitted for the written approval of the MPA at the same time as restoration details are submitted under Condition 30 above. The Habitat Management Plan shall outline the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to ensure the land is restored and brought back to its intended restored afteruse and maximises the biodiversity value of the site. The aftercare scheme shall include but not be restricted to details of the following:

- (a) Cultivations;

- (b) Weed control;
- (c) Keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the MPA between 31 March and 31 May each year;
- (d) Drainage amendments;
- (e) Management practices such as the cutting of vegetation;
- (f) Remedial treatments;
- (g) Irrigation;
- (h) Proposals for a survey visit by a suitably qualified ecologist, to be undertaken in year 5, to assess the ecological interest of the site in order to inform management practices for the additional periods of aftercare secured through the legal agreement attached to this planning permission; and
- (i) A report detailing the findings of the survey visit referred to in (h) above, to be submitted to the MPA before the end of year 5.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

34. Site management meetings shall be held with the MPA each year to assess and review the detailed annual programmes of aftercare operations referred to in Condition 33 (c) above, having regard to the condition of the land, progress in its rehabilitation and necessary maintenance.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan and to ensure that the site retains and enhances its local wildlife site status in accordance with Policy M3.20 of the Nottinghamshire Minerals Local Plan.

35. The aftercare programme shall be implemented in accordance with the details approved under Condition 33 above, as amended following the annual site meeting carried out in accordance with Condition 33 (c) above.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

Alternative Restoration

36. Should, for any reason, the excavation of coal fines and red shale from the application site cease for a period in excess of 12 months, then, within three months of the receipt of a written request from the MPA, a revised scheme for

the restoration of the site shall be submitted in writing to the MPA for its approval. Such a scheme shall include details of the final contours, provision of soiling, seeding and drainage in a similar manner to the 'Concept Restoration Plan received by the MPA on 18 February 2015, as modified by these conditions. The scheme shall be implemented in accordance with the approved details.

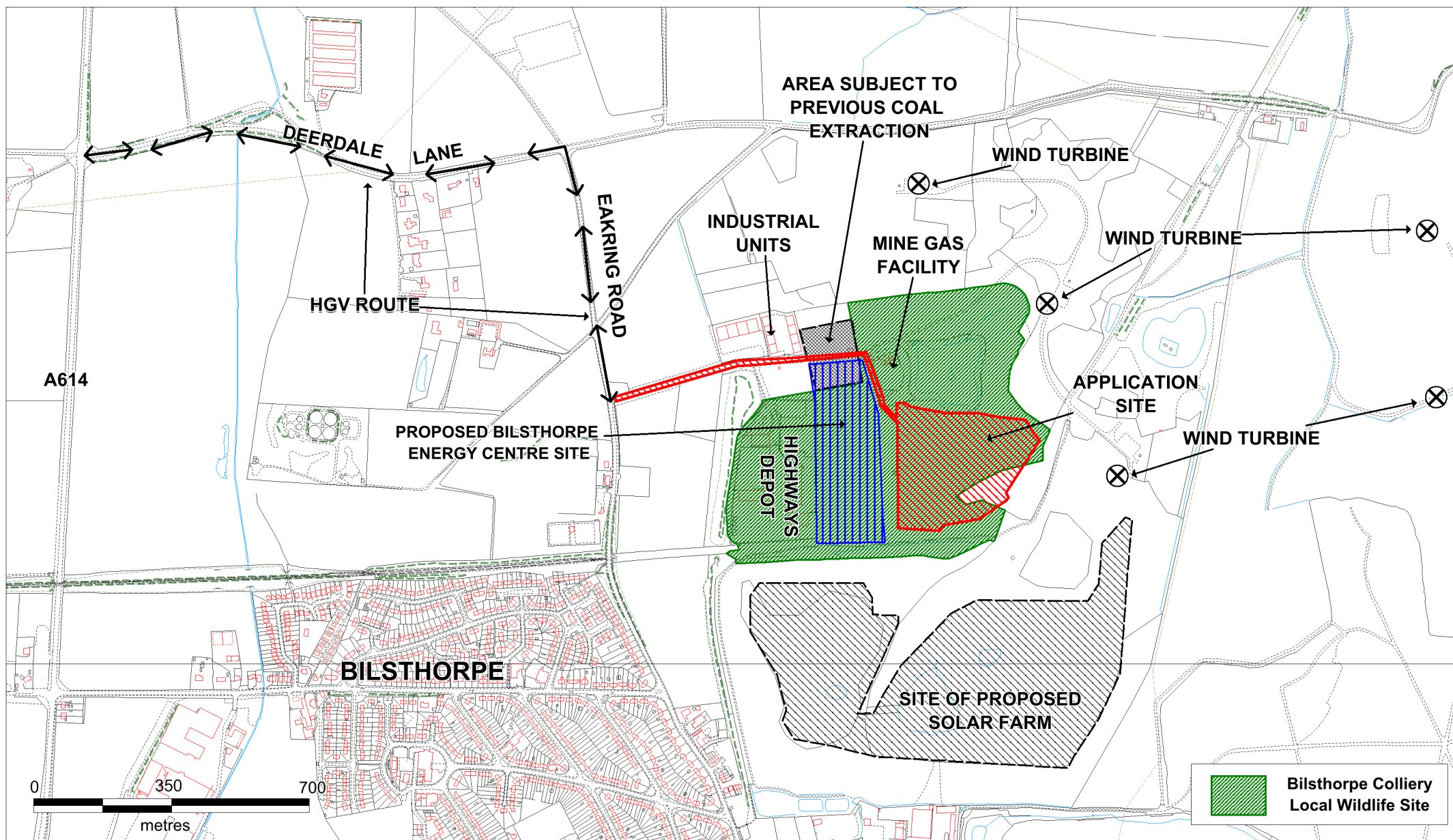
Reason: To secure the proper restoration of the site within an acceptable timescale.

37. The revised restoration scheme approved under Condition 36 above shall be implemented within 12 months of its approval by the MPA, and shall be subject to the aftercare provisions in Conditions 32 – 35 above.

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

Informative

1. The applicant is advised that an Environmental Permit would be required for the site.



**Nottinghamshire
County Council**

Removal and temporary storage 75,000 cu.m of colliery spoil from lagoon 4 prior to the removal off site of approximately 40,000 cu.m of coal material; and any red shale arising from the works to be either used on site or exported. Bilsthorpe disused colliery, Eakring Road, Bilsthorpe, Nottinghamshire.

Planning Application No. 3/14/00976/CMA

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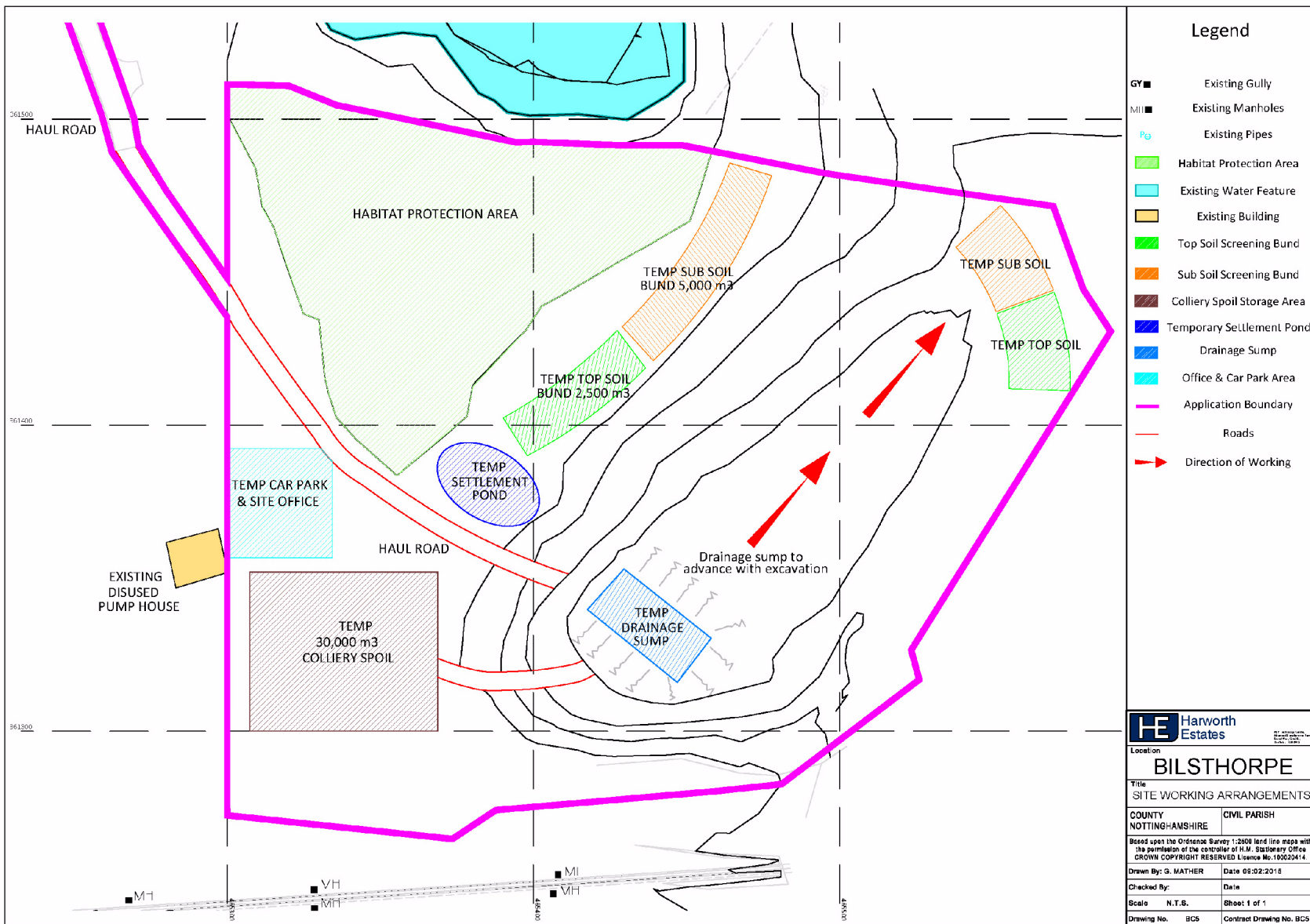


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Produced by: JW

Date: APRIL 2015

PLAN 1



**Nottinghamshire
County Council**

Removal and temporary storage 75,000 cu.m of colliery spoil from lagoon 4 prior to the removal off site of approximately 40,000 cu.m of coal material; and any red shale arising from the works to be either used on site or exported. Bilsthorpe disused colliery, Eakring Road, Bilsthorpe, Nottinghamshire.

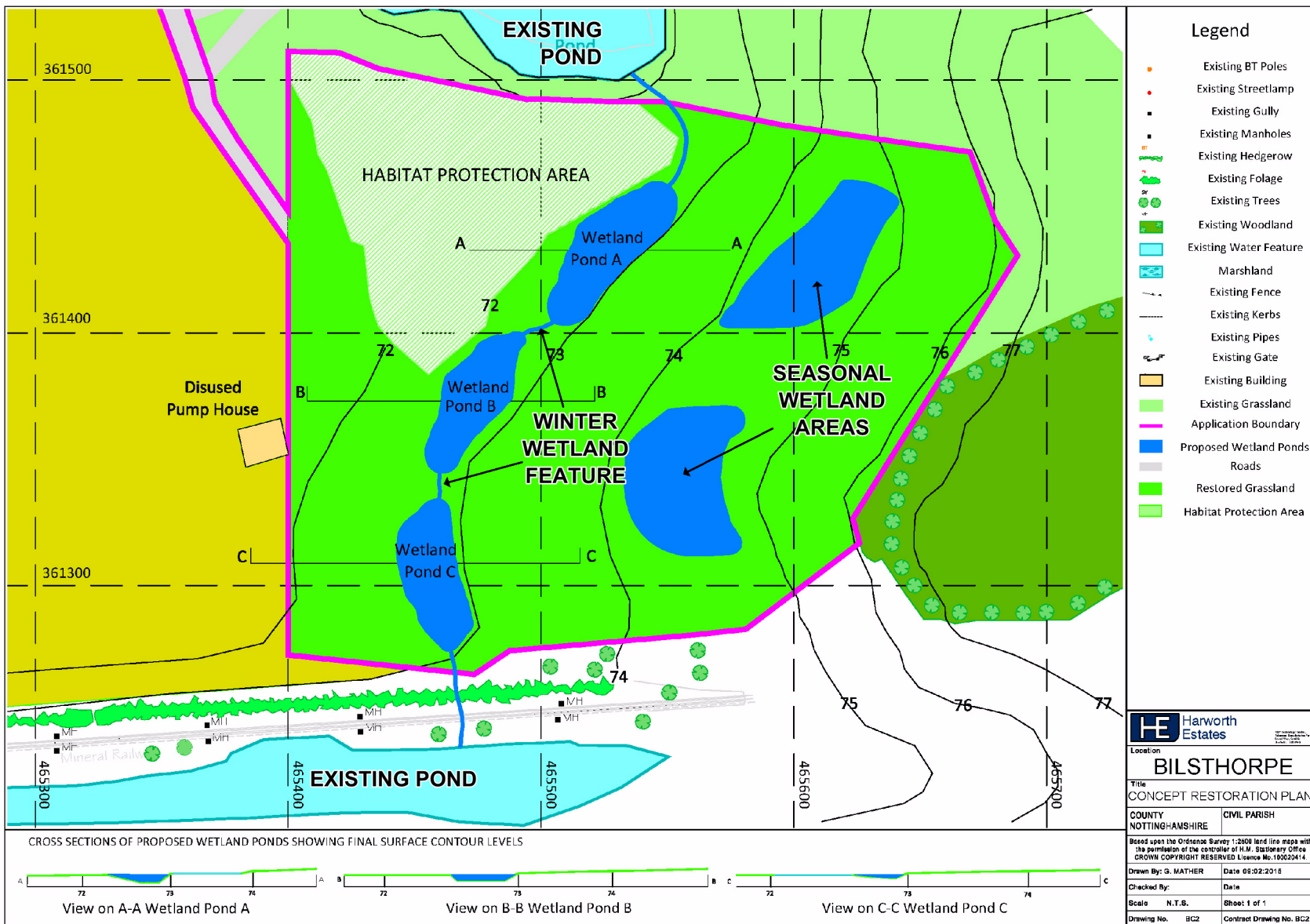
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Produced by: JW
Date: APRIL 2015

PLAN 2



**Nottinghamshire
County Council**

Removal and temporary storage 75,000 cu.m of colliery spoil from lagoon 4 prior to the removal off site of approximately 40,000 cu.m of coal material; and any red shale arising from the works to be either used on site or exported. Bilsthorpe disused colliery, Eakring Road, Bilsthorpe, Nottinghamshire.

Planning Application No. 3/14/00976/CMA

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Date: APRIL 2015

PLAN 3

28th April 2015**Agenda Item:6****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/15/00240/FULR3N****PROPOSAL: ERECTION OF A PREFABRICATED BUILDING FOR USE AS A 30
PLACE PRE SCHOOL NURSERY****LOCATION: LAND TO THE REAR OF MEMORIAL HALL, MARSH LANE, FARNDON,
NEWARK****APPLICANT: NCC CHILDREN, FAMILIES AND CULTURAL SERVICES****Purpose of Report**

1. To consider a planning application for the siting of a prefabricated building to enable the relocation of the village pre-school currently housed at St Peter's Primary School onto a new site at the rear of the Memorial Hall. The key issues relates to the principle of built development on the village playing fields and related impacts on its sporting and recreational function and the access and traffic issues. The recommendation is to grant planning permission on a temporary basis, subject to conditions.

The Site and Surroundings

2. Farndon village is situated on the south-western edge of Newark between the River Trent and the A46. Centrally positioned are playing fields covering approximately 4 hectares, between Marsh Lane and Fosse Road, which are owned and maintained by the Parish Council. The Memorial Hall fronting Marsh Lane is the property of its own charitable body. The hall has a small, barrier controlled, car park to the front which leads, via another barrier, down the side of the building to the open expanse of the playing fields behind. There is a hard surfaced area to the rear of the hall used informally as a ball court or for car parking, this being in the western corner of the fields and set adjacent to the cemetery. In the northern corner is a children's play area. Over in the eastern and southern corners are the cricket clubhouse and the bowling clubhouse and green respectively. The fields are laid out for senior and junior football pitches and for summer cricket. They are registered as a Queen Elizabeth II playing field, with Fields in Trust whereby the land is protected from development by a Deed of Dedication. Any such development or changes to the site requires the separate permission from Fields in Trust in addition to any planning approval.

3. The application site is an area of the playing field (appearing to form part of a junior or 5-a-side football pitch) to the rear of the Memorial Hall, between the hard surfaced area and the children's playing area, along the north-western boundary of the fields (see Plan 1). As well as the Memorial Hall, the site bounds on to the rear garden of No. 50 Marsh Lane, with further residential properties along Marsh Lane backing onto the remainder of the field. The boundary comprises of dense hedge, in part growing over a close-boarded fence. Two small trees are close by, one of which is positioned on the edge of the playing fields adjacent to the application area. The site is level ground and mapped as being on the border of Flood Zones 1 and 2.

Proposed Development

4. The application proposes to relocate a pre-school nursery, currently housed at St Peter's Primary School in the village, to new temporary accommodation sited on the parish playing fields. The arrangement between the third party operator of the pre-school and the Primary School has ended and the space is shortly to be required by the school. The County Council's Early Years Team has worked with the pre-school to ensure it can continue, which has led to the proposal for it to be housed within a new temporary prefabricated classroom at this alternative site.
5. The pre-school would operate between the hours of 08.30-15.30 Monday to Friday with a morning and afternoon session each catering for up to 30 children. There are currently 43 children attending in total. It is expected that the nursery would continue to serve predominantly local families within walking distance. Eight members of staff are currently employed and would be retained.
6. The new temporary building would be sited adjacent to the existing hard surfacing to the rear of the hall and approximately 2-3m from the boundary fence. It would be set within a securely fenced external play area extending to the rear of No.50 Marsh Lane (see Plan 2). The fencing would be 2.1m high green mesh type with an access gate leading from the existing hard surfacing.
7. The building itself would be single-storey, approximately 3.2m high, sat on concrete pads or piers some 200mm off the ground. It is indicated that a ramp could provide suitable access, although no details have been provided. Measuring 15m by 12m it would provide two classrooms, as well as ancillary toilets, staff kitchen and a sensory/quiet room. Each classroom would have its own external door leading to the outside play area, which would be to the rear of No. 50 Marsh Lane on the north-east side. The building would also have a single door each on the north-western elevation and south-eastern elevation (see Plan 3).
8. The building would have cream/white rendered panels with a blue upper trim and grey membrane roof. The two classrooms would have a high degree of glazing, with white upvc window units, on the north-east elevation looking out onto the proposed play area. Other smaller windows would be present on all other elevations.

9. No details of the external surfacing have been provided, although it is indicated that a mix of hard and soft (possibly rubber crumb or Astroturf type) surfacing would be laid around the building and in the play area. Details of foul drainage have not been finalised, but a nearby connection is available. Roof water would be directed to a soakaway.
10. Revisions to the application have provided that the vehicular access to the rear of the Memorial Hall is made available for staff car parking and for parents to pick up/drop off children. This has been agreed in discussions with the Parish Council and the charitable body responsible for the Memorial Hall.

Consultations

11. Newark and Sherwood District Council –No objection

Does not wish to raise any objection to the application provided that Nottinghamshire County Council is satisfied that the proposed development complies with the relevant Development Plan Policies.

12. Farndon Parish Council - No objection

The Parish Council has been approached by Farndon St. Peter's Early Years, a local charity providing Early Years and after school care for Farndon children. Their current premises at Farndon St Peter's Primary School, where they are occupying a class room, is under threat due to the expansion of the school. The school has informed Farndon Early Years that they would not be able to erect a building in the school grounds. The only viable land within the village envelope where new Early Years accommodation could be situated seems to be the playing fields which have only recently been protected in their entirety with Fields in Trust.

Farndon Parish Council have decided to support Farndon St Peter's Early Years in their efforts to build an Early Years provision on the edge of the playing fields but at the heart of the village.

It was found that the benefits to the young people of the village outweighed the loss of a relatively small area of playing field, which is no longer used by a junior football team for their football practice. Early Years provision in Newark is approximately 3 miles away. The Parish Council would like to keep early years provision in Farndon as the provision further afield could not easily be accessed by the most vulnerable groups.

The building will not have any impact on the sports clubs using the field and have very limited impact on members of the public accessing the open space for recreational use. It is likely that more children will be using the adjacent play area as parents will take their children after sessions. The preschool itself is hoping to utilise the playing fields and play area with the children. Early Years will educate children to lead a fit and active life style and create jobs for local people and opportunities to learn and play for local children.

13. Sport England – No objection

Sport England has considered the application in the light of the NPPF (in particular paragraph 74) and its policy to protect playing fields, 'A Sporting Future for the Playing Fields of England'. Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one of 5 exceptions applies.

The application proposes the construction of a pre-fabricated building, along with a hard surfaced playground, for use as a nursery. The proposed building would be located on the playing field between an existing car park and play area. The submitted information suggests that this area is not considered to be the main part of the playing field area or used formally for pitch based sports. Whilst it is agreed that the proposal does not affect the cricket pitch area or the area used for adult football, there is evidence that the area is used for junior football (worn goal mouth areas and goal posts) and the area can accommodate a 5-a-side pitch (37m x 27m.) which keeps players off the main pitch area and wicket during more informal/kick about occasions.

The recently adopted Newark and Sherwood District Council Playing Pitch Strategy identifies that the issues at this site relate to the need to improve changing facilities and improve the football pitch drainage and that future demand cannot be accommodated on the site with current supply of youth pitches.

Both the Football Association and the England and Wales Cricket Board have advised that the location of the proposed facility does not impact on the main pitch areas.

*Whilst the proposal does not specifically conform to one of the exceptions to our policy, evidence suggests that as long as the 37m x 27m pitch can be relocated, without impacting on the main pitch area, Sport England does not wish to raise an objection to this application, **subject** to a condition being attached which secures the replacement and repositioning of the goals and the marking out of a 5-a-side pitch measuring 37m x 27m (with a 3m safety margin all around).*

14. NCC (Highways) Newark & Sherwood

The revised plan has now included the means of access from Marsh Lane within the red line of the application site. The further information now provided suggests that a set of keys to the barriers is to be made available to gain access to the application site. Also, it has been agreed between the Parish Council and the Memorial Hall Charity that the rear area is to be used for staff parking and by parents dropping off/picking up. No parking spaces nor a dropping off area have been demonstrated on the plan. These agreements are informal and could be removed at any time, leading to considerable on street parking in the vicinity.

The agent has confirmed that there are 8 members of staff, of which only 2 will drive to work, and that there are currently 43 pupils.

It is usual and reasonable for a development of this type to provide suitable access and parking arrangements for staff and visitors and if the above agreement is the only option, then this should be legally binding.

15. **NCC (Road Safety)** -have not responded, any comments received will be orally report.

16. **NCC- Archaeology** – raises no concerns.

17. **NCC (Reclamation)**-

There has been no contaminated land assessment of the site as the applicant is of the opinion that there has been no previous development across the area of the proposed development; however the Design and Access Statement would appear to contradict itself and all that has been provided is an opinion, which is not substantiated by any form of documentary evidence.

Independent enquiries have revealed this being undeveloped land is probably the case; however this information should have been provided by the applicant particularly given that the site is to be utilised by nursery school children.

There probably are no issues related to land contamination at this site, particularly given that the development is a prefabricated building which will require only minimal ground disturbance.

There are no reasons to object to this planning proposal; however it is recommended that a standard precautionary condition requiring a watching brief for possible contamination be attached.

It is also commented that the site lies in proximity to potential archaeological sites and defers to the County Archaeologist as to whether a watching brief for such remains is needed.

18. **Environment Agency Midlands Region**

This site falls in Flood Zone 2, so standing advice can be applied.

19. **Police Force Architectural Liaison Officer**

Having viewed the local crime and disorder situation, the officer has no concerns with the application.

20. **Severn Trent Water Limited, the County Archaeologist, Western Power Distribution and National Grid (Gas)** have not responded, any comments received will be orally reported.

Publicity

21. The application has been publicised by means of two site notices and 22 neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.

22. A total of 38 individual responses in support of the application have been received along with 4 individual objections. All but ten of the responses are from Farndon addresses and many are from parents or relations of children attending, or formerly attending, the current facility.

23. On receipt of amended information showing the relocation of the 5-a-side football pitch and the opening up of vehicular access, two of the original objectors responded again with further points of objection as detailed below.
24. Those in support of the application make the following points:
- a) Value of the facility / fear of losing it
 - i. The nursery is an asset to Farndon and provides an excellent/vital service to local parents and their children. Children learn invaluable skills and make important friends and relationships with other pupils and staff. It provides a stepping stone to full time education at the main school.
 - ii. The population of the village warrants such a facility and it would be wonderful to keep this service as part of village life.
 - iii. It would be a huge loss to the village if it could not move/ Fear that the nursery would have to close.
 - iv. It is a fantastic opportunity for a well-run, respected nursery.
 - v. The pre-school has helped with community cohesion.
 - vi. The village wants to promote the learning and development of the children of the future. Children deserve this opportunity to learn, play and socialise.
 - b) The proposed location is ideal
 - i. The setting is brilliant / beautiful / perfect / ideal. It would be a safe and enjoyable local environment
 - ii. The relocation to the playing fields is a brilliant idea and will benefit the community hugely.
 - iii. The proposed location is secluded from public view. It would become part of a large playing field area which could become a much more communal space for the village. The park would be used far more than it is at present.
 - iv. The site is ideally placed near the school enabling safe walking for children that are moving supervised between the two whilst maintaining strong links with the school. Ideal location for parents dropping off children at both the nursery and the school.
 - c) No alternative locations
 - i. The school premises are no longer available and there are no local alternatives available after an exhaustive search for sites.
 - d) No conflict with playing field

- i. The facility is needed in the village and if they are unable to remain at the current school site, it is felt that the playing field is large enough to accommodate them as well as the recreational/sporting needs of the village. Room for everybody and nothing taken away.
 - ii. The proposed area will make good use of a relatively unused area of the playing fields. The playing field is a public area and full use of it must be made.
- e) An accessible location
 - i. Not all parents are fortunate to have access to transport so are not able to take their children elsewhere and would be disadvantaged. There are no other such facilities in the village so it would make life more difficult by having to travel further to find quality and affordable childcare.
 - ii. If the application is not supported there will be a lot of 2-5 year old children with nowhere to attend without means of transport.
 - iii. There is car parking on site so this would not cause an issue for on road parking.
- f) Economic benefits
 - i. Existing staff would be affected / possible loss of jobs.
 - ii. Working parents whose children attend the facility may not be able to find alternative local and affordable childcare and may have to give up work.
 - iii. The nursery helps attract new families to live in the village thereby helping sustain shops, pubs etc. Farndon is a fantastic family village.
- g) Other - The position will not be over bearing on any neighbouring properties.

25. The objections received are on the following grounds:

- a) Principle of development on a playing field.
 - i. Three objectors raise principle objections to development on the playing field. They state that a prefabricated building in any part of the playing field would contradict the purpose of the playing field and that the field is being eroded for other uses. The recreation ground has just gained Fields in Trust status to prevent building on the land.
 - ii. Two objectors question why the development cannot be sited at the school, where it would be more obviously suited. It makes more sense to locate the building on one of two football pitches at the school. Children would integrate better with the school in preparation for when they attend proper.
- b) Impact on/from pitches

- i. The planned positioning would be where there are permanent goals (5-a-side football) at the moment, which are used by lots of children, especially during the spring and summer.
 - ii. One of the 5-a-side goals has recently been removed from the proposed development area, which is premature to the determination of the application. It is a very popular facility and should be re-sited should planning permission be granted. (Although the objector states their view that it should not be permitted.)
 - iii. The relocated 5-a-side pitch will be right next to the new nursery and footballs are bound to end up in the nursery area. Players will climb the fencing to retrieve them putting them and the nursery children at risk.
 - c) Road safety
 - i. One comments states that it will not be safe for children with the extra vehicles moving around the car park. Children need to be able to enjoy the fields safely.
 - d) Other
 - i. One objector states that the area has recently been modernised and could now be a waste of money.
 - ii. One comments that there is a strong risk of vandalism to the site.
26. Councillor Mrs Sue Saddington has been notified of the application.
27. The issues raised are considered in the Observations Section of this report.

Observations

Background

28. This application seeks to provide alternative premises on a new site for an existing pre-school in Farndon. Farndon St Peter's Early Years, as it is formally titled, is currently accommodated in a room at St Peter's Primary School in the village and has recently become a charitable incorporated company separate to the school. Due to space requirements and pressures at the school, the pre-school has been served notice on its lease and is required to vacate the site at the beginning of July this year. In order to continue with its services it therefore needs to find alternative accommodation as a matter of some urgency. The County Council's Early Years Team has therefore worked with the providers in drawing up the present proposal.
29. Currently the pre-school caters for 43 children aged between two and four, of which all but five live in the village and will likely progress in due course to St Peter's Primary School. From September, numbers are expected to be broadly the same. Eight members of staff, six of which currently reside in Farndon, are employed to run two sessions per week day.

30. The applicants have explored the possibility of staying at the primary school site within a new facility, however the site is highly constrained in terms of flood risk and it is purported that there is insufficient space without involving loss of recreational space for the school. A search exercise was therefore undertaken exploring what alternative sites or facilities may be available within the village which has resulted in the current proposal.

Principle of development

31. The application should be determined in accordance with the relevant policies within the Development Plan, comprising the Newark and Sherwood Core Strategy (CS) and the Allocations and Development Management Policies Development Plan Document (A&DMP DPD). Material considerations pertinent to the application include the National Planning Policy Framework (NPPF), particularly with regards to community facilities and measures to protect playing fields at paragraphs 70 and 74 respectively.
32. The Core Strategy identifies Farndon as a rural or other village which is only expected to see small scale growth over the plan period. Development proposals should therefore be assessed first against Spatial Policy 3 (Rural Areas).
33. SP3 offers support for local services and facilities in such rural communities. Development proposals however should be considered against the following criteria:
- Location - new development should be within the main built-up areas of villages, which have local services and access to the Newark Urban Area, Service Centres or Principal Villages.
 - Scale - new development should be appropriate to the proposed location and small scale in nature.
 - Need - new or replacement facilities to support the local community.
 - Impact - new development should not generate excessive car-borne traffic from out of the area. New development should not have a detrimental impact on the amenity of local people nor have an undue impact on local infrastructure, including drainage, sewerage systems and the transport network.
 - Character - new development should not have a detrimental impact on the character of the location or its landscape setting.
34. In principle the proposed location is considered to be centrally positioned within the built up area of Farndon and accessible in terms of walking to the site from much of the village. There is a demonstrative need to retain this popular community service, yet it remains a small scale facility primarily serving the needs of children and parents living in the village. In terms of its character and impact, the proposal involves developing a small scale modular classroom building and play area at a discreet location which would make walking to the site a viable option. Of primary consideration though, is that the proposed site is

on part of the playing field and encroaches onto a 5-a-side football pitch. Therefore whilst the site is considered a sustainable option, and there is a very clear need to retain the play school locally, the principle of development on this site is largely to be determined by consideration against Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) and the requirements at paragraph 74 of the NPPF in terms of the acceptability or otherwise of development on a playing field.

Site selection and principle of development and impact on playing fields/pitches

35. The main consideration in this application is the acceptability or otherwise of the proposed built development upon a playing field and its sports pitches.
36. The pre-school has provided supplementary information to illustrate the extent to which they looked for suitable alternative sites in the village. Enquiries were made for seven sites, either undeveloped land or existing houses potentially suitable for conversion. Prohibitive costs as well as constraints, notably the extent of the flood risk across the village, have ruled out these sites leading to the preferred location at the playing fields.
37. Policy SP8 states that the provision of new and enhanced community and leisure facilities will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities. The proposed development would also, however, result in the loss of 533 sq.m of the village playing field and it is relevant that SP8 advises that the *loss* of existing community and leisure facilities will not be permitted unless it can be clearly demonstrated that:
 - *The continued use as a community facility or service is no longer feasible, having regard to appropriate marketing, the demand for the use of the site or premises, its usability and the identification of a potential future occupier; and*
 - *That sufficient alternative provision has been made elsewhere which is equally accessible and of the same quality or better as the facility being lost; and*
 - *There is sufficient provision of such facilities in the area.*
38. In general the Government via paragraph 74 of the NPPF makes it clear that existing open space, sports and recreational land, including playing fields, should not be built on unless an exception is considered to apply. The Planning Authority should be satisfied that either:
 - the open space has clearly been shown to be surplus to requirements;
 - or the loss of space would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location;
 - or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

39. The statutory consultee in this case is Sport England, who are guided by both the NPPF and its own planning statement concerning applications for development on playing fields. It is the policy of Sport England to oppose the granting of planning permission whereby development proposals would lead to the loss of, or prejudice the use of, all or part of a playing field, unless one of six exemptions are deemed to apply.
40. In the present case, the site area currently forms part of a 5-a-side mini football pitch situated between the ball court and children's play area. This pitch measures 37m by 27m and has a set of goal posts, although one is currently broken and has been removed by the Parish Council. To the south-east of the mini pitch is an adult sized football pitch, which overlaps with a summer cricket pitch.
41. The proposed pre-school site, along with its fenced grounds would require some 533 sq. m of this part of the field and which would extend 20m from the north-western boundary onto part of the 5-a-side pitch. The touch-line to the senior football pitch is between 58-62 m from the boundary.
42. In order to satisfy Sport England, it is proposed to move the 5-a-side pitch nearer to the senior pitch, maintaining its size at 27 x 37m and with a 2m run off all-round. This would leave a sufficient gap of 14m between the touch-lines of the mini pitch and senior pitch. Whilst the goal posts would be moved, it would be for the Parish Council to choose, should they wish, to replace the currently broken post and/or mark out the new pitch.
43. Sport England have confirmed the proposed arrangement would be acceptable (notwithstanding the reference to a 3m run off in their consultation response) and require that the re-provision of the pitch should be subject to a planning condition, should permission be granted. Subject to this the proposed development would therefore ensure that there would be no loss of formal sports pitches.
44. It should be noted that the Parish Council do not consider the 5-a-side pitch to be formal in the same way as Sport England consider the matter. It is stated that it is no longer used by junior football teams for practice (and only one goal is currently in place), nevertheless Sport England identify that it can be considered a pitch as evidenced by worn goal mouths and that the recent District Playing Pitch Strategy identifies a shortfall in local provision. It is also evident that the pitch and goal(s) is open for all to use for general football 'kick-around'.
45. In several of the public representations received it is stated that there is in effect space for everyone to continue to enjoy and use the playing fields as well as room to accommodate the pre-school. Certainly the playing fields at 4 hectares are well sized, but equally the sports provision is also needed and the space is valued by those raising objections. The area which would be lost is marked for a mini football pitch, but equally can be used by anyone for general recreation and enjoyment. Whilst the football pitch can be moved, a small area (533 sq. m) of available playing field space would nevertheless be no longer publicly accessible as the nursery would sit within a securely fenced area.

46. It is also apparent from representations received that staff and parents consider its setting within a green playing field, would be wholly advantageous to the development of the children, who whilst having their own securely fenced play area, may, with supervision, make use of the wider environment. The Parish Council also hope that the recently re-fitted children's play park would also be used more by children with their parents before and after the sessions.
47. Assessing the situation against SP8, in terms of the 5-a-side pitch, this would be re-provided in an adjacent position of the same quality and size, thereby meeting the second criterion. In terms of the loss of access to the general public, given the small area affected on what is a much larger area of playing fields, it is considered that there would be sufficient public open space provision remaining, thereby meeting the third criterion in SP8.
48. Against the requirements in the NPPF, the re-provision of the 5-a-side pitch meets the requirements at paragraph 74, and given that neither Sport England, Newark and Sherwood District Council nor the Parish Council raise any objections, it is considered that the area is surplus to local requirements.
49. Turning now to the related issue regarding Fields in Trust (FIT) status, the Parish Council as landowner is required to gain approval from FIT to vary the Deed of Dedication which protects the land from development in order to grant a lease to the pre-school. In a letter of response from FIT dated 13th January 2015, such an approval is given subject to:
- The Parish Council relocating the five-a-side football pitch elsewhere on the playing field;
 - The Parish Council entering into a Deed of Dedication in respect of 6,683sq yards of riverside meadow and picnic area as offered in compensation by the Parish Council.
 - FIT reserve the right to revoke or revisit their consent if the above has not been acted upon within a 1 year period.
50. As noted, an area of riverside amenity land is being offered to compensate for the loss of part of the playing field land. The riverside land is already publicly accessible amenity space, but which will now receive FIT protected status. It must be recognised that despite these provisions there would still be a net loss of a small area of publically accessible land and therefore the removal of a small area of the playing field should be balanced against the need to retain the pre-school and the important role it plays in the development of local young children.
51. At this point it is worth noting that the permission sought is for the siting of a building of a temporary nature and construction (along with fencing and external works). It is normal practice by this Authority to use temporary planning permission (typically of 3 or 5 years duration) for such structures. Given also that its development would result in some loss of the publically accessible playing field, should Members wish to grant planning permission, a temporary period for an initial 5 years would temper this loss of the field area somewhat and in that time it may be possible for the pre-school to search again for any more suitable premises or locations for a more permanent base. In principle

planning terms therefore, the need and desirability of retaining the pre-school in the village is considered to outweigh the small and temporary loss of playing field available to the wider community.

Traffic, Access and Parking

52. The applicant considers that the relocation of the pre-school would not generate notable levels of car-borne journeys to and from the facility. This is mainly on the basis that the pre-school serves a very local need - almost entirely for children residing in the village - which is not expected to materially change. Out of the current 43 children attending, all but five currently live in the village and, given the central and accessible proposed location, it is expected that parents and their children will wish to walk to the new site when possible. Clearly, however, the reality at many schools and nurseries is increasingly a trend towards peak car journeys and the inevitable short term disruption this can cause. With that in mind the pre-school along with the Parish Council and the Memorial Hall charity have reached agreement to permit access to the rear area of hardstanding for parents to drop off and pick up by car. It is also agreed that the area be made available for staff parking, although currently six out of eight members of staff live within the village and would be likely to walk to work. The area of hardstanding is already used for car parking in relation to football matches and parish events, as supervised and controlled by the Parish Council. This management would therefore continue, but with the pre-school being given additional keyed access. It should be noted that the car park to the front of the hall is not part of the application, as it will continue to be needed for the day-to-day functioning of the hall.
53. NCC's Highways Officer initially raised an objection to the non-provision for staff and visitor parking, but following the above agreement does not object, but cautions that unless legally secured, the parking agreement would remain informal and could be removed at any time by one of the land owners. This could then lead to considerable on-street parking on Marsh Lane. A suitably worded planning condition could provide such a safeguard so that access for the preschool is provided.
54. In terms of the responses received, many of those in favour support the new location, with some parents pointing out that the site is still close to St Peter's Primary School and so will remain convenient for parents with a child at both establishments. A broader point is made that not all parents are able to have access to a car and so if the facility were to relocate out of the village altogether then this would present difficulties and disadvantage these residents. One objection received cites a safety concern for when vehicles may be moving around the car park. Given the low vehicle speeds necessary to travel through the barriers and along to the rear area, this is not expected to be a particular safety issue, particularly as children would be supervised by parents when entering/exiting the facility, although the matter would be monitored as the site gets established.
55. Spatial Policy 7 (SP7) requires development proposals to assist in minimising the need for travel, provide safe, convenient and attractive accesses for all, provide appropriate and effective parking and servicing provision and ensure

that that the safety, convenience and free flow of traffic using the highway is not adversely affected. The application is considered to offer suitable access and parking and is sustainably located in the centre of the village and serving a very local need, thereby helping to reduce the need to travel by car and meets the requirements of Policy SP7 in terms of sustainable transport and access. This is subject to the inclusion of a condition requiring the access arrangements to be made and kept available whilst the preschool is open.

Design and appearance

56. Core Policy 9 is concerned with sustainable design and seeks development of a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 states that built development should reflect the character of the surroundings in terms of scale, form, materials and layout. Policy DM5 also states that 'backland development' will only be approved where it would be in-keeping with the general character of the area and would not set a precedent for similar forms of development, which would be harmful to the established character and appearance of the area.
57. The proposed building would be made up of temporary mobile units, assembled to form the required internal space, including two classrooms. Its external appearance would therefore reflect its mobile and temporary nature and would be quite plain, with a flat roof and white render walls. The addition of a blue colouring to the upper trimming as well as around the doorways, would provide some visual interest.
58. Whilst the form and materials would not reflect the brick-built residential properties in the area it would be sited off the highway to the rear of properties and therefore would only be seen in the context of the playing field. In this setting it would appear not unlike the pavilions or stores which are to be found elsewhere on the field. The 2.1m high green mesh fencing which would be erected to secure the facility would not look out of place and is commonly used at schools and sporting facilities.
59. With regards to whether this would amount to 'backland development', whilst it is to the rear of the Memorial Hall from Marsh Lane, the field is a large open area with multiple points of access and therefore does not fit with the usual definition of such. It is not considered to create any precedent for further development on the site, given that the Parish Council have made an exceptionable allowance for this pre-school to move to the site, so as to safeguard its immediate future in the village. Long-standing proposals to rebuild the cricket pavilion remain and it is clear that this and any other possible development would have to go through the same Fields in Trust and Sport England approval process that this development has had to go through.
60. There would be no impact on the nearby small trees. One tree is beyond the playing field boundary fence, whilst the tree on the edge of the field would be 16m away from the footprint of the proposed building and 4m beyond the proposed fence line. Construction activity would avoid this area.

61. Internally the classrooms would have good levels of natural light from full height windows along the north-eastern elevation, there would also be all the necessary ancillary accommodation including a disabled toilet. It is expected that as the building would be raised up off the ground that an external ramp will be required and this can be subject to a planning condition. Details of the external play surfacing are also subject to a recommended condition. Subject to this, the facility would be a suitably accessible and adaptable learning environment broadly according with Core Policy 9 and DM5.

Residential amenity

62. Policy DM5 requires development to have regard to its impact on the amenity or operation of surrounding land uses and avoid causing an unacceptable reduction in amenity, including overbearing impacts, loss of light and privacy to neighbouring uses.
63. The proposed site lies to the rear of the Memorial Hall, but also the first of several residential properties backing onto the playing fields. No 50 Marsh Lane is a detached property with a rear garden extending some 18m to the boundary which is a close boarded fence overgrown by climbing vegetation. The outdoor play area formed within the new fencing would be directly to the rear of this property. The proposed pre-school building would be positioned adjacent to the Memorial Hall some 2m back from the boundary fence, so some 20m from the property and positioned away from its rear elevation. Due to the solid nature of the boundary and the single storey nature of the building, there should be no overlooking or loss of privacy. This and other neighbouring properties may experience additional noise from children when playing in this outdoor area, however the site is directly adjacent to an existing and popular children's play park and the land forms part of a long established playing field, so that such residents should already be familiar with such activity. Further, the proposed hours of operation from 08.30-15.30 (Monday to Friday) should limit additional impacts.
64. Whilst access and traffic has been considered above, it is apparent that the size, nature and sustainable location of the proposed development would assist in limiting the associated car-borne travel which could otherwise occur, thereby minimising the short term impact of parents arriving and departing by car.
65. The pre-school would not prevent the full use of the surrounding play area and sports pitches, indeed the play area is likely to be complementary to the pre-school.
66. On assessment, therefore it is considered that there would be no unacceptable reduction to the amenity of neighbouring residents or to the ability to enjoy and use the remaining playing fields and the application accords with Policy DM5 on this matter.

Flood Risk

67. The risk of flooding has evidently influenced the pre-school's choice for the new site. Firstly it was a factor in inhibiting the pre-school remaining at the St Peter's Primary School site in a new building. Secondly, it shaped the site search exercise undertaken when assessing alternative village locations, leading to the playing fields as the preferred choice. In effect this process has accorded with the sequential approach in the NPPF whereby development (particularly of a more vulnerable nature such as education establishments) should be directed to areas at less risk of flooding.
68. The majority of the field is shown to be at the lowest risk of flooding (Flood Zone 1), the application site area is indicatively shown as on the edge of Flood Zones 1 and 2, as such the Environment Agency raise no objection, noting their standing advice. The proposed building would be a temporary construction raised up off the ground on piers or stilts and would therefore not affect the permeability of the ground below or increase the flood risk elsewhere. Potentially external play surfacing may result in some loss of permeability, and whilst the final choice of surfacing has not been decided, the rubber crumb or Astroturf type finishes being considered typically do not have an impact. Surface water drainage from the roof would be directed to a soakaway within the grounds, whilst it is understood that a foul water connection is likely to be made through adjacent land which is part of the Memorial Hall. It is understood that the Memorial Hall charity are agreeable to this.
69. Part of the available standing advice is to ensure suitable emergency planning includes consideration to the risk of flooding and it is recommended that, whilst there is a low risk, an informative to the applicant should explain it would be prudent for the pre-school to factor in this consideration to their contingency plans.

Potential Contamination

70. The application site has not been previously developed, having been open fields before the formation of the playing fields as part of the expansion of the village in the latter part of the 20th Century and on that basis no surveys or desk top risk assessment for possible ground contamination has been submitted. The proposed nursery building would involve only minimal ground works to form the piers upon which the building would sit, along with any service connections. NCC's Reclamation Officer in his comments though, rightly takes a precautionary approach, given that the end users are considered a high risk age group and requires a condition for construction works to be undertaken vigilantly for any unexpected contamination and for details of how any such materials would be remediated, although the chances of such an occurrence remain low and the site is considered suitable.

Employment

71. The nursery employs eight members of staff and these positions would continue at the new site. Representations in support of the application state the risk to these positions should the facility have to close.

Conclusions

72. The main consideration in this case is balancing the removal /loss of a portion of the wider playing field in order to relocate and safeguard a pre-school which is valued by the local community and which is otherwise at risk of being lost to the village due to the expiration of its current lease. There is an identified need for the early years' provision it provides and the location has been chosen after a search for available sites within the village and taking into account other constraints such as the risk of flooding.
73. Against the considerations of Policies SP3 and SP8 the chosen location is considered sustainable and accessible and the facility would remain a small scale pre-school serving a very localised area, thereby avoiding the generation of excessive car-borne traffic. The development would impinge on a junior football pitch, however this can be moved and replaced in an adjacent position at the same standard, thereby preserving the sports pitch provision. A small area would though still be made unavailable for more general recreational use, but it is considered that there is sufficient remaining provision across 4 ha of playing fields.
74. The development would not lead to any unacceptable impacts on amenity for residents or the users of the remaining playing fields and the proposed building would be accessible and adaptable for its use. Its appearance would not be out of keeping with the setting and is not considered to create a precedent for development other than that which may be ancillary to the use of the playing field. The proposals are considered to accord with Core Policy 9 and Policy DM5 on matters of design and amenity. Amendments have been sought to provide for staff car parking and for parents to be able to drop off/collect children, thereby minimising on- street impacts, yet not prejudicing sustainable travel options.
75. The National Planning Policy Framework seeks to secure and deliver the social, recreational and cultural facilities communities need and plan positively for the provision of shared space and facilities and protect valued facilities from loss. The proposed development can be supported on the basis of a temporary grant of planning permission as per the recommendation below.

Other Options Considered

76. 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

77. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are

described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

78. As set out in the report the proposal seeks to retain this popular and valued local facility which is otherwise at risk of closing without finding alternative accommodation. Should planning permission be granted the pre-school along with staff and children would move to the new site which is located nearby. The pre-school has secured a short extension to their current lease at the school to permit construction and site set-up works so that disruption can be minimised. Clearly if permission was to be refused, the pre-school has little to no alternative within the village and may have to move to Newark or close altogether.

Financial Implications

79. The proposal has secured a grant from Nottinghamshire County Council to ensure the continuation of early years provision in an area which has been assessed to require additional support. However this has no bearing on the assessment of the merits of the application.

Equalities Implications

80. The pre-school would be an accessible and inclusive facility serving local children and parents. Its continuation at a new site would ensure that its valued early years' provision would continue to benefit the local community and the life chances of children.

Crime and Disorder Implications

81. Some representations received cite a perceived risk of vandalism or break-in to the proposed facility, given that the site is not overlooked by properties and is on openly accessible playing fields. Measures though have been included to minimise the risk as much as practically possible in this location, including the provision of a 2.1m high mesh fence all-round and the provision of high security windows and doors to the building to render the development vandal resistant. The Police Architectural Liaison Officer has been consulted and has not found there to be any particular known problem or risk to the proposed development. The proposals have therefore taken into account the issue of crime and disorder in accordance with Policy DM5.

Human Rights Implications

82. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the removal from general public benefit of a portion of a community playing field. However,

this small loss of a wider area is clearly outweighed by the wider benefits the proposals would provide in terms of retaining a community pre-school in the village which is otherwise at risk of closure or a move away from the community. Members need to consider whether the benefits outweigh this loss and reference should be made to the Observations section above in this consideration.

Safeguarding of Children Implications

83. As an established preschool, the safeguarding of its pupils attending the facility is of paramount importance to the operators. This has been considered when selecting the preferred site. The facility would have a secured building and play area, whilst opportunities for supervised use of the wider playing fields is a possibility.

Human Resources Implications

84. There are eight members of staff employed at the current site, all of which would be retained and would move with the pre-school should planning permission be granted.

Implications for Sustainability and the Environment

85. There are minimal environmental impacts. An adjacent young tree would not be impacted. The development will be at a low risk of flooding and will be raised up off the ground. The prefabrication of the building has some sustainability benefits in terms of minimising resources.

Statement of Positive and Proactive Engagement

86. In determining this application the County Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

87. It is RECOMMENDED that temporary planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

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

[SLB 14/04/2015]

Comments of the Service Director - Finance (SES 14/04/15)

The financial implications are set out in the report.

Background Papers Available for Inspection

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

Electoral Divisions and Members Affected

Farndon and Muskham - Councillor Mrs Sue Saddington

Report Author/Case Officer

Joel Marshall

0115 9932578

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

RECOMMENDED PLANNING CONDITIONS

1. This permission shall be for a temporary period only expiring on 31 July 2020, at which time the building hereby approved shall be removed from the site unless a renewal of this planning permission has been previously granted by the County Planning Authority (CPA) for its retention. The site shall be restored to its previous condition as a playing field on the removal of the modular building, fencing and any surfacing by 30 October 2020 or such other date as may first be agreed in writing by the CPA.

Reason: The development hereby permitted is considered unsuitable for permanent retention on account of its construction and design.

2. Unless otherwise agreed in writing by the CPA, the development hereby permitted shall be carried out and thereafter maintained in accordance with the following plans and documents:
 - a) Completed planning application forms and certificates, received by the CPA on 12th January 2015, with additional certificate B received 26th March 2015.
 - b) Design, Access and Planning Supporting Statement, dated January 2015 and received by the CPA on 12th January 2015.
 - c) Drawing No.4475 (40) 401 'Proposed Elevations', dated 5th January 2015 and received by the CPA on 12th January 2015.
 - d) Drawing No.4475 (30) 301 'Proposed Floor Plan', dated 5th January 2015 and received by the CPA on 12th January 2015.
 - e) Drawing No.4475 (20) 201 Rev C 'Site Plan- Memorial Hall Playing Area', dated and received by the CPA on 26th March 2015.
 - f) Specification for green mesh fencing received by the CPA on 21st January 2015.

Reason: For the avoidance of doubt and to define the permission.

3. No development shall be undertaken until and unless the 5-a-side junior football pitch is first relocated in the position and dimensions as shown on approved drawing No.4475 (20) 201 Rev C. This shall be undertaken by the moving and re-positioning of the goal posts so to enable a pitch measuring 37m by 27m (with 2m run off on all sides) to be playable.

Reason: The development cannot commence until the pitch has been relocated so to ensure that all at times during construction and operation of the facility that there would be no loss of sports pitches at the site in accordance with Spatial Policy 8 of the Newark and Sherwood Core Strategy and paragraph 74 of the National Planning Policy Framework.

4. Prior to the commencement of the development hereby permitted, a scheme for the provision of surface and foul water drainage works shall have been submitted to and approved in writing by the CPA. The drainage works shall thereafter be carried out in accordance with the approved details.

Reason: The development cannot commence until a suitable means of disposing of the foul and surface water has been identified to ensure there would be satisfactory drainage in accordance with Policy DM5 of the Newark and Sherwood Allocations and Development Management Policies DPD.

5. A watching brief for any unexpected ground contamination shall be maintained during construction/installation works.

a) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the CPA.

b) If any such contaminated material is found, an investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, and submitted to the CPA for its approval in writing.

c) Following completion of the measures identified in the approved remediation scheme a verification report must be prepared and submitted to the CPA for its approval in writing.

Reason: To ensure that the site is safe for its intended purpose.

6. Prior to their installation, details and specific locations of any external lighting proposed around the building shall have been submitted to and approved in writing by the CPA.

Reason: To protect residential amenity and to accord with Policy DM5 of the Newark and Sherwood Allocations and Development Management Policies DPD.

7. Prior to the first occupation of the development, hereby approved, details of suitable ramped access into the building shall be first submitted to the CPA for its approval in writing.

Reason: To ensure the facility would be accessible to all users in accordance with Policy DM5 of the Newark and Sherwood Allocations and Development Management Policies DPD.

8. Prior to the first occupation of the development, hereby approved, details of any external hard or soft surfacing around the building shall be first submitted to the CPA for its approval in writing.

Reason: In the interests of design and visual amenity in accordance with Policy DM5 of the Newark and Sherwood Allocations and Development Management Policies DPD.

9. The development hereby permitted shall only operate between the hours of 08.30 to 15.30 Monday to Friday. The pre-school shall not operate on Saturdays, Sundays, Bank or Public Holidays.

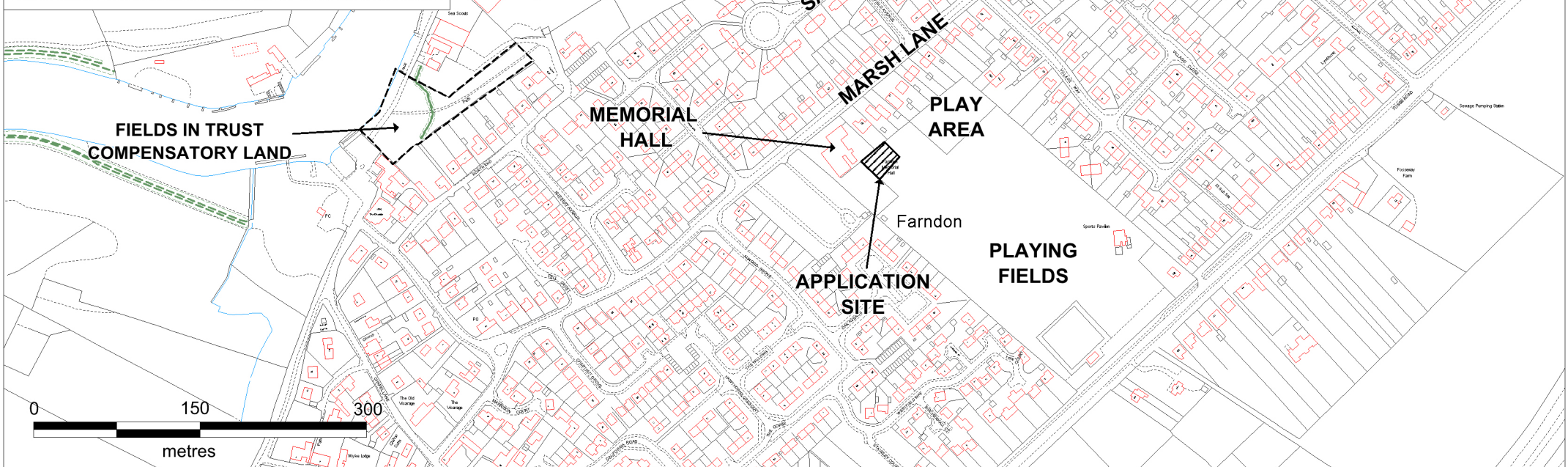
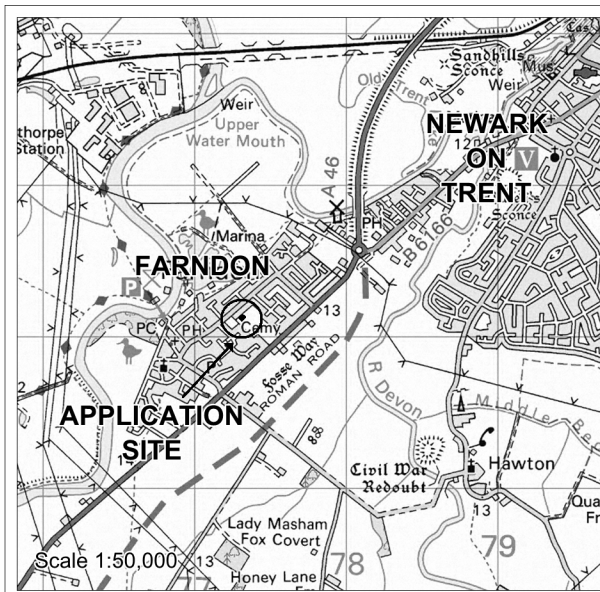
Reason: To protect residential amenity and to accord with Policy DM5 of the Newark and Sherwood Allocations and Development Management Policies DPD.

10. The preschool hereby approved shall not operate unless access for staff car parking, servicing, and for parents to pick up/drop off children, in accordance with approved plan No.4475 (20) 201 Rev C, is made available to the rear of the Memorial Hall for the life of the development.

Reason: In order to provide appropriate parking and servicing access in accordance with Spatial Policy 7 of the Newark and Sherwood Core Strategy and to prevent unacceptable levels of on-street parking, likely to cause danger to other users of the highway.

Notes to applicant

1. The pre-school is advised to consider the risk from flooding within its emergency/contingency planning. The Environment Agency operates the Flood Warnings Direct service which the pre-school may wish to sign up to if it has not already done so. Further information is available at: www.gov.uk/sign-up-for-flood-warnings



**Nottinghamshire
County Council**

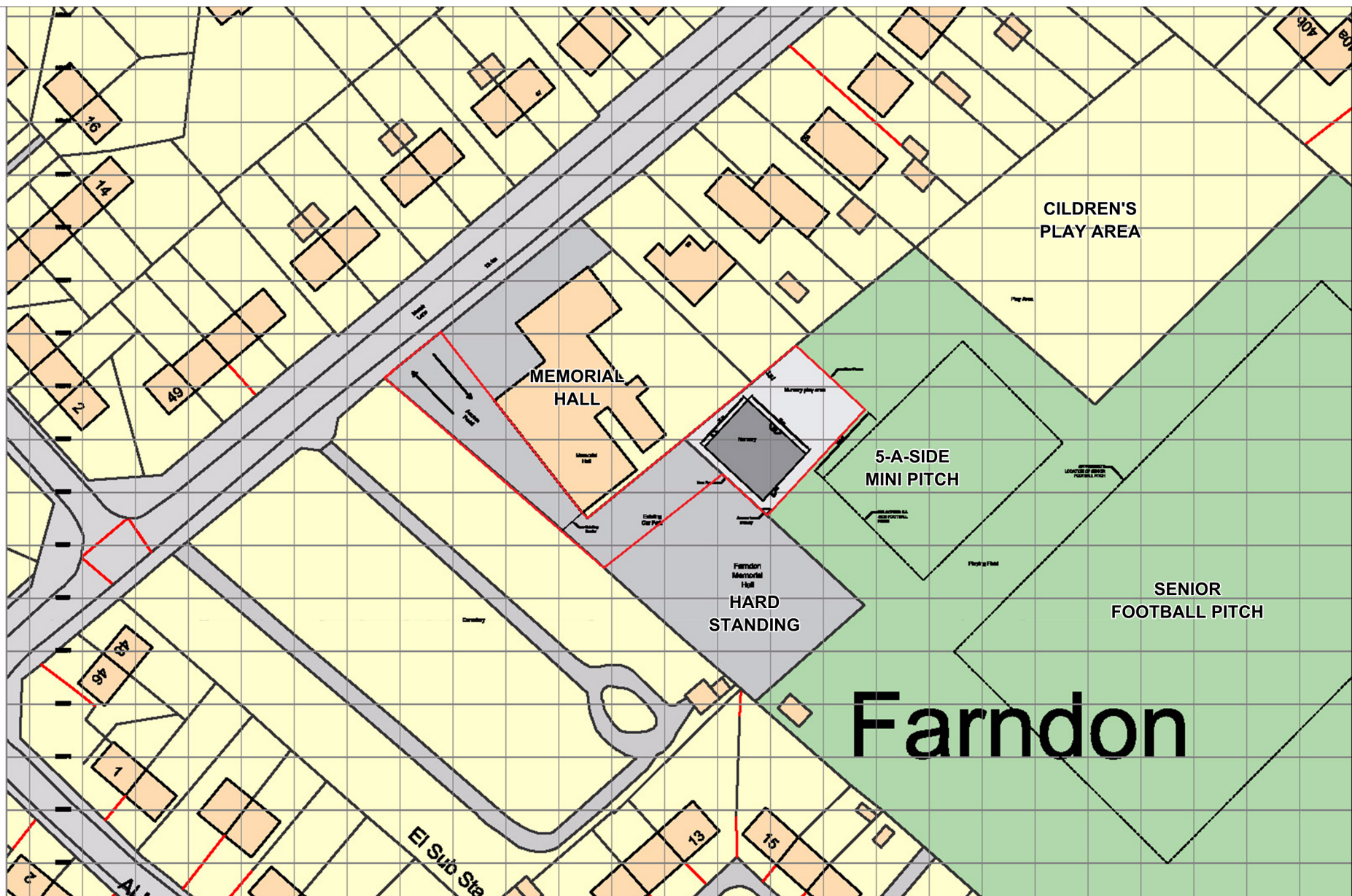
Erection of a prefabricated building for use as a 30 place pre school nursery
Land to the rear of Memorial Hall, Marsh Lane, Farndon, Newark, Nottinghamshire.
Planning Application No. 3/15/00240/FULR3N
[Page 71 of 188](#)

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Date: APRIL 2015

PLAN 1



**Nottinghamshire
County Council**

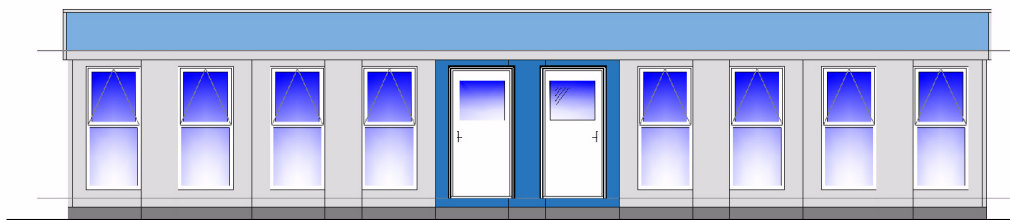
Erection of a prefabricated building for use as a 30 place pre school nursery
Land to the rear of Memorial Hall, Marsh Lane, Farndon, Newark, Nottinghamshire.
Planning Application No. 3/15/00240/FULR3N
[Page 73 of 188](#)

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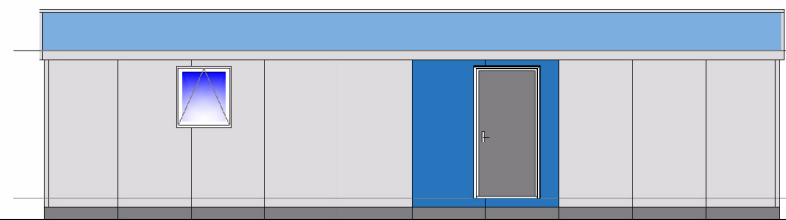


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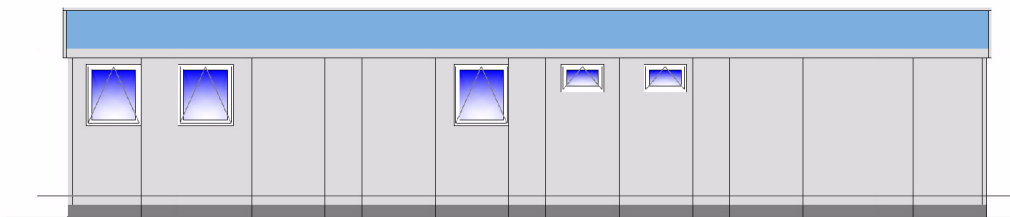
PLAN 2



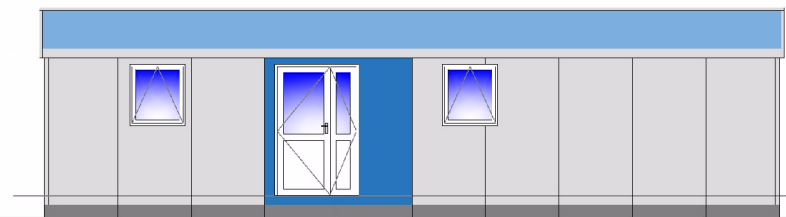
Proposed North East Elevation



Proposed North West Elevation



Proposed South West Elevation



Proposed South East Elevation



**Nottinghamshire
County Council**

Erection of a prefabricated building for use as a 30 place pre school nursery
Land to the rear of Memorial Hall, Marsh Lane, Farndon, Newark, Nottinghamshire.

Planning Application No. 3/15/00240/FULR3N

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Date: APRIL 2015

PLAN 3

28 April 2015**Agenda Item:7****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

REF. NO.: 5/15/00108/CCR

PROPOSAL: DESIGN AND CONSTRUCTION OF CONCRETE SKATEPARK

LOCATION: CORONATION PARK, PLUMPTRE WAY, EASTWOOD

APPLICANT: NCC ENVIRONMENT AND RESOURCES

Purpose of Report

1. To consider a planning application for the construction of a concrete skatepark at Coronation Park, Eastwood. The key issues relate to the visual and noise impacts of the proposed facility on nearby residents, and drainage issues. The recommendation is to grant planning permission subject to conditions.

The Site and Surroundings

2. Coronation Park is located in the heart of Eastwood with the main retail area along Nottingham Road being to the north west with further shops at Hill Top to the north east. The park, which extends to around 7.2 hectares, is bordered to the west by Plumpton Way, a dual carriageway with a wide tree-lined central reservation and residential properties on the opposite side approximately 45 metres from the edge of the park; the rear of properties on Sherwood Rise and Seymour Road on the south western boundary; the rear of properties on Linwood Crescent on the southern boundary; and a medical centre, Brookhill Leys Primary and Nursery School, and the rear of some properties on Chewton Street on the eastern boundary (see Plan 1).
3. The park is home to Eastwood Town Football Club and also includes a bowling green and clubhouse, and an area of hardstanding in the centre of the park containing a small skateboard facility and a fenced five-a-side football pitch (see Plan 1). However, the majority of the park is open grassland crossed by a number of paths and there are a significant number of mature trees on the site. The park was formerly Springfield Colliery which is understood to have opened in the late 19th Century and parts of the park were also used for the deposit of waste prior to its restoration and the creation of the park.

4. The application site is close to the western boundary of the park formed by Plumpton Way and immediately south of the bowling green. It has previously been the site of a hard surfaced sports pitch/court used for a variety of sports including football and tennis.

Proposed Development

5. It is proposed to construct a concrete skatepark measuring approximately 27 metres by 31 metres which would be accessed from a path, around 30 metres in length, linking to an existing path in the park running to the east of the application site (Plan 2). The skatepark would be constructed from concrete and would be built at ground level, rather than being sunk into the ground as some similar facilities in the county have been. The applicant has cited existing ground conditions as the reason for this with the made ground comprising loose mixed ash and clinker waste.
6. The scheme has been revised through the consideration of the application, having been moved slightly further east away from Plumpton Way within the constraint of a Severn Trent Water surface water drain which cross the site (see Plan 2). In addition to this, the 1.2 metre high western elevation and the 1.8 metre high south eastern corner of the skatepark would have grassed earth mounds rising to the edges of the facility designed to minimise its visual impact, particularly from residential properties on Plumpton Way (see 3-D visualisation on Plan 3). The northern and eastern elevations would simply have vertical walls 1.2 metres high. Adjacent to this wall on the northern edge of the facility, and also along part of the eastern edge, would be an area of hardstanding with ramps and a 'bar' or 'rail' along which skateboarders can slide etc. The grassed earth bund on the western edge of the facility would extend far enough north to screen this area.
7. The proposed development would cost around £240,000 in total and would be funded through a number of sources including the County Council which is contributing around £100,000, Broxtowe Borough Council (£22,000), Waste Recycling Environmental Limited (WREN) (£75,000), plus fundraising work carried out by Supporting Action for Eastwood (SAFE) (£43,000), a local charity. As part of the funding agreement with the County Council, Broxtowe Borough Council has agreed to own and maintain the facility once constructed.

Consultations

8. **Broxtowe Borough Council** does not object to the proposed development in principle but some observations have been made by their Parks and Open Spaces Officer. These relate to the risks of graffiti, safety barriers, drainage, surface water run-off, access to the facility and into the main section of the skatepark itself, and the gradient of the grassed earth mounds.
9. **Eastwood Town Council** has not responded on the application.
10. **The Environment Agency** has no objection to the proposals and welcomes the decision not to disturb made ground and instead create a new concrete base for

the park. The application form states that surface water would be drained via sustainable drainage techniques and soakaway and a condition is recommended requiring no infiltration of surface water drainage into the ground other than with the express written consent of the local planning authority which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. This would ensure compliance with the National Planning Policy Framework which states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. The Environment Agency notes that the previous use of the site as a brickworks and colliery as well as subsequent infill could mean that contamination is present beneath the site. Any surface water drainage should be constructed in such a way so as not to mobilise any contamination beneath the site.

11. **NCC (Flood Risk Management Team)** considers that the proposals do not raise any concerns from a flood risk management perspective. Photographs provided by a local resident show flooding in the vicinity of the site from a public water sewer that crosses the site adjacent to where the new skatepark is proposed. The sewer is maintained by Severn Trent Water and they are aware of the capacity issues. The skatepark location takes into account the line of the sewer and does not conflict or cause any issues. The option of positively draining the skatepark to the sewer has been explored but these capacity issues prevented this. The proposed skatepark design would have no detrimental effect on flooding from the public sewer.
12. **The Police Force Architectural Liaison Officer** has no concerns regarding the proposal and would support the proposed location within the confines of the park. The park does suffer from small amounts of crime and disorder but it is hoped that the skatepark would deter even these small levels. It is noted from the application that the park is designed for daytime use so it is assumed that no lighting would be provided. However, if there are proposals to provide lighting, it is recommended that these be switched off no later than 9pm to help reduce night-time noise nuisance.
13. **NCC (Landscape)** has no comments to make with respect to landscape and visual impact but has raised concerns regarding the impact on the adjacent bowling green and queries whether the two uses would be compatible.
14. **NCC (Reclamation)** has no objection to the proposal subject to a condition regarding drainage. Coronation Park has been significantly impacted upon by past industrial development and the application site lies above/adjacent to a former brick works and colliery. There are shafts and adits indicated adjacent to the development and intrusive site investigation has proven that this area is underlain by unconsolidated colliery spoil materials.
15. The key issue relates to the effect of drainage run-off from the proposed area of hardstanding infiltrating the underlying spoil materials. This additional input of water around the site has the potential to mobilise contaminants within the subsurface environment which could potentially impact underlying and adjacent

groundwaters. The main priority is therefore to sample the underlying spoils and undertake leachability testing on this material to determine the potential risk to groundwaters from this additional water input.

16. *No drainage design proposals have been submitted to indicate how the skatepark would be drained, although, from discussions with the applicant, it is understood that a series of eyelets and pipes within the structure would allow water to drain to the surrounding ground surface. Provided the leachability tests prove that the additional run-off from the development would not mobilise contaminants within the deposited spoil materials, then the development would be able to progress, once detailed drainage designs have been submitted. Should the testing prove that additional water input would mobilise contaminants within the spoil then the scheme would have to be reconsidered and an alternative drainage solution found before the scheme could progress.*
17. **Sport England** does not wish to comment on the application.
18. **NCC (Noise)** has not commented on the application given that the Noise Engineer provided the Noise Impact Assessment as part of the application. However, he has provided assistance in the wording of conditions set out in Appendix 1 of this report.
19. **Severn Trent Water Limited** has not responded on the application. Any response received will be orally reported.

Publicity

20. The application has been publicised by means of four site notices at the entrances to Coronation Park and neighbour notification letters sent to 19 properties on Plumpton Way in accordance with the County Council's adopted Statement of Community Involvement Review.
21. 21 letters of objection have been received: 18 from nine properties on Plumpton Way (including eight pro-forma letters); a property on Nottingham Road to the north east of the application site; and two from residents in Newthorpe who appear to be involved with the adjacent bowling green. The issues raised in these objections are as follows:
 - (a) Noise impacts from the use of the proposed skatepark, including on users of the adjacent bowling green;
 - (b) Impacts on the amenity and privacy of local residents;
 - (c) Antisocial behaviour as a result of the proposed development, including drinking, litter and graffiti;
 - (d) There is not a recognised need for the skatepark, highlighted by the lack of use of the existing facility;

- (e) The skatepark should be located elsewhere on the park, either close to the existing skatepark or further south of the proposed location away from the bowling green;
 - (f) The skatepark would be an eyesore and have an adverse visual impact on neighbouring residential properties;
 - (g) There is a need for additional landscaping to screen the facility;
 - (h) If the facility attracts users from further afield, there is insufficient parking in the area;
 - (i) There are drainage issues in the area and potential contamination and the installation of a skatepark would exacerbate these problems;
 - (j) There is a lack of security in the area;
 - (k) Access to the skatepark from Plumptre Way is restricted;
 - (l) Objections have been raised regarding the application being reported to the County Council for 'self-determination'.
22. In addition to these concerns, the eight pro-forma letters have also raised a formal complaint to the County Council's Monitoring Officer regarding the consultation carried out on the scheme prior to the application being submitted. This matter has been forwarded to the County Council's Complaints and Information Governance Team and a response has been provided by the Environment and Resources Department, given that they were involved in that consultation process, although the consultation was actually led by Supporting Action for Eastwood. It is important to highlight that this consultation was not part of the planning process but related primarily to developing the concept of the proposed skatepark as well as a funding bid for the proposed facility. A copy of the letter that has been sent to these eight residents in response to these complaints is attached at Appendix 2 of this report. The consultation process which would be expected as part of the planning process has been carried out in respect of this application and is described in paragraph 20 above.
23. Councillor Keith Longdon has been notified of the application.
24. The issues raised are considered in the Observations Section of this report.

Observations

Planning policy considerations

25. There are some key policies in the recently adopted (subject to legal challenge) Aligned Core Strategy (ACS) (which covers Broxtowe, Gedling and the City) which are of relevance to this application. Policy 12: Local Services and Healthy Lifestyles states:

New, extended or improved community facilities will be supported where they meet a local need. In particular, where there is an evidenced need, new or improved community facilities should be provided to support major new residential development (especially in Sustainable Urban Extensions) or in renewal areas. Where appropriate, contributions will be sought to improve existing community facilities provision where the scale of residential development does not merit developers providing community facilities provision directly.

Community facilities should:

- (a) Be located within the City Centre, town centre or other centres, wherever appropriate; or*
- (b) Be in locations accessible by a range of sustainable transport modes suitable to the scale and function of the facility; and*
- (c) Where possible, be located alongside or shared with other local community facilities.*

26. Regarding the first part of this policy, there is conflicting evidence insofar as some local residents have suggested that the existing skateboard facility in the park is little used and so therefore there is no need for a new facility. The existing facility has not been monitored by officers in order to clarify this matter but it is understood that it is little used, although it is considered that this is due to the fact that it is a small, dated facility which is not attractive to potential users. Indeed, in the application for funding from Waste Recycling Environmental Limited (WREN), Supporting Action for Eastwood (SAFE), the charity involved in the scheme, states that the existing scheme:

“Is a very outdated steel based facility that attracts almost no users whatsoever. The poor design and construction prevent any proper (or safe) use and the area is considered a waste of space in what is otherwise a very attractive and well used public park”.

27. It is therefore queried whether the need for a new facility should be judged on the popularity of the existing facility.
28. As part of the funding bid, SAFE has carried out a lot of work in order to demonstrate that there is indeed a need for the facility. This has included articles in the local newspaper (Eastwood Advertiser), a petition, and fund raising events, including bag packing at a local supermarket which also provided opportunities to garner support and gain feedback on the proposals. All of these initiatives were set out in the funding bid to WREN and, as a result, the bid was successful and WREN has committed £75,000 of the approximate £250,000 cost for the scheme. It is considered very unlikely that WREN would have supported the scheme to this extent had the need for the facility not been demonstrated and so it is therefore considered that the proposed development accords with Policy 12 of the ACS in this respect.
29. Regarding the remainder of the policy, it is considered that the facility would be located in the centre of the town and would be accessible by sustainable

transport modes, in particular by foot which is anticipated to be how most participants would access the skatepark. Being located in Coronation Park, it would also be located alongside other local community facilities within the park.

30. The final criteria of Policy 13: Culture, Tourism and Sport of the ACS is also relevant and states that “where appropriate, existing cultural, tourism and sporting facilities will be protected and their further development will be supported”. The supporting text to this policy confirms that “the role of community level culture and sporting facilities is vitally important in creating sustainable and healthy neighbourhoods”. The provision of a new, upgraded skatepark would improve the facilities within the park as a whole and so it is considered that the proposed development also accords with this policy.
31. Policy 16: Green Infrastructure, Parks and Open Space of the ACS is concerned with the loss of these facilities, as opposed to development on them and so is not considered applicable in the assessment of this application.
32. Policy 10: Design and Enhancing Local Identity of the ACS has a number of criteria relevant to the application and requires development to make a positive contribution to the public realm and sense of place; and to create an attractive, safe, inclusive and healthy environment. The policy requires an assessment of the development in terms of its impact on the amenity of nearby residents or occupiers; the ground conditions of the site, including that arising from land instability or contamination, together with the mitigation/remediation proposed or required; and the incorporation of features to reduce opportunities for crime and the fear of crime, disorder and anti-social behaviour, and the promotion of safer living environments.
33. Given the role of Coronation Park in providing a number of recreational and leisure pursuits, including football and bowls to less formal pursuits such as dog walking, it is considered that the proposed skatepark, if well designed, could make a positive contribution to the park’s sense of place and help create a safe, inclusive and, in particular, healthy environment. In addition to this, it is often commented that teenagers and young adults often have little or no organised formal outlet for their spare time and a facility such as a skatepark, again if well designed, would help address potential issues of anti-social behaviour in the area, contrary to suggestions from local residents that the facility would lead to an increase. The Police Force Architectural Liaison Officer considers that the proposed development has the potential to deter any anti-social behaviour that might exist in the area at present.
34. It is therefore considered that there is general Aligned Core Strategy policy support for the proposed skatepark, although it is accepted that this is subject to the facility being well designed in order to minimise its impacts on neighbouring residents. These potential impacts are considered below.

Impacts on the amenity and privacy of local residents

35. A major concern of local residents is the impact the proposed skatepark would have on their amenity and privacy through the general use of the facility, the belief that it would be an eyesore and should be screened by additional

landscaping, and through resulting anti-social behaviour, including graffiti, drinking and an increase in litter due to a lack of security in the area. A number of alternative locations for the skatepark have been suggested, including in the centre of Coronation Park where the existing facility is and to the south of the proposed location. However, the County Council as County Planning Authority is required to determine all applications submitted to it and so an assessment has to be made on the skatepark in the location proposed.

36. Regarding residents' suggestions that the skatepark should be developed in the same location as the existing, smaller facility, ground investigations carried out on this location have identified the presence of domestic waste beneath the ground, although the lack of any records held by either the County Council or the Environment Agency suggests that any tipping took place prior to licencing regulations being introduced. The County Council's Reclamation Team considers that this area would be unsuitable for the larger proposed skatepark as the made ground would not provide an adequate foundation for the facility, whilst there would also be the potential for gas generation within the substrate which could be a risk to future site users.
37. Site investigations have confirmed that the application site is on a part of the park which was a former brickworks and colliery but which has not been subject to any infilling with domestic waste. Instead, it is underlain with unconsolidated colliery spoil material which is considered suitable for the proposed skatepark.
38. Through the assessment and consideration of the application, the location of the proposed skatepark has been moved slightly further away from residential properties so that it would be around 60 metres from the front curtilage, and around a further eight metres away from the front façades, of the nearest residential properties. This is a comparable distance to a facility at Lady Bay which is around 75 metres from the front of the nearest residential properties, whilst a facility in Arnot Hill Park, Arnold, is around 55 metres from the rear façades of the nearest properties and only around 40 metres from the end of the rear gardens of these properties. A facility in Netherfield, smaller than that being proposed in Eastwood, is around 45 metres from the rear of the nearest properties and around 40 metres from the end of their gardens. It can therefore be seen that the proposed development would not be setting any sort of precedent in terms of its proximity to residential properties.
39. In terms of its visual impact, the scheme has also been revised through the provision of the earth mound on the western side of the proposed skatepark. This would result in views from the properties on Plumptre Way being predominately of a green ridge, rather than of a concrete wall around 30 metres across, and these views would be partially filtered by the trees on the central reservation on Plumptre Way. A further mound is also proposed in the south east corner of the proposed facility where it is at its highest at 1.8 metres. This would help to reduce the visual impact of the skatepark on other park users. The County Council's Landscape Team has raised no objection to the application and has not recommended any additional landscaping be provided and so it is therefore considered that the proposed skatepark would not have an adverse impact on the visual amenity in the area. A condition would require these mounds to be provided and seeded prior to the skatepark coming into use

and would also require details of the gradient of the mounds to be submitted which should be shallow enough to allow them to be safely maintained.

40. Regarding the potential increase in anti-social behaviour, including graffiti, drinking and an increase in litter, the planning policy observations above note that a lack of formal organised activities for teenagers and young adults can often lead to such anti-social behaviour, a sentiment echoed by the Police Force Architectural Liaison Officer. The Liaison Officer considers that a facility such as a skatepark could help address these potential issues, although it is accepted that the facility itself would need to be well designed in order to deter such behaviour.
41. The revisions to the scheme to include an earth mound on the western elevation would not only bring benefits to the scheme in terms of its visual impact, by introducing a green mound as opposed to a concrete wall, but would also remove a target for graffiti. However, there would still be vertical walls on the northern, southern and eastern sides of the proposed skatepark which, although not directly visible from these properties, could detract from the rest of Coronation Park if subject to graffiti and this matter has also been raised by Broxtowe Borough Council's Parks and Open Spaces Officer. To this end, discussions have taken place with the applicant regarding the potential for a professional graffiti artist to be employed to decorate these remaining vertical walls. This is an approach that has been used on other similar facilities and has been successful in deterring unofficial graffiti. However, there is a significant cost involved and so a condition is recommended that would require ameliorative action to be taken in the event that unofficial graffiti becomes an issue with the facility, rather than requiring a graffiti artist to be engaged prior to the facility coming into use. Such a condition would protect the amenity of other park users and would accord with Policy 10 of the ACS.
42. Consideration of the noise impact of the proposed skatepark is set out in detail below.

Noise

43. The application has been submitted with a supporting Noise Impact Assessment, although as this has been prepared by the County Council's Noise Engineer, any consultee comments on it have been restricted to Broxtowe Borough Council through its Environmental Health Officer (EHO). No objection has been made by Broxtowe regarding the noise impacts of the proposed development, although in response to the original proposal it was noted that there appeared to be scope to push the skatepark further into the park, increasing the distance from residential properties on Plumptre Way to provide some noise attenuation. This change has been made insofar as is possible within the application site and taking into account Severn Trent Water apparatus running through the park and over which the skatepark could not be constructed.
44. Residents living opposite the site on Plumptre Way, in addition to people associated with the adjacent bowling green, have raised concerns about noise and have suggested that, rather than moving the skatepark slightly further away

from their properties, the facility would be better located in the vicinity of the existing smaller skatepark in the middle of the park. However, as already stated, the CPA is required to consider all applications submitted to it on their own merits.

45. The submitted Noise Impact Assessment acknowledges that there are no specific guidelines for assessing the noise impacts of skateparks and so has assessed the proposals against a number of criteria. The World Health Organisation (WHO) Community Noise Guidelines 1999 recommends external environmental daytime and evening noise levels of less than 55dBL_{Aeq} over a 16 hour period between 7am and 11pm to avoid 'serious annoyance' and less than 50dB to avoid 'moderate annoyance'. However, the assessment is cautious about the use of this guidance as the noise levels are averaged out over the 16 hour period, whilst the reality is that the skatepark would have periods of low and high use.
46. The Institute of Environmental Management and Assessment (IEMA) Guidelines for Environmental Noise Impact Assessment 2014 is not designed for a particular type of noise source and the short and long term noise impacts are assessed by considering the basic sound level change. The Noise Impact Assessment undertaken has considered the change in noise level occurring at nearby properties during peak use using the impact scale set out in the table below. The differences between the short and long-term classifications for some of the sound level changes below highlights that when a new noise source is first introduced in an area, its impact is initially perceived as being greater than an equal but gradual sound level increase would over a longer period.

Sound level change	Long-term impact classification	Short-term impact classification
≥ 0dB and < 1dB	Negligible	Negligible
≥ 1dB and < 3dB	Negligible	Minor
≥ 3dB and < 5dB	Minor	Moderate
≥ 5dB and < 10dB	Moderate	Major
≥ 10dB	Major	Major

47. British Standards 4142:2014 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas compares the rating level of a given noise source (the rating level being the predicted noise level generated including a penalty for impulsive or tonal noise where applicable) against the background noise level. A rating level calculated at being 10dB or more above background levels would indicate that complaints are likely; a rating level around 5dB higher than background levels would indicate that complaints are possible; while a rating level 10dB or more below background levels would indicate that complaints are unlikely.

48. Whilst BS4142 is intended for assessing industrial noise sources, it could be argued that the skatepark would predominately generate impact noise from skateboards impacting on the concrete surface of the skatepark, an impulsive noise source typical of industrial activities. The assessment also states that the previous version of BS4142 (dated 1997) has been used for assessing similar facilities elsewhere in the UK but a degree of caution is highlighted as using BS4142 assumes that people have the same level of attitude or tolerance or acceptance of noise from skateparks as they do for industrial processes, which is assumed to be a zero tolerance. Given the number of objections received regarding noise, it is considered safe to assume that this is the case.
49. In order to ascertain the existing background and ambient noise levels, an hour-long noise assessment was carried out by positioning noise equipment in the front garden of 77 Plumtre Way which is directly opposite and approximately 60 metres from the edge of the proposed skatepark. In order to predict the level of noise that the proposed skatepark would generate, data has been used from a noise assessment of a similar facility in Lady Bay which is approximately 75 metres from the front of the nearest residential properties.
50. The assessment states that the Lady Bay facility has some plywood ramps which are considered to generate higher noise levels than concrete ramps, whilst it is an above-ground facility similar to what is proposed in this application. At one of the times that the Lady Bay facility was assessed (on a Saturday), it was very busy with around 20 to 30 skateboard, in-line scooter and BMX bike users. It was also assessed when not in use to establish background and residual levels. The assessment therefore considers that if the Lady Bay noise assessment is used to evaluate likely noise levels from the Eastwood facility, this would represent a 'worst case' assessment of the anticipated impacts.
51. The noise assessment carried out at Plumtre Way established that the background noise level (the level exceeded for 90% of the time) was 44.3 dB_{L90}, with the pre-existing ambient noise level being 53.5 L_{Aeq}. The noise assessment carried out at Lady Bay, with the equipment placed 10 metres from the facility, established that the ambient noise level (when the skatepark was in use) was 59.5dB L_{Aeq} and the residual noise level (when the skatepark was not in use) was 45.5 L_{Aeq}.
52. In order to calculate the noise impact of the proposed skatepark at Eastwood, a correction has been made to reflect the greater distance (around 60 metres) between the proposed skatepark at Eastwood and the properties on Plumtre Way, compared to the distance (10 metres) between the Lady Bay facility and the noise equipment used. It is therefore predicted that the specific noise level attributable to the proposed facility at Eastwood at the nearest property on Plumtre Way would be 44dB(A) during peak periods. It is clear from these figures that increasing the distance between these facilities and nearby properties makes a significant difference to the noise impact.
53. This 44dB(A) level is lower than the 50dB(A) level which the WHO guidelines states is the threshold above which moderate annoyance due to noise could result, although it should be noted that the existing ambient noise level at the front of properties on Plumtre Way is 53.5 L_{Aeq} due largely to road traffic and

this is a level which could give rise to moderate levels of annoyance. This figure would not increase with the skatepark in place and so it is considered that the skatepark would not increase the level of annoyance for local residents.

54. Assessing the noise impacts of the skatepark against the IEMA guidelines requires a comparison to be made between the existing and predicted ambient noise levels, taking into account the addition of the proposed skatepark. The predicted ambient noise level is calculated to be 54dB(A), an increase of only 0.5dB(A) on the existing level which is considered to be a 'negligible' impact, as detailed in the table above.
55. In accordance with the BS4142 guidelines, the Noise Impact Assessment has applied a 6dB penalty to the 44dB(A) calculated specific noise level to reflect the clearly audible impulsive noise that the use of the skatepark would generate and which would be audible at nearby properties. This penalty is considered the worst case scenario that can be applied. Given that the background noise level at 77 Plumtre Way has been measured at 44.3dB(A), the rating level of the proposed facility has been calculated at the background level plus 5.7dB, an increase of 'marginal significance' which could possibly result in complaints.
56. The County Council requires recreational development of this type, when assessed using BS4142, to result in maximum noise levels of no more than the background level plus 10dB between 7am and 11pm. The levels calculated (background plus 5.7dB) are therefore considered acceptable, although when an increase of 'marginal significance' is predicted then it is considered that all reasonable steps should be taken to minimise the risk of noise complaints being made.
57. The County Council's Noise Engineer has studied the proposed development and considers that improvements could be made by either rotating the skatepark clockwise through 90°, or by providing a one metre high earth bund along the western edge of the facility, in order to screen the facility, including the hardstanding area on the western edge with the bar/rail. With either one or both of these measures in place, it is considered that the predicted noise levels would be lower than those presented in the Noise Impact Assessment and should further reduce the risk of audibility and complaints from nearby residents. The proposed development has been revised through its assessment in order to provide the earth bund described and the facility has been moved slightly further away from Plumtre Way and the nearby residential properties.
58. The Noise Impact Assessment also includes a qualitative assessment of the key noise types likely to be generated by the proposed skatepark, namely the rolling noise of skateboards and scooters on the ground; the impact noise caused by skateboards and scooters when performing flips and jumps; and the noise from raised voices. The noise monitoring undertaken at Lady Bay confirmed that the underlying noise levels were generated by the rolling noise from skateboards and scooters with occasional bangs from impacts and raised voices. The noisiest activities were from skateboarders performing flips on the ground and turns on the ramps, with scooters being less audible due to their rubber wheels.
59. The Noise Impact Assessment considers that some noise from the proposed skatepark would be audible from the front gardens of properties on Plumtre

Way, mainly in between passing road traffic. Impulsive noise from bangs and impacts might be faintly audible in the front rooms of these properties with windows open, although passing traffic would again be louder and more frequent. Noise from the skatepark is unlikely to be heard inside these properties when windows are closed or in the rear gardens of these properties. The assessment also notes that whilst these facilities can be well attended, particularly soon after being opened, this does not necessarily mean greater levels of noise as the space constraints of the facility itself means that only a certain number of users can be on it at any one time.

60. It is considered that the proposed development has been rigorously assessed in terms of its noise impacts, using a number of assessments and guidance given that there is no specific noise guidance for this type of development. Against all three types of assessment, the proposed development is considered to be acceptable, particularly as it has been amended to provide a landscaped bund on its western elevation which, in addition to softening the visual impact of the facility, would also help to screen noise generating activities on its western edge.
61. A condition would be attached to any planning permission granted requiring this bund to be in place prior to the skatepark being brought into use. In addition to this, and to deal with any levels of noise over and above what have been predicted through the Noise Impact Assessment, a condition is recommended which would require further ameliorative measures to be undertaken if, in response to justifiable complaints, a further noise survey identifies that the skatepark is resulting in noise levels which are 10dB above background levels at residential properties on Plumtre Way. Given that the predicted levels are expected to be 5.7dB above background levels when the facility is in use, justifiable complaints are not anticipated but a safety net of such a condition is considered appropriate given the concerns raised by local residents.
62. With these conditions in place, it is considered that the proposed skatepark would not have an adverse noise impact on local residents and would accord with Policy 10 of the ACS. As there are no floodlights proposed as part of the application, the facility would be used during daylight hours only and so a condition regarding the hours of use is not considered necessary. Regarding concerns raised about the compatibility of the facility given the close proximity of the bowling green, it should be noted that Eastwood Town football ground is also close by and is likely to be a source of noise, albeit on a less frequent basis. In addition to this, the area proposed for the skatepark has previously been used as a floodlit synthetic football pitch which would also have been a source of noise and so it is considered that the construction and use of a skatepark into this location would not introduce a level of noise which has not been generated in this location in the past.

Drainage and surface water run-off issues

63. A local resident has provided a photograph of an overflowing manhole cover on the park close to where the proposed skatepark would be located. The resident has stated that the manhole cover overflows whenever there is a heavy downpour and the overflowing water then flows down the adjacent ridge and

then along the edge of the park adjacent to Plumpton Way. There are concerns that the construction of a skatepark could exacerbate these problems and it is understandable why such concerns have been raised given that the skatepark would result in an increase in hardstanding in the area. This photograph has been forwarded to the Environment Agency, Severn Trent Water and the County Council's Flood Risk and Reclamation Officers for consideration.

64. It is disappointing that Severn Trent Water has not responded on the application and the specific issue regarding overflowing drains, given that it is their apparatus that is causing the issues that have been witnessed by residents. However, the County Council's Flood Risk Team has stated that Severn Trent is aware of this issue and it can only be assumed that they have no concerns about the application. Despite this, and given the close proximity of this manhole cover and associated drains to the footprint of the proposed skatepark, it is considered appropriate to attach a condition to any planning permission granted requiring the line of the surface water drain, as highlighted on Plan 2, to be clearly marked out prior to any construction works commencing to ensure a suitable stand-off is provided.
65. The proposed development does not seek to divert surface water run-off from the proposed skatepark into these drains. Instead, the drainage system being proposed is a sustainable drainage system and natural soakaway, although Broxtowe Borough Council's Parks and Open Spaces Officer has raised concerns that surface water run-off could make the surrounding grassland muddy etc and has also suggested that any drainage holes on the skatepark itself would need to be serviceable to prevent any blockages and subsequent water logging.
66. In light of the site's previous use as a colliery and as a result of the potential contamination risks that are present at the site and which led to the present proposal of a ground level facility, rather than one dug into the made ground, the Environment Agency has recommended a condition be attached to any planning permission granted regarding the infiltration of surface water from the proposed facility into adjacent ground. The condition would require a scheme to be submitted which would need to demonstrate that surface water drainage from the facility would not mobilise any contamination beneath the site and cause any risk of contamination to controlled waters. The addition of this condition to any planning permission granted is also recommended by the County Council's Reclamation Team and would require samples of the underlying made ground to be undertaken and the results submitted. It is also considered appropriate to add references to the matters raised by Broxtowe in this condition so that all matters of concern are dealt with.
67. With this condition in place, it is considered that the proposed development would accord with Policy 10 of the ACS and the National Planning Policy Framework which prevents new development from contributing to unacceptable levels of water pollution.

Accessibility

68. Concerns have been raised regarding the potential for the proposed skatepark to attract users from further afield, resulting in parking issues on Plumptre Way and other residential roads nearby. It is anticipated that the facility would primarily be used by local people accessing the site either on foot or on the scooters or bicycles they intend to use on the facility. Whilst there is the potential for users from further afield, it should be noted that the site is close to Nottingham Road which runs through Eastwood and which is served by regular bus services.
69. Regarding access to the site by foot, it is considered that an additional improvement could be made in this respect by providing a short path from the southern edge of the nearby car park (as seen on Plan 2) to the proposed skatepark to complement the path already proposed from the other side of the facility. It is anticipated that access directly from Plumptre Way would be frequent and this could lead to the grass in this area being damaged. A condition to this effect is considered appropriate and the path would need to be in place prior to the facility coming into use.
70. With respect to accessing the main bowl of the proposed skatepark itself, it has been highlighted by Broxtowe Borough Council's Parks and Open Spaces Officer that there appears to be no steps into the facility so it would appear that users would have to climb up one of the 1.2 metre high walls to access the bowl. The applicant has confirmed that the provision of an access gap is being considered and a condition requiring details of this to be provided is recommended. The condition would require the access gap to be provided on either the northern or eastern side of the skatepark (most likely the northern as this would be the most obvious location given the location of the paths leading to the facility), but not the western side as this would break up the earth mound designed to screen views of the facility from properties on Plumptre Way.
71. Finally, it is proposed to install safety hand rails on the northern and eastern sides of the bowl adjacent to the 1.2 metre vertical drops. However, no hand rails are proposed on the western side facing Plumptre Way given the adjacent grass bank. With a condition requiring the submission of details of these rails, it is considered that they could be provided without any material increase in the visual impact of the facility.

Other Options Considered

72. 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 although the applicant did consider other locations within Coronation Park for the proposed skatepark, in addition to other options on the actual application site.

Statutory and Policy Implications

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

and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

74. The County Council is committed to providing £100,000 towards the cost of the proposed skatepark. However, Members are advised that this has no bearing in considering the merits of the planning application.

Equalities Implications

75. The northern side of the facility outside the main bowl of the skatepark could be accessible to people with disabilities.

Crime and Disorder Implications

76. The Police Force Crime Liaison Officer considers that the proposed development could help reduce crime and anti-social behaviour in the area and amendments have been made to the proposed scheme to reduce the risk of graffiti.

Human Rights Implications

77. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the impact of the proposed skatepark on residential amenity. The proposals have the potential to introduce impacts such as noise and anti-social behaviour. However, these potential impacts need to be balanced against the wider benefits the proposals would provide such as providing a quality recreation facility for the local community. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.
78. In addition to this, some local residents have commented on the application being self-determined by the County Council but it is considered that Planning and Licensing Committee is an independent and impartial tribunal established by law and it should be highlighted that the application has been subject to consultation and publicity in line with Government regulations and local residents have been individually notified in accordance with the County Council's Statement of Community Involvement Review.

Safeguarding of Children Implications

79. The proposed skatepark would provide an organised formal recreational facility in a public park environment and so it is considered that there would be no safeguarding of children implications.

Implications for Sustainability and the Environment

80. These are considered in the Observations Section of this report.
81. There are no service user or human resource implications.

Statement of Positive and Proactive Engagement

82. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; assessing the proposals against relevant policies in the Aligned Core Strategy and all other material considerations; and considering consultation responses and all valid representations that have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

83. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments [DWK 14/04/2015]

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

Comments of the Service Director - Finance [SES14/04/15]

The financial implications are set out in the report.

Background Papers Available for Inspection

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

Electoral Division and Member Affected

Eastwood Councillor Keith Longdon

Report Author/Case Officer

Jonathan Smith

0115 9932580

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

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FR3/3221

RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall be begun within 3 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 County Planning Authority (CPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development.

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

3. The development hereby permitted shall be carried out in accordance with the following details:

- (a) Planning application forms received by the CPA on 28 January 2015;
- (b) Design and Access Statement received by the CPA on 21 January 2015;
- (c) Supplementary Design and Access Statement received by the CPA on 19 March 2015;
- (d) Drawing Number H/PELJ.50000.15/01 – Site Location Plan received by the CPA on 21 January 2015;
- (e) Aerial photograph entitled 'Revised Site Plan' received by the CPA on 19 March 2015;
- (f) 3-D visualisations entitled 'Eastwood Skatepark' received by the CPA on 19 March 2015.

Reason: For the avoidance of doubt and to enable the CPA to monitor compliance with the conditions of the planning permission.

4. Unless in the event of an emergency when life, limb or property is in danger, no construction work shall be carried out or plant operated other than between the following hours:

07.30 hrs to 18.00 hrs Monday to Friday;

07.30 hrs to 13.00 hrs Saturdays.

There shall be no construction work undertaken on Sundays, Public or Bank Holidays.

Reason: In the interest of local amenity.

APPENDIX 1

5. No development shall commence until details of contractors' access and site working arrangements have been submitted to, and been approved in writing by, the CPA. The details shall specify the following:
- (a) The size and location of the works compound(s);
 - (b) The number, size (including height) and location of all contractors' temporary buildings;
 - (c) The location(s) and means of access to the site and routing for construction traffic;
 - (d) Provision for contractors' parking;
 - (e) Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;
 - (f) Measures to protect any trees or shrubs which are being retained;
 - (g) Arrangements for the use/disposal of surplus soil materials including any temporary soil storage arrangements;
 - (h) Measures to ensure that dust emissions are minimised;
 - (i) Measures to ensure that no vehicles shall leave the site in a condition whereby mud, clay or other deleterious materials are carried onto the public highway;
 - (j) Measures to minimise disturbance from noise which may include but not necessarily be restricted to the following:
 - (i) Cladding, insulation and operation of plant and machinery in accordance with manufacturers' recommendations;
 - (ii) Erection of noise attenuation bunds and fencing;
 - (iii) Additional restrictions on hours of working to those specified in Condition 4 above.

The site contractors' access and working arrangements shall be carried out in accordance with the approved details.

Reason: The development cannot commence until the contractors' compound is in place and all potential impacts associated with the compound and the contractors' working arrangements require consideration in the interest of protecting local amenity.

6. No development shall commence until a scheme for the drainage of surface water from the skatepark hereby approved has been submitted to, and approved in writing by, the CPA. The scheme shall include:

APPENDIX 1

- (a) Details of how surface water on the skatepark will be removed without making surrounding areas waterlogged;
- (b) How any drainage facilities within the construction of the skatepark would be maintained to prevent blocking; and
- (c) Provide details, including the results of samples of the underlying made ground, which demonstrate that any infiltration of surface water drainage into surrounding ground will not mobilise any contamination that might exist beneath the site and the surrounding ground and result in unacceptable risks to controlled waters.

The development shall be carried out in accordance with the approved details.

Reason: The development cannot commence until full drainage details have been submitted which ensure the adequate drainage of the facility and ensure that the development does not contribute to unacceptable levels of water pollution in accordance with Policy 10 of the Broxtowe Aligned Core Strategy.

7. The development hereby permitted shall not be brought into use until an additional footpath linking the skatepark hereby approved with the car park to the west of the bowling green has been constructed in accordance with details previously submitted to, and approved in writing by, the CPA. The details shall include the location of the footpath and the materials to be used in its construction. The footpath shall be constructed in accordance with the approved details.

Reason: To provide a suitable means of access to the skatepark.

8. The construction of the skatepark shall not commence until the section of the line of the public surface water drain which runs across the park in close proximity to the footprint of the skatepark hereby approved has been marked out in accordance with details previously submitted to, and approved in writing by, the CPA. The line of the drain marked out shall be restricted to that which falls within the application site as identified on Drawing Number H/PELJ.50000.15/01 – Site Location Plan received by the CPA on 21 January 2015 and shall be marked out in accordance with the approved details and thereafter maintained throughout the construction period.

Reason: To maintain the integrity of surface water apparatus on the site.

9. The skatepark hereby permitted shall not be brought into use until the landscaping bunds detailed on the 3-D visualisations entitled 'Eastwood Skatepark' received by the CPA on 19 March 2015 have been constructed with gradients which allow for their safe maintenance, and seeded with a seed mix, both of which have been previously submitted to, and approved in writing by, the CPA. Provision shall be made to restrict access onto these bunds until a suitable grass sward has been established to the satisfaction of the CPA.

Reason: To protect the amenity of the local area in accordance with Policy 10 of the Broxtowe Aligned Core Strategy.

APPENDIX 1

10. The skatepark hereby permitted shall not be brought into use until a suitable access gap into the main bowl has been provided in accordance with details previously submitted to, and approved in writing by, the CPA. The access gap shall provide access from the northern side of the skatepark and shall be constructed in accordance with the approved details.

Reason: To provide a safe access into and out of the skatepark.

11. The skatepark hereby approved shall not be brought into use until safety hand rails have been constructed on the northern and eastern side of the facility in accordance with details previously submitted to and approved in writing by the CPA. The safety hand rails shall be constructed in accordance with the approved details.

Reason: To ensure that users of the skatepark can use the facility safely.

12. Should, at any time, the skatepark hereby approved be subject to levels of graffiti which the CPA considers results in an unacceptable impact on the amenity of the surrounding area, then, within one month of a written request from the CPA, details of a scheme to remove the graffiti and replace it with professional art shall be submitted to the CPA for its approval in writing, including a timetable for its implementation. The scheme shall be implemented in accordance with the approved details.

Reason: To protect the amenity of the local area in accordance with Policy 10 of the Broxtowe Aligned Core Strategy.

13. In the event of a noise complaint being received by the CPA regarding the skatepark hereby permitted which, in the considered opinion of the CPA may be justified, the applicant shall, at the first practicable opportunity following a written request from the CPA, carry out a noise impact survey which shall be submitted to the CPA for its written approval. Should the submitted survey demonstrate that the level of noise generated by the skatepark is 10dB or more above background levels at the front curtilage of properties on Plumptre Way, thereby justifying the noise complaint received, the survey report shall specify additional mitigation measures and details of their timing to overcome any unacceptable noise impact and such measures shall be implemented thereafter in accordance with the approved details and timetable.

Reason: In the interest of residential amenity and to accord with Policy 10 of the Broxtowe Aligned Core Strategy.

This matter is being dealt with by:

Kevin Sharman

Reference: NCC-016389-14

T 0115 977 2970

E

W www.nottinghamshire.gov.uk



**Nottinghamshire
County Council**

7 April 2015

Dear

Re Eastwood Skatepark Proposals

Thank you for your letter of complaint to the County Council's Monitoring Officer regarding the consultation carried out on the proposed skatepark at Coronation Park, Eastwood. In your letter you state that the County Council has totally changed the siting, location, design and therefore impact of the proposed skatepark and therefore a consultation should be held on the current proposal so that the full implications can be heard at a local level.

It is important to understand that the consultation process to which you refer and which was carried out on the original proposed skatepark (before any planning application was submitted), was not a statutory requirement and did not form part of the formal planning application now under consideration. In fact, and as detailed below, that consultation process was not instigated by the County Council.

The issues you raise in points 2-5 of your letter details a number of concerns you have regarding the submitted application, including impact on amenities, noise, traffic, litter, graffiti, and anti-social behaviour and these matters, whilst not covered in this response to your complaint, will be taken into account by the County Council as the County Planning Authority in the determination of the application. As a result of further concerns raised by consultees and local residents through the formal planning process over issues such as noise, visual intrusion, and water contamination, amendments have been made to the scheme including moving the facility slightly further away from Plumtree Way and by providing earth mounding to effectively simulate the earlier sunken proposals and to help screen the facility and I understand that you have also been formally consulted on these revised details as part of the planning process. It is anticipated that the application will be determined by the County Council's Planning and Licensing Committee at the end of April. All responses received regarding the planning application, and as previously stated including the issues raised in the remainder of your letter, will be taken into account as part of the determination of the application.

In order to address your complaint, it is considered important to set out details of the entire consultation process which has been undertaken, both statutory and non-statutory, regarding this proposal.

This project is supported by and funded through a number of organisations, including Nottinghamshire County Council (NCC), Broxtowe Borough Council (BBC), Eastwood Town Council (ETC), WREN (Waste Recycling Environmental Limited) and SAFE (Supporting Action For Eastwood) and these organisations / funding streams require evidence that any such proposal has local community support. The initial consultation, which did not form part of the formal planning process, was a scoping exercise to assess local support to the concept of an improved facility

within the park (Coronation Park), rather than being a consultation on a specific proposal. The initial consultation was led by SAFE (a community group) and not by NCC and was a means to secure funding for this project from a number of funding organisations, and in particular WREN and NCC. Therefore, this initial consultation was not carried out to determine the suitability of the proposed scheme from a planning perspective.

Once the project concept had been agreed and a funding package secured then the project went through a number of iterations to find the most suitable / deliverable solution within this location. This work included consideration of a number of sites within the park and a number of different designs. As a result of this process, a planning application was submitted for a skatepark sunk into the ground but this was returned to the applicant due to serious contamination concerns from the County Council's Reclamation Team regarding the need to excavate into the ground, given that the application site is part of a former colliery.

Following revisions to the design of the facility to allow it to be sited at ground level to remove the need to excavate into the ground, a new application was submitted to the County Council as the County Planning Authority and this application is progressing through the formal consultation process in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the County Council's Statement of Community Involvement Review. This is the stage we are currently at and as mentioned above the other issues set out in your letter form part of that process and will be taken into account when the application is determined.

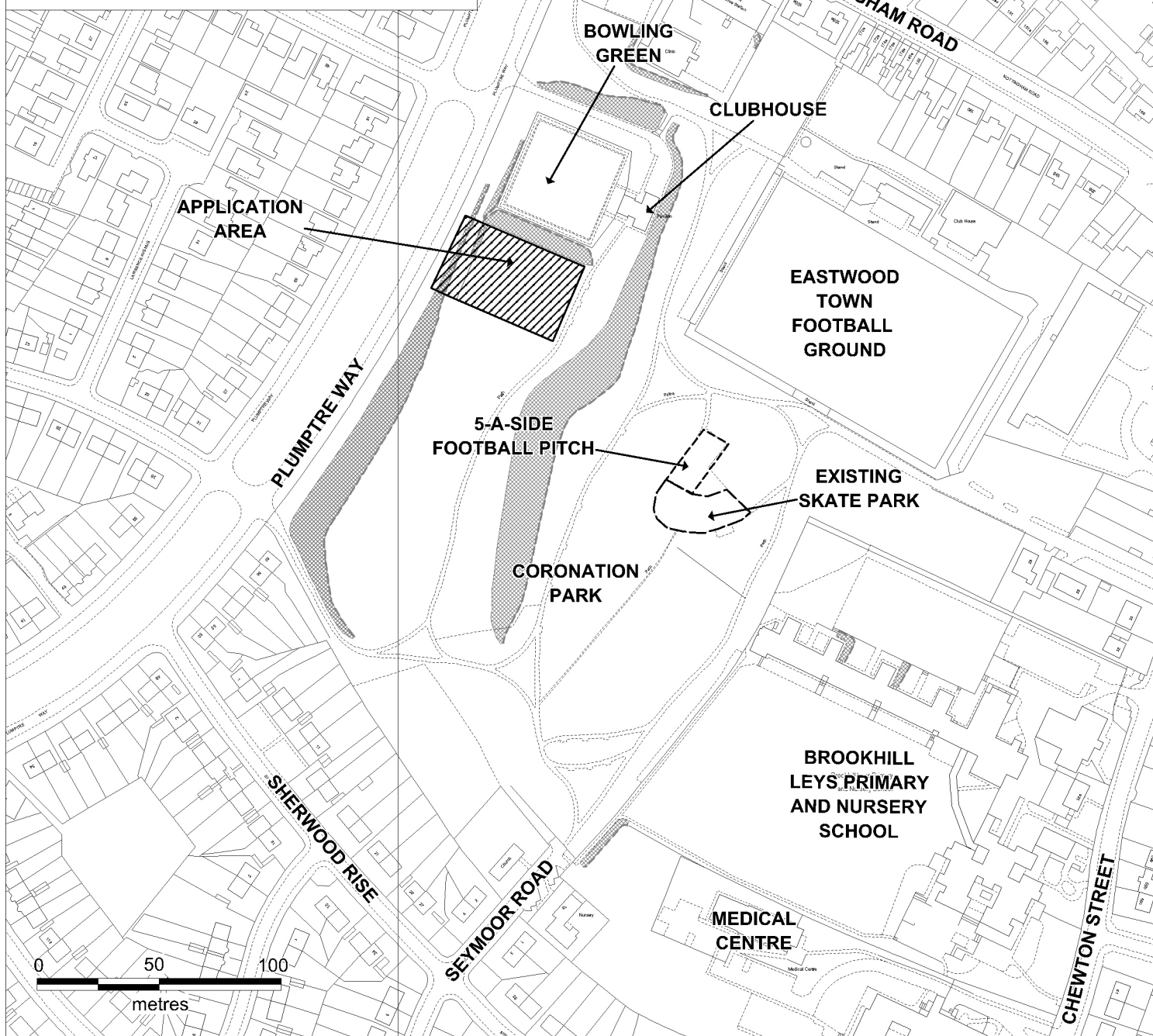
Whilst it could be queried why the County Council is dealing with an application for which it is also the applicant, it can be confirmed that the application has been submitted to the correct authority for determination. Planning authorities are responsible for determining applications for their own development and so the County Council often receives applications for school, library and road developments, whilst district councils deal with applications for its own development, such as leisure centres etc. The application for the skatepark is being part-funded and managed by the County Council, hence why the application has been submitted to the County Planning Authority for determination. Applications for the County Council's own development are subject to the same scrutiny as any other application submitted to us and are assessed against relevant planning policies and other material considerations.

In summary, you have raised a complaint with the Monitoring Officer regarding consultation that was carried out outside the formal planning process and which was led by a community group (SAFE), not the County Council. SAFE was under no obligation to carry out this consultation from a planning perspective but needed to do it to secure the necessary funding for the proposal. All consultation carried out by the County Council as part of the planning application process has been carried out in accordance with the relevant statutory regulations.

Yours sincerely

Kevin Sharman
Team Manager – Transport Planning and Programme Development

PLAN 1





**Nottinghamshire
County Council**

Design and construction of concrete Skatepark.
Coronation Park, Plumtre Way, Eastwood, Nottinghamshire.
Planning Application No. 5/15/00108/CCR

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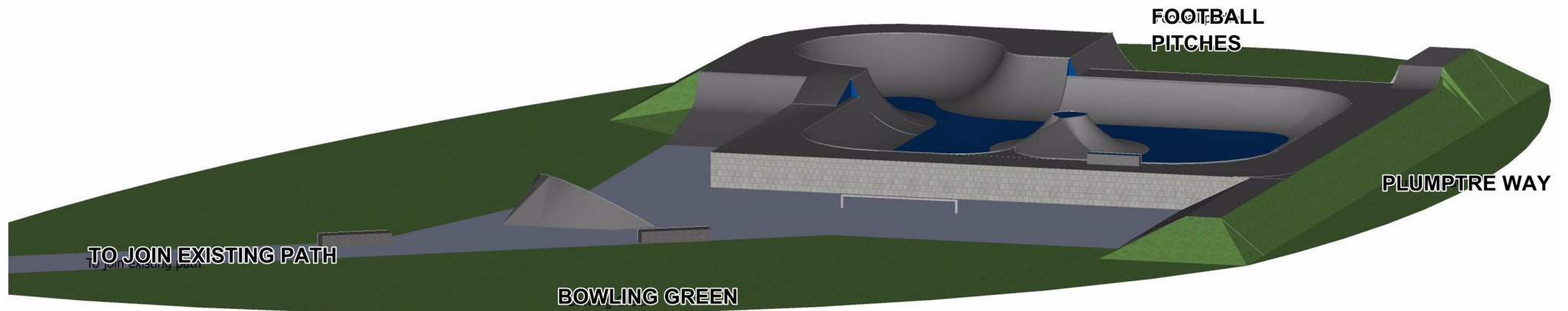
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Date: APRIL 2015

PLAN 2

EASTWOOD SKATEPARK



**Nottinghamshire
County Council**

Design and construction of concrete Skatepark.
Coronation Park, Plumpton Way, Eastwood, Nottinghamshire.
Planning Application No. 5/15/00108/CCR

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Produced by: JW
Date: APRIL 2015

PLAN 3

28th April 2015**Agenda Item:8****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/15/00630/CMA**

PROPOSAL: VARIATION OF CONDITION 6 OF PLANNING PERMISSION 3/14/00348/CMA TO ALLOW AN INCREASE TO THE ANNUAL MAXIMUM THROUGHPUT OF THE SITE FROM 30,000 TONNES TO 55,000 TONNES.

LOCATION: OXTON COMPOSTING SITE GRANGE FARM, OLLERTON ROAD, OXTON

APPLICANT: VEOLIA ES (NOTTS) LIMITED

Purpose of Report

1. To consider a planning application to increase the maximum processing capacity of the Grange Farm, Oxtan composting facility from 30,000 tonnes per annum (tpa) to 55,000tpa.
2. The development would increase the number of HGV and tractor movements associated with the delivery of green waste and the collection of processed compost. However, since the site is served by an established access onto an A class road, the surrounding road network can readily accommodate these vehicles without detriment to amenity, safety or the free flow of traffic.
3. The site lies within an area designated as Green Belt. The development is by National Planning Policy Framework (NPPF) definition a departure from Green Belt policy and therefore the planning application requires referral to committee. Notwithstanding this fact, the development does not result in any significant harm to the Green Belt.
4. The recommendation is to grant planning permission, subject to recommended planning conditions at Appendix 1.

The Site and Surroundings

5. The application site is located approximately 2km to the north of Oxtan off Ollerton Road (A6097), and approximately 1km south of the A614 junction at Northgate Island. (see plan 1). Oxtan Grange Farm comprises part of a larger well established arable and livestock farming business across 2,200 acres situated in the Oxtan and surrounding areas. Grange Farm is owned by

Sherbrooke Farms Estates who have a number of commercial interests in the surrounding rural area.

6. The Grange Farm complex comprises a farm house, two tenant farmers' properties and various agricultural buildings. Immediately to the north of these buildings is the existing open-air composting facility. The site is within the Nottingham Green Belt.

Relevant Planning History

7. In May 2002 planning permission was granted to operate an open-air green waste composting facility from an area of land measuring 75m x 120m, incorporating a 60m x 67m vehicle off-loading and feedstock processing area surfaced with hardcore and a 60m x 36m concrete hardstanding for laying out of 'windrows' (rows of piled compost material). A soil bund measuring 4m high by 120m long has been constructed along the western side of the processing area, to screen the operations from the A6097.
8. Planning permission was subsequently granted in July 2006 to provide a northern extension to the composting facility measuring 60m by 90m. The extension resulted in a larger waste processing/handling capacity area at the site.
9. These original planning permissions required all the processed compost to be applied to the farm's own land to provide agricultural benefit. A network of 'field stores' were established around the farm holding to store the compost prior to its application to land once any standing crop was harvested. Most of the field stores are accessed via the public highway using tractors and trailers for transport.
10. In June 2011 planning permission was granted to vary the operational controls of the site to enable the finished compost product to be used within a wider network of farms including farmland which is not owned/operated by Sherbrooke Farms. This wider network of farms were generally contained within a 5-10 mile radius of the Oxtun site with controls imposed through the planning conditions to prohibit the movement of potentially slow moving tractors and trailers on the A614 during morning and evening peak periods to ensure that haulage of compost does not compromise the free flow of vehicles on this busy road.
11. An extended operational area incorporating land measuring 120m by 50m to the north of the site was granted planning permission in May 2014 to provide additional storage capacity for compost produced at the site prior to its distribution to the wider complex of farms served by the facility. Condition 6 of this planning permission limited the throughput of the composting site as set out below:

"No more than 30,000 tonnes of waste shall be imported to the site (as outlined in red and blue on the Oxtun Composting Site Plan received by the WPA on 22nd Jan 2014) in any one calendar year. Records shall be kept by the operator of all imports to the site, which shall be made available to the WPA within seven days of a request."

Reason: To ensure that vehicle movements are limited to an appropriate level and ensure site activities do not adversely affect the free flow

Process Overview

12. The site receives segregated green waste predominantly originating from local authority collections and household waste recycling centres in the Nottingham area. Waste deliveries to the site are made via the farm access road leading from the A6097. An average of 20 vehicles a day deliver to the site at the busiest periods. All loads are visually inspected upon reception to ensure that only materials suitable for composting are received. Any unacceptable materials are removed and placed within a skip for off-site disposal.
13. Delivered green waste is deposited on the existing crushed stone operational pad, stored within stockpiles and subsequently shredded to make it suitable for composting. Because of the seasonal nature of the green waste stream, average inputs on a yearly basis are significantly less than the maximum weekly limit.
14. Once shredded, the green waste is set out within open windrows in the composting area. The pad area is sized to allow for approximately nine windrow process piles comprising approximately 550 cubic metres of material in each pile to be processed on a six week cycle. The windrow pile dimension on average is 3m wide at the base, 2.5m high and 110 metres in length. The heights of the piles vary seasonally, being larger in the winter to maintain optimum composting temperatures.
15. The windrows are monitored during the composting process and regularly turned to ensure that oxygen levels are maintained to preclude anaerobic conditions and hence reduce the risk of unpleasant odour. The temperature is maintained within the preferred range of 43 to 65 degrees Celsius to ensure pathogens are killed (Pathogens are organisms/parasites that can cause disease within another host organism). The moisture content is maintained at approximately 40-60%, with water added to the windrows when necessary.
16. All surface water is collected from the process pad area for re-circulation during the composting process or taken off site for suitable disposal. The drainage is connected to a 70,000 litre tank buried underground.

Proposed Development

17. The parent company of the Oxton Composting Facility has recently been purchased by Veolia Environmental Services (UK) plc as part of a business acquisition. Following a process of due diligence leading from this acquisition it became apparent that in recent years the annual throughput of the site has exceeded the tonnage permitted by the planning permission (30,000tpa). Waste import figures for the site from the last six years are listed in the table below:
- 18.

Calendar Year	Processed Tonnage (tonnes)
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2009	42,032
2010	35,072
2011	43,545
2012	44,608
2013	42,526
2014	48,270

19. This application seeks planning permission to increase the processing capacity of the site from 30,000tpa to 55,000tpa so as to regularise historical waste input levels in future years. The planning application has been submitted on the basis of a Section 73 (variation of planning condition), seeking to alter the limits imposed under Condition 6 of Planning Permission Ref. 3/14/00348/CMA. No other changes to the site permission, infrastructure or layout of the site are proposed.
20. The applicant states that the requested 55,000tpa level would allow some flexibility above the tonnages currently managed at the site to reflect potential growth in the amounts of waste sent for composting. The level is below the 75,000tpa limit currently set within the site's Environmental Permit.
21. The applicant argues that the expanded capacity within the Oxton Facility would assist the company deliver more sustainable waste management facilities which they are required to deliver through their long-term waste treatment and disposal contract they hold with Nottinghamshire County Council to manage the authority's municipal waste arisings, as well as manage green waste arising from the City Council area.

Consultations

22. Newark & Sherwood District Council: Views will be orally reported if received. The 21 day period for a planning consultation response from Newark and Sherwood District Council expires on the 28th April 2015. In the event that a consultation response is received from Newark and Sherwood District Council by the end of the 28th April 2015 which raises objections or material planning considerations not previously considered in the report, then a further report would be presented to committee. It is intended that the materiality of any planning considerations raised would be discussed with Chairman and Vice-Chairman in deciding whether the application needs to be reported back to Committee.
23. Oxton Parish Council: Views will be orally reported if received. The 21 day period for a planning consultation response from Oxton Parish Council expires on the 28th April 2015. In the event that a consultation response is received from Oxton Parish Council by the end of the 28th April 2015 which raises objections or material planning considerations not previously considered in the report, then a further report would be presented to committee. It is intended that the materiality of any planning considerations raised would be discussed with Chairman and Vice-Chairman in deciding whether the application needs to be reported back to Committee.

24. NCC (Highways): *This proposal is to address the issue that the facility currently exceeds the 30,000 tonnes per annum maximum processing figure imposed by condition 6 of planning permission 3/14/00348/CMA, and recommend this figure be amended to 55,000 tonnes per annum. The information submitted indicates that the facility has been operating at an increased level for a number of years, rising steadily over the past 5 years. Once operating at 55,000 tonnes per annum the facility is expected to attract up to an average of approx. 34 vehicle deliveries per day during peak months. Due to the location of the site, subject to the transportation of the compost product being carried out at off-peak hours (i.e. not between 0700-0900hrs and 1600-1800hrs) to protect the free flow of traffic along the A614, there are no highway objections.*
25. Environment Agency: *Raise no objections.*

Publicity

26. The planning application has been publicised as a departure to the development plan by the posting of a site notice and the publication of a press notice within the Nottingham Post. Residents/tenants of the Grange Farm complex have been notified of the application by letter. The publicity has been undertaken in accordance with the County Council's adopted Statement of Community Involvement. No representations have been received.
27. Councillor Roger Jackson has been notified of the planning application.

Observations

28. Composting of green waste is acknowledged as representing the most sustainable treatment option for managing this waste stream in the context of the waste hierarchy. The process ensures that the green waste is diverted from landfill disposal and processed into compost material which is beneficially used within agriculture/horticulture thus preventing the need to excavate natural peat and minimise the use of man-made fertilisers. The process therefore is fully compliant with the waste hierarchy and the Nottinghamshire and Nottingham Waste Core Strategy (WCS) Policy WCS3 which promotes the delivery of sustainable waste management by prioritising the development of new or extended recycling, composting and anaerobic digestion facilities. The development of these facilities assists the County in meeting its target of recycling/composting 70% of all waste by the year 2025.
29. The Grange Farm site provides an important green waste composting facility which is responsible for the management of most of the municipal green waste collected within the Nottinghamshire and the City of Nottingham administrative areas. The applicant's supporting statement identifies that over the last six years the Grange Farm site has consistently exceeded its permitted 30,000 tonne per year limit. The matter is now being formally addressed following the change in ownership of the site. The new owner of the site states that despite these elevated levels of operation the site has operated with no issues.
30. WCS Policy WCS8 encourages the extension of existing waste management facilities where the expansion would improve existing waste management methods, and/or reduce existing environmental impacts. The expansion of the capacity of the Grange Farm site would be compliant with these objectives by

providing/regularising additional capacity at the site to manage locally produced green waste, thereby assisting with its diversion from landfill disposal.

31. Development within the Green Belt
32. The Newark and Sherwood Allocations & Development Management Development Plan Document identifies land use designations within the Newark and Sherwood District. The Grange Farm site is located within a countryside location on land designated as Green Belt.
33. Spatial Policy 4B.of the Newark and Sherwood Core Strategy incorporates Green Belt policy for the district. This policy requires that all developments within the Green Belt should be judged according to national Green Belt policy.
34. National Green Belt policy is incorporated within the National Planning Policy Framework (NPPF). Paragraph 90 of the NPPF incorporates a list of developments that are considered as being appropriate within a Green Belt, subject to them preserving the openness. The operation and expansion of green waste composting facilities are not identified within this list and therefore the development must be considered as inappropriate development within the Green Belt. NPPF paragraph 87 states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*.
35. The National Planning Policy for Waste (NPPW) provides further guidance relating to waste development within the Green Belt within paragraph 6 which identifies that

'Green Belts have special protection in respect to development. In preparing Local Plans, waste planning authorities, including by working collaboratively with other planning authorities, should first look for suitable sites and areas outside the Green Belt for waste management facilities that, if located in the Green Belt, would be inappropriate development. Local planning authorities should recognise the particular locational needs of some types of waste management facilities when preparing their Local Plan.'
36. The County Council's Waste Core Strategy, Policy WCS4 confirms that within the Green Belt proposals for built waste management facilities constitute inappropriate development and will only be permitted where need and other material considerations amount to very special circumstances sufficient to outweigh harm to the Green Belt and any other harm identified. WCS Policy WCS7 (General Site Criteria) provides support for the green waste/composting facilities within Green Belt locations where very special circumstances can be demonstrated. There are a number of considerations which are relevant to the assessment of whether there are 'special circumstances' to justify granting planning permission for this development within the Green Belt. These are considered below:
 - Location Needs: Open air composting operations generate atmospheric odour and bio-aerosol emissions which have potential to cause annoyance and health effects through long term exposure. To safeguard against potential impacts the Environment Agency have adopted a precautionary 250m stand-off distance between composting facilities and human receptors (residential or commercial) to allow for dispersal of emissions. This stand-off distance means that it is practically impossible

to locate open windrow facilities in built up areas due to the higher density of development and rural locations are therefore favoured where the necessary stand-off distance can be provided. Planning policy within Nottinghamshire designates the rural areas surrounding the Nottingham conurbation as Green Belt. It is therefore almost inevitable that any green waste composting facility which is in reasonably close proximity to waste arisings in the Nottingham area would be sited on Green Belt land. If Green Belt policy was rigidly applied to the development of all green waste composting facilities it could effectively prohibit the development of this preferred waste management practice for the management of green waste within close proximity to the centre of waste arisings, an approach which would be contrary to the waste hierarchy and WCS Policies WCS1 and WCS3. It is therefore concluded that open air windrow composting developments do have particular locational needs which lend support to them being located within Green Belt locations.

- No additional buildings or structures: The additional inputs to the site would be processed using the existing site infrastructure and would not necessitate any physical extension to the operating area of the site, nor any new buildings or machinery used at the site. Additional impacts to the open character of the Green Belt as a result of permitting an enlargement to the sites operational capacity would therefore be negligible subject to the existing site controls relating to storage locations and heights being brought forward into any new planning permission.
- Protecting the wider setting of the Green Belt: By maximising the operating capacity of the existing infrastructure at the Grange Farm site, the potential requirement for new or extended facilities in other locations occupying Green Belt or open countryside site that would almost certainly would have greater impact is reduced.
- Benefits to agricultural production: The increased operating capacity of the site would complement the agricultural production of the surrounding farmland by producing an increased volume of composted green waste that would be used as a soil conditioner on nearby agricultural land improving soil quality and agricultural production. The facility therefore represents a quasi-agricultural use which is not out of keeping with the predominant agricultural character of the surrounding area.
- Demonstration of ability to operate at a higher capacity: The facility has operated at a higher level of processing than permitted within the planning permission for a number of years with no issues identified during this time, demonstrating an ability to process higher tonnage without detriment to the Green Belt or environmental quality.

37. Whilst recognising that national policy in respect of the Green Belt defines the development as 'inappropriate', WCS Policy WCS 7 provides a level of support for locating green waste composting facilities within Green Belt locations where very special circumstances are identified. The applicant has demonstrated that the development has a particular locational need to be sited at Oxton, it would provide environmental benefits and the increased operating capacity would have a negligible effect on the Green Belt, particularly its open character. Overall it is concluded that the benefits derived from the development outweigh any harm due to the inappropriateness of the development in the context of Green Belt Policy.

Traffic and Transportation

38. The site has been operating at a level exceeding the permitted 30,000tpa limit specified in the planning permission for at least the past 6 years. Based upon the inputs recorded over 2013 and 2014 the HGV movements during the busiest period of the year (typically March to October) can be broken down as shown in the table below. The table also shows the level of predicted traffic during these periods if the site operated at the full 55,000tpa capacity that is requested within this planning application. Outside the busiest period (November to February) the inputs drop significantly to a level less than half that recorded during the busiest month.

	Mar	Apr	May	June	July	Aug	Sept	Oct
2013 Average HGV Movements per day	10	19	24	28	28	22	22	19
2014 Average HGV movements per day.	13	25	28	30	27	22	27	22
Calculated HGV movements based on 55,000tpa operational level.	15	29	32	34	31	25	31	25

39. The site also generates vehicle movements associated with the export of processed compost off the site. These movements are less seasonal than the imports, averaging between 3 and 11 movements per day throughout the calendar year using a combination of tractors and bulk lorries. Controls are currently in place within the existing planning permission which restricts the movement of tractors and trailers along the Old Rufford Road (A614) at peak periods (between 0700hrs – 0900hrs and 1600hrs – 1800hrs Monday – Friday) so as to ensure potential tractor movements do not affect the free flow of traffic on this road. These controls can be brought forward into any new planning permission.
40. The Grange Farm composting facility benefits from being sited comparatively close to the source of the major green waste arisings originating from the Greater Nottingham conurbation. The additional capacity of the site provided by this development would assist with minimising the distances that this green waste is transported which is compliant with WCS Policy WCS11: Sustainable

Transport. NCC's Highways Officer is satisfied that the access arrangements for the site are adequate to serve the additional vehicle movements associated with this development.

Consideration of other Environmental Effects

41. Except for the increased traffic flows, an increase to the operational capacity of the site would not result in any significant change to the processes undertaken at the site or the environmental emissions from these processes over and above existing consented levels.
42. The existing environmental controls which are regulated by the planning conditions are considered appropriate to control the operation of the site. This conclusion is supported by the fact that the site has now operated for in excess of ten years without generating complaint from the local community in terms of its environmental effects.

Conclusions

43. The Grange Farm site provides a valuable green waste processing facility for the Greater Nottingham area using this waste material to produce quality compost that adds benefit to the local agricultural land. The extension to the processing capacity would not result in any significant change to the local environment and the additional haulage associated with the development can safely be accommodated on the public highway.
44. Whilst substantial weight should be given to the fact that the development represents inappropriate development within the Green Belt which, by definition is harmful, the development actually has a negligible effect to the environmental quality of the Green Belt. Very special circumstances have been demonstrated to support a grant of planning permission and ensure that the benefits derived from the development outweigh any harm to Green Belt. It is therefore recommended that planning permission be granted for the development.

Other Options Considered

45. 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

46. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.
47. There are no service user implications, financial implications, equalities implications, safeguarding of children implications or implications to human resources. The bulky and low value character of compost storage means that the use of land as proposed raises no crime and disorder issues. The

development would have benefit in terms of sustainability and the environment by providing additional waste processing capacity to enable green waste to be processed into compost rather than disposed to landfill.

48. 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)/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.

Statement of Positive and Proactive Engagement

49. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

50. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1 and for the Group Manager Planning to issue the planning permission subject to no representations being received before the end of 28th April 2015 from either Newark and Sherwood District Council or Oxtun Parish Council which raise objections or material planning considerations not previously considered in the report. It is FURTHER RECOMMENDED that the Group Manager Planning shall determine in consultation with the Chairman and Vice-Chairman the materiality of any planning considerations raised by either Newark and Sherwood District Council or Oxtun Parish Council before the end of 28th April 2015 but post Committee and whether the conditions as set out in Appendix 1 should and can be appropriately amended to meet those new material planning considerations or whether the application will be reported back to Committee for further consideration. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

Planning & Licensing Committee is the appropriate body to consider the content of this report. [DWK 15/04/2015]

Comments of the Service Director - Finance

There are no specific financial implications arising directly from this report. [SES 10.04.15]

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Farnsfield and Lowdham - Councillor Roger Jackson.

Report Author/Case Officer

Mike Hankin

0115 9932582

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

RECOMMENDED PLANNING CONDITIONS

Commencement

1. The development hereby permitted shall be begun within 3 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 Waste Planning Authority (WPA) shall be notified in writing of the date of commencement of this planning permission at least 7 days, but not more than 14 days, prior to the commencement of the development.

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

Approved Plans

3. This planning permission is for the continued operation of the Grange Farm, Oxtou Composting Facility subject to a variation approved under Section 73 of the Town and Country Planning Act 1990 to permit an increase in the annual operating capacity of the site to 55,000 tonnes from the area outlined in red on the 'Promap' drawing, received by the WPA on the 24th February 2015.

Reason For the avoidance of doubt and to define the permission hereby permitted.

Acceptable materials

4. Only green waste shall be composted on the site. Green waste is defined as grass, tree, hedge clippings and other types of organic plant matter originating from private gardens, local authority parks and commercial landscape works. The green waste shall not include food products and food wastes. Any non-conforming wastes shall be deposited in a skip/refuse container and removed from the site within 7 days of its receipt.

Reason To ensure satisfactory operation of the site in accordance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

Landscaping

5. The landscape bund detailed on Drawing No. CE/OXTN/19: Cross Section of Screening Bund shall be retained at all times during the operational life of the site in a weed free condition.

Reason In the interest of visual amenity and to ensure compliance with Policy W3.4 of the Nottinghamshire and Nottingham Waste Local Plan.

6. The landscape planting of the screen bund detailed on Drawing Nos. CE/OXTN/20 & CE/OXTN/19 as approved by the WPA on the 18th December 2006 shall be retained throughout the operational life of the site.

Reason: In the interest of visual amenity and to ensure compliance with Policy W3.4 of the Nottinghamshire and Nottingham Waste Local Plan.

Provision of Disposal Skips on site.

7. A 35 cubic yard skip shall be provided at all times in the location shown on drawing number CE/OXTN/16. The skip shall be used for the disposal of non-conforming wastes. The skip shall be emptied by the operator at least once every week to ensure that odour nuisance does not occur.

Reason To minimise potential odour releases from non-compliant waste stored at the site and to ensure compliance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

Highways and Access

8. Measures shall be employed to prevent the deposit of mud, clay and other deleterious materials upon the public highway. These measures shall include the sweeping and cleaning of the access, internal haul roads and storage areas. In the event that these measures prove inadequate, then within 2 weeks of a written request by the WPA 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 WPA for its approval in writing. The approved steps for the protection of the surrounding roads shall be implemented within 7 days of that approval and thereafter maintained at all times.

Reason To minimise dust and other deleterious materials entering the public highway in accordance with Policy W3.10 of the Nottinghamshire and Nottingham Waste Local Plan.

9. Waste material shall only enter the site from the A6097 utilising the existing farm access, as shown on Drawing No. CE/OXTN/12 - Oxtun Composting Site, Planning Application Area.

Reason In the interest of highway safety, in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.

10. The loads of all vehicles transporting waste to the site shall be fully covered by sheeting.

Reason To minimise litter arising from the transport of material in accordance with Policy W3.8 of the Nottinghamshire and Nottingham Waste Local Plan.

Site Drainage and Surfacing

11. The surfacing and drainage of the site shall be maintained in accordance with the details shown on Drawings CE-OX-0455-DW01 and CE/OXTN/16 received by the WPA on the 20th December 2005. Within three months of the date of this planning permission further engineering works to deepen the swale and higher the berm in the southern berm/swale feature adjacent to the extended northern storage area shall be carried out. The site drainage and flood risk mitigation measures shall thereafter be maintained throughout the operational life of the site.

Reason To provide satisfactory site drainage and to ensure compliance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.

12. The surface of the operating pad shall be maintained to provide free drainage of surface water to the underground collection system. In the event that damage or rutting of the surface of the operating pad occurs which results in surface water ponding leading to impaired drainage then the surface shall be repaired immediately.

Reason To provide satisfactory site drainage and to ensure compliance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.

Noise

13. All plant, machinery and vehicles operating within the site shall incorporate noise abatement measures and be fitted with silencers maintained in accordance with the manufacturers' recommendations and specifications to minimise any disturbance at all times.

Reason To minimise disturbance from noise in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

Hours of Operation

14. Except in emergencies to maintain safety at the site (which shall be notified to the WPA within 48 hours of their occurrence), site operations and deliveries shall only take place within the time periods specified below: Operation

Operation	Monday to Friday	Saturday	Sunday	Bank and Public Holidays
Operation of plant and machinery in connection with composting operations (excluding the screening of finished product)	0700 – 1800 hours	0700 - 1300 hours	Not at all	Not at all
Operation of plant and machinery in connection with screening of finished product)	0500 – 2000 hours	0700 - 1900 hours	0700 - 1900 hours	0700 - 1900 hours
Waste deliveries into the site and movement of finished compost from the site which does not require transport by tractor and trailer along the A614	0500 - 2000 hours	0700 - 1900 hours	0700 - 1900 hours	0700 - 1900 hours
Movement of finished compost off the site by tractor and trailer which requires transport along the A614 public highway	0500 – 0700 hours, 0900 – 1600 hours & 1800 - 2000 hours	0700 - 1900 hours	0700 - 1900 hours	0700 - 1900 hours

Reason To minimise the risk of noise pollution in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan and to protect the free flow of traffic along the A614 at peak periods in compliance with the requirements of Nottinghamshire and Nottingham Waste Local Plan Policy W3.15 & Newark and Sherwood Core Strategy Spatial Policy 7.

Operational Controls

15. No more than 55,000 tonnes of waste shall be imported to the site (as outlined in red on the Oxtun Composting Site Plan (labelled Promap) received by the WPA on 24th February 2015) in any one calendar year. Records shall be kept by the operator of all imports of waste to the site, which shall be made available to the WPA within seven days of a request.

Reason: To ensure that vehicle movements are limited to an appropriate level and ensure site activities do not adversely affect the free flow of traffic on surrounding roads in compliance with the

16. Deliveries to the site shall be inspected prior to unloading. All unloading activities shall be supervised by the site operator to ensure that only waste which falls into the categories permitted under Condition 4 are composted. Any loads which fall outside those permitted under Condition 4 shall be rejected and removed off site.

Reason To ensure satisfactory operation of the site in accordance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

17. The height of non-shredded green waste, shredded green waste awaiting placement to windrow, active compost windrows, and stored mature compost awaiting transfer to field stores shall not exceed 5m in height. This material shall only be stored within the operational area of the planning application site, as identified on Drawing No. CE-OX-0455-DW01 – Oxtou Composting Site, Revised Extension Layout received by the WPA on the 2nd February 2012.

Reason To ensure satisfactory operation of the site and minimise visual impacts in site in accordance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.

18. All green waste shall be shredded prior to being composted. The process shall ensure that at least 95% of the shredded material has a surface area less than 100mm by 30mm.

Reason To ensure that the shredded/mulched green waste is suitable for composting, and to ensure compliance with Policy W7.3 of the Nottinghamshire and Nottingham Waste Local Plan.

19. The compost windrows shall be monitored at least twice per week. Written records shall be maintained of each inspection which shall provide the following information:

- a. The date the compost windrow was constructed.
- b. The approximate dimensions of the compost windrow upon formation.
- c. The dates on which the compost windrow is turned.
- d. The temperature of the compost heap.
- e. An assessment of the moisture content of the windrow including dates when additional water is added to the windrow.
- f. The date when the active composting process ceases and the windrow is transferred to the compost storage area.
- g. The date when compost is transferred to agricultural land for storage/spreading including quantities.

Reason To ensure that the shredded/mulched green waste is suitable for composting, and to ensure compliance with Policy W7.3 of the Nottinghamshire and Nottingham Waste Local Plan.

20. Upon written request, the operator shall make available to the WPA a copy of the monitoring records for inspection within 3 days of such a request.

Reason To ensure satisfactory green waste management in accordance with Policy W7.3 of the Nottinghamshire and Nottingham Waste Local Plan.

21. All green waste shall be composted on the concrete processing pad as identified on Drawing No. CE-OX-0455-DW01 for a minimum period of 6 weeks.

Reason To ensure satisfactory green waste management in accordance with Policy W7.3 of the Nottinghamshire and Nottingham Waste Local Plan.

22. The extended storage area to the north of the main processing pad as identified in red on drawing no. OX-OLA-PPV – 01/14: Composting site vehicle access/egress tracking shall only be used for the storage of processed compost which has achieved PAS100 certification. No green waste processing activities shall be undertaken from this part of the site.

Reason: The storage area does not incorporate any hard surfacing or pollution control drainage systems and is not suitable for the storage and processing of potentially contaminated waste materials. These measures ensure satisfactory pollution control in accordance with the requirements of Nottinghamshire and Nottingham Waste Local Plan Policy W3.6.

23. Organic manure shall not be applied to any field at a rate which would result in the total nitrogen supplied in the manure exceeding 250kg/ha in any rolling 12 month period. A written record incorporating details of the location, time, date and application rate of mature compost, including chemical analysis of the levels of nitrogen per tonne of compost shall be maintained by the operator, copies of which shall be made available to the WPA within 3 days of a written request.

Reason To ensure satisfactory green waste management in accordance with Policy W7.3 of the Nottinghamshire and Nottingham Waste Local Plan.

24. In the event that the WPA receive a justified complaint regarding adverse environmental impacts arising from the storage of mature compost within a 'field store' then within 14 days of a written request by the WPA the operator shall relocate, remove or spread the offending field store. The applicant shall

thereafter ensure that mature compost is not field stored within the offending location at all times in the future.

Reason To minimise potential adverse impact to the amenity of residential property in accordance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan

25. No materials may be burned or otherwise incinerated on the site. Any fire occurring shall be regarded as an emergency and immediate action taken to extinguish it.

Reason To ensure satisfactory operation of the site in accordance with Policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

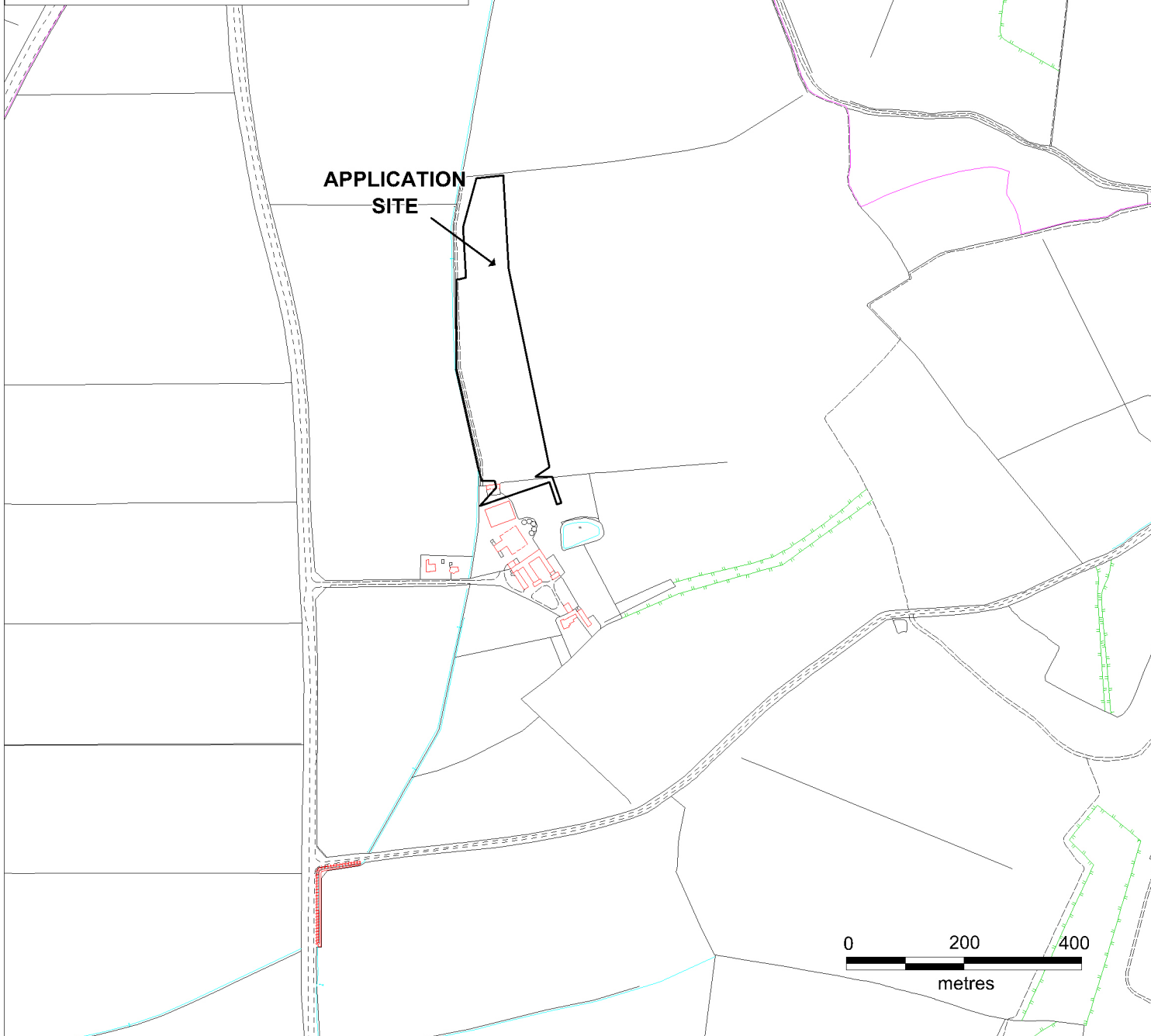
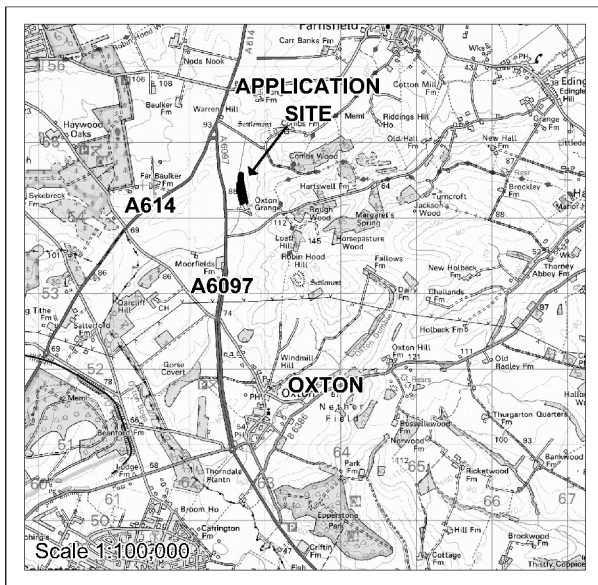
26. There shall be no retail sales of compost, timber or other materials from the application site.

Reason To minimise potential disturbances arising from the operation of the site.

Cessation of working

27. In the event that the use of the site for the importation and composting of green waste should cease for a period in excess of three months, then the operator shall, within two weeks of a written request from the WPA, clear the site of all green waste and partly/fully composted product. In such circumstances, the operator shall also, upon the written request of the WPA, submit a scheme for the restoration of the site, including the removal of structures associated with the development. The approved restoration scheme shall be implemented within 6 months of the written approval of the WPA.

Reason In the interests of visual amenity and to ensure compliance with Policy NE6 of the Newark and Sherwood Local Plan.



28th April 2015**Agenda Item:9****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****LOCAL ENFORCEMENT PLAN – THE COUNTY COUNCIL’S GUIDE TO MONITORING AND
ENFORCEMENT****Purpose of Report**

1. To seek Members’ endorsement of the Local Enforcement Plan as set out in Annex A to this report.

Background

2. In February 2009 the Council’s Monitoring and Enforcement Policy and Protocol was published. The proposed Local Enforcement Plan represents an update to this document and once adopted will replace it as Council policy. The Local Enforcement Plan sets out what site monitoring and enforcement service that businesses and the public can expect from Nottinghamshire County Council as a Local Planning Authority. The Plan sets out the Council’s approach to dealing with alleged breaches of planning control and secondly, its proactive role in periodic inspection of minerals and waste sites within the County.
3. The Plan has been published in response to the National Planning Policy Framework which states that *“Local planning authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”*.
4. Once adopted the Plan will be available on the County Council’s website.

Key changes and updates

5. The proposed publication of this Plan follows the recommendation of the National Planning Policy Framework which states that Local Planning Authorities should consider publishing a Local Enforcement Plan. The main changes and updates from the Monitoring and Enforcement Policy and Protocol contained within the Local Enforcement Plan are follows:
 - The Planning Policy Guidance on ensuring effective enforcement published by DCLG in March 2014 provided further detail and clarity on

enforcement breaches and the enforcement powers available. These have been incorporated into the proposed Plan.

- Some changes to the enforcement regime have been brought in by the Localism Act 2011 and these came into force in April 2012. This involved a reduction in the options available to challenge enforcement action relating to unauthorised development. Under the new restrictions the Council now have the power to decline retrospective planning applications if an enforcement notice has been issued. The Localism Act also introduced new powers (Planning Enforcement Orders) to tackle breaches of planning control, both unauthorised uses and developments that are deliberately concealed.
- The implications of the Human Rights Act are incorporated into the Plan. In some instances there is clear public interest in taking rapid enforcement action to address serious breaches of planning control; however it is essential that the Council acts proportionately in responding to suspected breaches of planning control.
- In terms of monitoring minerals and waste sites the Local Enforcement Plan contains details of the current level of monitoring fees which are £331 for active sites and £110 for dormant sites. These fees are nationally set and have increased from £288 and £96 respectively. Since 2009 the number of mineral sites within Nottinghamshire which fall within this charging regime have increased from 60 to 82 and the number of waste sites has decreased from 15 to 8.
- The schedule of the monitoring and enforcement legislative and policy framework in the Plan has been updated.

Format

6. Once adopted the Local Enforcement Plan will be retained as a document on the County Council's website available to view and download.

Statutory and Policy Implications

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

Implications for Service Users

8. It is considered that the proposed updated document will assist users by containing more current and accurate information.

Financial Implications

9. There are no direct financial implications arising from the publication of the Local Enforcement Plan. However, to properly carry out the monitoring and enforcement service set out in the Plan this requires the retention of a Monitoring and Enforcement team.

Human Rights Implications

10. The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial), Article 8 (Right to a private and family life) and Article 14 (Prohibition of discrimination) are relevant when considering enforcement action. Planning Practice Guidance advises that there is clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether to take enforcement action Nottinghamshire County Council will, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

RECOMMENDATIONS

11. It is RECOMMENDED that Members endorse the appended Local Enforcement Plan and recommend to Policy Committee that it be adopted as County Council policy and as a formal replacement of the Monitoring and Enforcement Policy and Protocol.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

Planning & Licensing Committee is the appropriate body to consider the content of this report. [DWK 15/04/2015]

Comments of the Service Director - Finance

There are no specific financial implications arising directly from this report. [SES 24.04.15].

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

All

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

LOCAL ENFORCEMENT PLAN

Nottinghamshire County Council's Guide
to Monitoring and Enforcement

Adopted XXXX 2015

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CHAPTER ONE - INTRODUCTION

- 1.1. Nottinghamshire County Council is firmly committed to delivering an effective and proportionate planning control service which is fair and transparent to applicants and the wider community alike. This Local Enforcement Plan has been prepared in accordance with the guidance set out in paragraph 207 of the National Planning Policy Framework which states:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and Local Planning Authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”

- 1.2. The need to produce this Local Enforcement Plan has become necessary following the publication of the National Planning Policy Framework and the associated Planning Practice Guidance, changes brought in by the Localism Act and the need to incorporate implications of the Human Rights Act. As such this Local Enforcement Plan formally replaces the County Council's Monitoring and Enforcement Policy and Protocol which was published in February 2009.
- 1.3. The Local Enforcement Plan sets out what enforcement and site monitoring service that businesses and the public can expect from Nottinghamshire County Council as Local Planning Authority. The Plan sets out the Council's approach to dealing with alleged breaches of planning control and secondly, its proactive role in periodic inspection of minerals and waste sites within the County. The Plan is an electronic document which may be viewed and downloaded from the County Council's website by following the link below:

<http://www.nottinghamshire.gov.uk/thecouncil/democracy/planning/monitoringandenforcement/>

Key points on planning enforcement

2.1 Monitoring and enforcement are key elements of County Council development management. The long-term and potentially intrusive nature of minerals and waste development requires specialist monitoring and control. The County Council has a statutory responsibility for enforcing planning control in the public interest, in order to protect public amenity, and to ensure protection of the environment. There are some key factors relating to enforcement work which are set out below:

- enforcement action is a discretionary power available to the Council and the decision to take formal action must always be well founded. Enforcement powers are only used by the County Council where it is expedient and in the public interest to do so, having regard to the development plan and other material considerations.
- any action taken will be proportionate to the scale of the breach of planning control. The approach will be based upon the specific circumstances of the individual case, taking into account damage or potential damage to the natural or built environment, public amenity and safety.
- enforcement is one of the most complex areas of the planning system and often breaches of planning control can take many months, or even years, to fully resolve.
- notwithstanding regular monitoring by the Council, the public including local groups have a vital role to play in reporting potential problems to us to be investigated further.

Breaches of planning control are not a criminal offence unless the breach relates to works to a listed building, a protected species or involves the failure to comply with a statutory notice.

Human Rights implications of enforcement action

2.2 The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial), Article 8 (Right to a private and family life) and Article 14 (Prohibition of discrimination) are relevant when considering enforcement action. Planning Practice Guidance advises that there is clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether to take enforcement action Nottinghamshire County Council will, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

Possible breaches of planning control

2.3 Planning permission is required for most types of development with certain exceptions. Sometimes work commences without planning permission or is not

carried out in accordance with the conditions of a planning permission. The County Council will investigate all complaints concerning potential breaches of planning control regarding minerals and waste development and those relating to its own developments. Breaches of planning control include the following:

- work undertaken without planning permission,
- an unauthorised change of use of a building or piece of land,
- non-compliance with plans approved by a planning permission,
- non-compliance with conditions attached to a planning permission.

- 2.4 If a breach of planning control is confirmed, the County Council will initially try to resolve the issue by negotiation and informal action with the land owner, developer or other relevant party. Where appropriate, this may include inviting a retrospective planning application. Where a satisfactory outcome cannot be reached through negotiation formal action may be pursued. Paragraphs 2.6 – 2.16 below set out the various enforcement tools available to the Council.

Time limits for taking enforcement action

- 2.5 In certain instances the Council is unable to take any action when too much time has elapsed since the unauthorised work or change of use was carried out. There are two time limits laid down in Section 171B of the Town and Country Planning Act, 1990. These are as follows:

- a four year limit applies to “unauthorised operational development” which includes building works, engineering, mining or other operations and
- a ten year limit applies to all other development, such as a change of use or a breach of condition.

If it can be shown that a breach has continued for the above time period, and no enforcement action has been taken within that time, then the development will be immune from enforcement action. However, in cases relating to “concealment” the Council is able to take action even after the above time limits have expired. This new provision, which came into force in April 2012, was introduced by Section 124 of the Localism Act. Paragraph 2.16 below sets out this provision in more detail.

Enforcement powers

- 2.6 There are a variety of enforcement and regularising powers available to the Council to deal with breaches of planning control under the Town and Country Planning Act 1990. In all instances the most appropriate action will be chosen based upon the specific circumstances of the breach. Enforcement action will be proportionate to the breach of planning control and will only be taken when it is expedient to do so. Where relevant this will involve prior liaison with the Council’s legal advisers. A summary of the main powers are listed below, which are, with the exception of retrospective planning applications, only applicable to minerals and waste activity. For breaches of planning control in respect of the Council’s own development, appropriate action will be taken through internal Council procedures.

- 2.7 **Retrospective Planning Applications** - Unauthorised development can sometimes be made acceptable by the granting of planning permission, usually involving the imposition of planning conditions, where the unauthorised development is in line with the development plan. Where appropriate, the Council may invite a retrospective planning application to regularise the unauthorised work (made under Section 73 A of the Town and Country Planning Act, 1990). The planning process follows the same procedures as a normal planning application and the development is publicised and consulted upon in the standard way. However no prior guarantee can be given that planning permission will be forthcoming. An Enforcement Notice may also be issued in relation to elements of the development. The Localism Act 2011 brought in a reduction in the options available to anyone who has undertaken unauthorised development. Regularising unauthorised development can either be by the submission of a retrospective planning application OR by means of an appeal against an enforcement notice on the grounds that planning permission ought to have been granted or the condition or limitation concerned ought to be discharged (known as a ground (a) appeal). Under the new provisions the Council now has the power to decline to determine a retrospective application if an enforcement notice has been issued. Subsection 123(4) of the Localism Act 2011 limits the right of appeal against an enforcement notice after a retrospective application has been submitted, but before the time for making a decision has expired.
- 2.8 **Certificates of Lawfulness of Existing Use or Development** - Where development has taken place without planning permission Section 191 of the Town and Country Planning Act, 1990 allows for the issuing of a Lawful Development Certificate if certain conditions can be met. This enables the owner to obtain a statutory document confirming that the use, activity or other development is lawful for planning control purposes at that particular time. The issue of the certificate depends entirely on factual evidence about the activities which have taken place on the land, the planning status of the site and on the interpretation of relevant planning law. Whether the use is acceptable in planning terms is irrelevant - what is important is the factual evidence. There are factors which must be satisfied for such certificates to be issued in terms of the length of time a use or development has existed uninterrupted. The onus is on the applicant to provide evidence to support any application.
- 2.9 **Planning Contravention Notice (PCN)** - Service of this notice under Section 171C of the Town and Country Planning Act 1990 does not constitute formal enforcement action but is used where the Council suspects that a breach of planning control may have occurred. This notice enables the Council to obtain relevant information relating to any use of, or activities being carried out on, land and other relevant facts to ascertain whether a breach of planning control has occurred, and if so, whether enforcement action is appropriate. Failure to complete or return a notice within 21 days is an offence, as is providing false or misleading information on the notice.
- 2.10 **Breach of Condition Notice (BCN)** – A breach of condition notice served under Section 187A of the Town and Country Planning Act 1990 requires compliance with the terms of one or more planning conditions attached to a planning permission as specified by the notice. It can be served on any party carrying out the development on the land and/or any person having control of the land. The

BCN will set out the necessary steps to ensure compliance with the condition(s) being breached with a minimum of 28 days for compliance. Following the end of the period for compliance a “person responsible” who has not ensured full compliance with the conditions will be in breach of the notice and guilty of an offence under S187A (8) and (9) of the Town and Country Planning Act 1990. Summary prosecution can be brought in the Magistrates’ Court for the offence of contravening a breach of condition notice. This can result in a fine of up to £1,000. There is no right of appeal to the Secretary of State against a BCN, although it can be challenged by applying to the High Court for a judicial review.

2.11 **Enforcement Notice** - Under Section 172 of the Town and Country Planning Act 1990, the County Council has the discretionary power to issue an Enforcement Notice where it appears to the Council:

- that there **has** been a breach of planning control **and**,
- that it is **expedient** to issue the notice having regard to the development plan and other material considerations.

The notice is served on the owner(s) and occupier(s) of the land to which it relates and any other party with an interest in the land which is materially affected by the notice. The notice must specify exactly what, in the Council’s view, constitutes the breach of planning control; and secondly what steps are necessary to remedy the breach of planning control. This may require activities to cease and the land to be restored to its condition before the breach took place. There is a right of appeal to the Secretary of State against an Enforcement Notice. The appellant must submit their appeal to the Planning Inspectorate within 28 days from when it was issued. If an appeal is lodged the terms of the notice are suspended until the appeal is determined. If no appeal is made then the notice takes effect and all the requirements of the notice must be met. It is an offence not to comply with an Enforcement Notice, once the period for compliance has elapsed, and there is no outstanding appeal. The maximum fine on summary conviction in a Magistrates’ Court is £20,000 and on indictment (to the Crown Court) to an unlimited fine. The Council has the powers under Section 178 of the Town and Country Planning Act 1990 to enter enforcement notice land and carry out the requirements of the notice itself (known as Direct Action). It is an offence to wilfully obstruct anyone who is exercising those powers on the Council’s behalf. The Council is able to recover from the owner of the land any expenses reasonably incurred by them in undertaking this work (Regulation 14 Town and Country Planning General Regulations 1992). The Council will consider such action in appropriate cases. The enforcement notice is registered as a local land charge and will therefore be made known to any potential purchaser of the land.

2.12 **Stop Notice** - These are used in the most urgent or serious cases in conjunction with Enforcement Notices where it is considered expedient that an activity must cease before the expiry of the period for compliance specified in the associated enforcement notice. The Council will specify in the Stop Notice when it is to take effect, this is normally no less than 3 days after the service unless special reasons exist for an earlier date. This is usually on grounds of public safety or to prevent serious irreversible harm to the environment. There is no right of appeal against a Stop Notice and it will take effect even if the accompanying

Enforcement Notice is appealed. A person guilty of this offence is liable on summary conviction to a fine of up to £20,000, and on conviction on indictment, to an unlimited fine. An appeal can be made against the accompanying Enforcement Notice and where this is successful the Council may be liable to pay compensation in certain circumstances. Consequently the use of stop notices will always be carefully assessed by the Council.

- 2.13 **Temporary Stop Notices (TSNs)** - This power available to local planning authorities was introduced by the Planning and Compulsory Purchase Act 2004 (inserting sections 171E to 171 H into the Town and Country Planning Act, 1990). These are similar to Stop Notices in that they require the immediate cessation of an activity or use but TSNs do not need to be served in conjunction with an enforcement notice. They take effect immediately they are displayed on a site and last for up to 28 days. This enables the Council to decide on whether further enforcement action is appropriate and also what form it should take. Temporary Stop Notices will prohibit only what is essential to safeguard amenity or public safety, or prevent serious or irreversible harm to the environment. Before serving the Notice, the Council, where practicable, may discuss whether there are alternative means of production or operation which would overcome the objections to it in an environmentally and legally acceptable way. It is an offence to contravene a TSN and any person found guilty is liable on summary conviction to a fine of up to £20,000 and on conviction on indictment, to an unlimited fine. Any person affected by a TSN can make representations to the Council to challenge the notice however there is no right of appeal to the Secretary of State against the prohibitions in a TSN, although the validity of a decision can be judicially reviewed and compensation be payable for financial loss if development is held lawful by granting a Certificate of Lawfulness.
- 2.14 **Injunctions** - Applications can be made by the Council to the High Court or County Court for an injunction to restrain an actual or apprehended breach of planning control where it is expedient to do so. Local Planning Authorities can apply for an injunction whether or not it has exercised any other powers to enforce planning control. However injunctions are generally used as a last resort for the most serious cases where there have been persistent breaches of planning control over a long period and/or other enforcement options have been ineffective. Courts may grant an injunction against a person whose identity is unknown. Failure to comply can lead to unlimited fine or imprisonment. Councils will be required to provide evidence of their inability to ascertain the identity of the person and the steps taken in attempting to do so.
- 2.15 **Prosecution** – The option of pursuing prosecution is open to the Council if a formal notice has not been complied with within a specified period. This involves an evidential test and would need to satisfy a public interest test.
- 2.16 **Planning Enforcement Orders** - The Localism Act 2011 introduced planning enforcement orders (PEOs) to tackle breaches of planning control, both unauthorised uses and development that are deliberately concealed. Planning enforcement orders enable Council's to take enforcement action after the usual time limits for taking enforcement action (as referred to in paragraph 2.5 above) have expired. Councils must have sufficient evidence of the apparent breach to justify applying for a PEO which must be made within 6 months of becoming

aware of the breach. The application for a PEO must be made to a Magistrates' Court and a copy served on the owner and occupier of the land and anyone with an interest who would be materially affected by the enforcement action. The applicant and those affected have the right to appear before and be heard by the court. The effect of the PEO is that the Council can take enforcement action during the "enforcement year" which does not begin until the end of 22 days starting with the day of the Court's decision to make the Order or when an appeal against the order has been dismissed. Planning Enforcement Orders will focus on the worst cases of concealment and can only be made where the developer has deliberately concealed the unauthorised development rather than merely refraining from informing the Council about it.

Monitoring and Enforcement Team

- 2.17 The Monitoring and Enforcement Team form part of the Development Management Team within the Planning Group. Currently the Team comprises the Senior Practitioner -Monitoring and Enforcement, together with two Monitoring and Enforcement Officers. Their work involves regular liaison with internal and external legal advisers. The staff and financial resources allocated to the monitoring and enforcement work of the County Council is periodically reviewed to ensure that the resources are commensurate with the duties undertaken.

CHAPTER THREE - MONITORING

- 3.1 The County Council has responsibility for monitoring minerals and waste sites and the County's own developments. Monitoring is undertaken for two reasons firstly, to ensure compliance with the terms of planning permissions including conditions and legal agreements and secondly, to ensure that unauthorised developments are regularised or removed.
- 3.2 Regular monitoring is an essential tool for controlling development and activity. This proactive approach enables the Council to anticipate and resolve breaches of planning control often before they occur. It is through effective monitoring that the public's perception of the quality of development is often established.
- 3.3 Planning permissions for minerals and waste sites and for some of the larger County Council developments are often complex, sometimes with many conditions and legal agreements attached. These may require the submission of further details, e.g. schemes to be agreed, phasing details, landscaping schemes or compliance with time limits or other requirements. The responsibility for submitting details and complying with time limits required by the permission lies with the applicant and / or the site operator. However, the County Council will, wherever possible, remind applicants of the need to submit details required by a planning permission or the need to renew a temporary permission. For the larger minerals and waste sites, which are often subject to several separate planning permissions, this can be achieved by Site Audits where the terms of relevant planning permissions and associated legal agreements are regularly reviewed with the applicant/operator.

Liaison

- 3.4 Where appropriate, liaison with other bodies such as District Councils or the Environment Agency will take place to co-ordinate monitoring arrangements and share data where appropriate.

Monitoring Programme

- 3.5 Once planning permission has been granted systems are put in place to ensure adequate monitoring of the decision. The nature of minerals and waste development requires specialist monitoring often over a considerable period of time. However, these sites operate at a high level of activity at certain times; whilst at other times are active only intermittently.
- 3.6 The monitoring programmes need to be based upon a number of factors including the level of activity, the stage the development has reached and the nature of the operations involved. All new sites are entered into a database with appropriate monitoring files established.

Fee Regime

- 3.7 Since April 2006 Minerals and Waste Planning Authorities (MWPA) have been able to recover costs incurred in the routine monitoring of minerals and landfill sites under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013. This does not apply to other forms of waste management such as recycling

plants or composting sites. The liability to pay the fee is the responsibility of the primary operator (or split on joint / multi operator sites); in default this would rest with the freehold landowner.

- 3.8 The period over which the fees must be paid covers the full duration of the planning permission from implementation through to final completion of aftercare. At present the national fee set by Government is £331.00 per inspection for active/partially active sites and £110.00 for dormant sites.

- 3.9 The number of sites falling within this regime in Nottinghamshire as at March 2015 is as follows:

- 82 minerals sites
- 8 waste sites
- 8 combined minerals and waste sites
- 1 inactive sites
- 11 dormant sites (none fee paying)

The County Council will continue to monitor all relevant sites, irrespective of whether they are able to recover the cost of monitoring, to ensure compliance with the terms of planning permissions and encourage good practice.

Frequency of inspection

- 3.10 The decision on the appropriate number of inspections for each site rests with the MWPA, although Government guidance restricts inspections to a maximum of eight in any charging year and suggests an average of four per year for an active site.
- 3.11 Visits made in response to a complaint are outside the agreed number of visits and are not chargeable, even if the complaint is substantiated. However, in these circumstances it is likely that an increased frequency of monitoring will be needed in the subsequent year to more closely review the problem area(s).
- 3.12 The mechanism for overcoming a disagreement between the Council and the operator regarding visit frequency is through the Council's complaint procedure and ultimately the Local Government Ombudsman.

Criteria for determining frequency of monitoring visits

- 3.13 The County Council decides the monitoring site visit frequency on a site specific basis, taking into account the following factors: type of site, size, number and complexity of conditions, number of conditions requiring monitoring, stage of development, progressive nature of working, breaches of planning control observed, complaints received and previous history.
- 3.14 A generic set of criteria has been adopted by the Council to determine the site visit frequency. This is set out in Appendix 2. The criteria have been established to reflect guidance that on average a site should expect four chargeable visits per year, with scope to revise this figure in the light of improved / worsened performance and changes in the circumstances regarding the site type or phase of the development.

- 3.15 Provision is also made for unannounced inspections within these in order to retain scope for unscheduled reviews of operations thereby addressing a concern sometimes raised that operations observed on scheduled visits are often unrepresentative of routine day to day operations.

Rights of entry

- 3.16 Generally access to sites will be part of the established monitoring routine. Monitoring staff will have regard to health and safety requirements, and operators are encouraged to nominate a representative who can act as the main point of contact. However, because of the nature of enforcement work it will often not be prudent or possible to give advance notice of the intention to visit a site.
- 3.17 Authorised officers have a statutory right of entry for enforcement purposes¹. This right is limited to what is regarded as reasonable, in the particular circumstances for effective enforcement of planning control. The legislation specifies the purposes for which entry to land may be authorised. They are:
- to ascertain whether there is, or has been, any breach of planning control on the land, or on any other land;
 - to determine, whether any of the LPA's enforcement powers should be exercised in relation to the land, or any other land;
 - to determine how any such power should be exercised; and
 - to ascertain whether there has been compliance with any requirement arising from earlier enforcement action in relation to the land, or any other land.

(The inclusion of the words "any other land" means that, if necessary, neighbouring land can be entered, whether or not it is owned or occupied by the person whose land is being investigated).

Legal Requirements

- 3.18 Officers visiting sites will carry their identity cards with them at all times and, where relevant, will produce evidence of authorisation and state the purpose of the visit before entering the land.
- 3.19 When visiting sites for enforcement purposes, officers will seek the cooperation of the owner or occupier. If entry to a site is denied, subsequent visits may involve the assistance of the Police to accompany members of staff. Refusal to allow entry can be regarded as "wilful obstruction" and the owner/occupier could be prosecuted under Section 196C of the Town and Country Planning Act 1990.
- 3.20 The County Council will follow relevant legislation in relation to gathering of evidence² and how investigations leading to potential prosecutions are structured³.

¹ Sections 196A, 196B and 196C of the Town and Country Planning Act 1990 as amended. ² Police and Criminal Evidence Act, 1984 (and subsequent amendments). ³ Criminal Procedure and Investigations Act, 1996.

CHAPTER FOUR - COMPLAINTS

- 4.1 Minerals and waste activity can be seen as harmful to amenity, destructive to the environment or as a nuisance. Both new and ongoing development can give rise to complaints. It is the responsibility of the County Council to deal with complaints relating to alleged breaches of planning control on minerals and waste sites and for those relating to the County's own developments.
- 4.2 Complaints may arise in a number of ways. They may be reported directly to the County Council either by telephone, in writing or on-line. When a complaint is made by telephone as much information regarding the alleged breach should be supplied, together with complainant's contact details. An Enforcement Complaint Form (see Appendix 1) will be completed and retained by the Monitoring and Enforcement Team. Alleged breaches may also be reported by submitting the on-line complaints form which may be found on the Monitoring and Enforcement page of the County Council website at www.nottinghamshire.gov.uk.
- 4.3 Complaints are sometimes made to other agencies such as District Councils, Parish Councils and the Environment Agency. It is important that close liaison is maintained with such outside bodies to ensure that the correct organisation can follow up the complaint with the appropriate action.

Complaints Procedure

- 4.4 Complaints about alleged breaches of planning control referred to the Team will be dealt with in accordance with the following procedures:
- All complaints will be entered onto the Monitoring and Enforcement Team's Complaints Register.
 - The identity of complainants will be kept confidential (in the event of legal proceedings complainants may be asked to appear in court as witnesses).
 - All complaints will be acknowledged within 3 working days informing the complainant of the case officer dealing with the complaint.
 - The site operators or owners (where known) will, where appropriate, be advised of the nature of the complaint within 3 working days* of the complaint being received.
 - Where appropriate, an initial investigation will be undertaken within 3 working days* of the complaint being received.
 - The complainant will receive a written response within 15 working days* of the complaint being made, confirming the outcome of the investigation and any action the Council proposes to take. If no action is proposed the reasons will be explained.

- Where a breach of planning control is established the person responsible for the breach will be informed and notified what action should be taken to correct it. A time limit will be given and the consequences of not taking the appropriate action will be explained.
- Where there is no breach of planning control but the complaint is nevertheless considered a problem, the Council will seek the co-operation of the operator in solving or mitigating the effect of the problem.
- Liaison with other agencies, e.g. Environment Agency, District Councils etc will take place where the nature of the complaint may be relevant to them.

**These targets are internal performance indicators against which the Development Management Service is measured on a quarterly basis*

Local Liaison Committees

- 4.5 For large sites or those operating over a long period of time, arrangements are often made for the establishment of a Local Liaison Committee. These Committees meet regularly to discuss any issues or problems as they arise. This practice is encouraged as it provides a forum where representatives of the County Council, Parish Council, site operatives, other regulatory bodies, elected members and members of the local community can discuss issues which concern them. Whilst some matters can be resolved through these Committees or by local people dealing directly with an on-site contractor, some complaints need to be referred to the Monitoring and Enforcement Team to investigate further.

Corporate Complaints

- 4.6 The County Council has a corporate complaints procedure. Anyone dissatisfied with the way in which the Council has handled any matters relating to monitoring or enforcement can pursue a complaint through this procedure. Complaints may be made on-line, by Freephone, in writing or in person. Further details can be found on the County Council website at www.nottinghamshire.gov.uk

5 CHAPTER FIVE - ENFORCEMENT PROCEDURES

- 5.1 Enforcement action will be taken in accordance with the following procedures.
- 5.2 Once sufficient information regarding an alleged or actual breach of planning control is available the site operator and land owner will be sent a letter setting out the County Council's concerns. The letter may contain a request to cease the unauthorised activity or remedy the breach by a particular deadline.

Planning Contravention Notices

- 5.3 The letter may be accompanied by the service of a Planning Contravention Notice⁴ which may only be served when it appears to the LPA that a breach of planning control may have occurred. The service of PCNs does not constitute formal enforcement action and are used to determine site ownership or other relevant information relating to the alleged breach of planning control⁵. Failure to comply with a PCN within 21 days or the supply of false information is a summary offence.
- 5.4 Details of the PCN are entered onto the Monitoring and Enforcement database and a copy of the notice entered onto the Planning Contravention Notice Register.
- 5.5 Where appropriate, a Land Registry search of the land and/or a Company search will be carried out in order to ascertain whether the site is registered land and to obtain ownership details.
- 5.6 Within 5 working days of the expiry of the deadline or upon receipt of a written explanation from the site operator or land owner, a decision will be made on the appropriate action to be taken. This decision may be taken following consultation with Legal Services.
- 5.7 If no further action is warranted a written note of explanation will be placed on the file, and the site operator and/or land owner notified in writing.

Referral to other bodies

- 5.8 If other authorities, such as the district council, or agencies such as the Environment Agency, are responsible for further action, the site operator and/or the land owner will be notified within ten working days of the deadline that the County Council has passed on all relevant information to the appropriate body.

Regularising planning applications

- 5.9 If it is considered appropriate for a planning application to be sought to regularise any breach the site operator / landowner will be informed within ten working days of the deadline.

⁴ PCN's are served under Sections 171C and 171D of the Town and Country Planning Act 1990, as amended. ⁵ Other legislation is also sometimes used to obtain information including Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976 as subsequently amended / extended and Section 330 of the Town and Country Planning Act, 1990.

- 5.10 If the breach continues and no satisfactory agreement can be reached with the site operator and landowner on an acceptable course of action, following consultation with Legal Services they will be notified in writing that formal proceedings are being instigated. Chapter 2 sets out the enforcement tools available to the County Council and the most appropriate course of action will be chosen based on the particular circumstances of the breach of planning control.

Service of notices

- 5.11 If it is considered expedient to do so an Enforcement Notice, Breach of Condition Notice or, in more serious cases, a Stop Notice (or Temporary Stop Notice) will be served on all relevant landowners, occupiers or any other parties having an interest in the land to remedy a breach of planning control. The appropriate notice will be served following consultation with Legal Services.
- 5.12 The notice will identify the land; specify the nature of the breach, the steps necessary to remedy the breach and the timescale for compliance. It is essential that all information on the notice is correct to ensure the notice is validly issued and that it can be defended if appealed.
- 5.13 All notices will be signed by an appropriated authorised officer.

Member notification

- 5.14 Following the service of a notice the Chairman and Vice-Chairman of Planning and Licensing Committee and the Divisional Member(s) will be notified in writing within 3 working days of the service of the notices.

Planning Register

- 5.15 Within five working days of service a copy of the relevant notice will be sent to the relevant District Council with a request that the notice be entered on the Planning Register and Land Charges Register. District Councils have a statutory duty to place all notices on the Planning Register and declare such details in subsequent search enquiries.

Appeals

- 5.16 Anyone served with an Enforcement Notice has 28 days to lodge an appeal with the Planning Inspectorate before the date on which the Enforcement Notice takes effect. There must be at least 28 days between the date that the notice is issued and the date that it takes effect. (There is no right of appeal against Breach of Condition Notices, Stop Notices or Temporary Stop Notices). Parties served with Enforcement Notices are informed of their rights of appeal and advised of the procedures. In the event that an appeal is lodged, subsequent action will then follow the appeals process.

6 CHAPTER SIX - MEMBER INVOLVEMENT IN MONITORING AND ENFORCEMENT WORK

- 6.1 Under the Council Constitution all enforcement functions are delegated to the Corporate Director, Policy, Planning and Corporate Services and other authorised officers. Notwithstanding this delegation of power, Members will continue to be involved in monitoring and enforcement issues in a number of ways.
- 6.2 Firstly, reports will be presented to Planning and Licensing Committee every six months, plus a more detailed annual update once a year. The reports provide Members with the detail of all monitoring and enforcement work undertaken in the proceeding 6 or 12 months. The following information will be contained within the reports:
- number of site inspections for both County matter and County Council development, including details of the amount of any fees generated by monitoring inspections.
 - number of complaints received and investigated and the extent to which those investigations have met local performance indicators. A breakdown of complaints by District will be provided.
 - number of notices served and other action taken together with the reasons for their service.
 - an update on the current status of all outstanding enforcement cases.
- 6.3 Secondly, outside the above report dates some individual cases will be reported to Committee including those which raise specific enforcement issues or involve breaches of planning control likely to have significant impact. These reports will include the following details:
- breach of control
 - the steps necessary to remedy it
 - the type of action recommended
 - the period for compliance
 - the reasons why it is expedient to take enforcement action
 - request for authority for other appropriate action (e.g. legal action) so as to avoid repeated reports to Committee.
- 6.4 Member endorsement will also be sought for all enforcement action which may give rise to liability to pay compensation, such as the service of Temporary Stop Notices and Stop Notices. The agreement of the Chairman and Vice Chairman of Planning and Licensing Committee will be sought prior to the service of these notices.

CHAPTER SEVEN - INVOLVEMENT OF LEGAL SERVICES IN MONITORING AND ENFORCEMENT WORK

7.1 Involvement of legal services occurs in the following ways:

Legal advice

- Informal and formal requests for information or advice will be sought from Legal Services as required.

Notices

7.2 The advice of Legal Services will be sought prior to the service of all notices, except Planning Contravention Notices. Requests for advice will include the following information:

- planning history and investigations to date
- details of the alleged breach
- ownership details
- copies of draft enforcement notices and plans
- a summary of potential grounds of appeal
- an assessment of the Human Rights issues
- a cost benefit analysis (in the event a Stop Notice or Temporary Stop Notice is to be served)
- a review of the authority to serve.

7.3 Once drafted the notice will be signed by an appropriately authorised officer.

Injunctions

7.4 Within requests for advice concerning injunctions the above information will be sent to Legal Services together with necessary witness statements. In these cases the Group Manager- Planning will sign the request.

7.5 Following receipt of the above information Legal Services will be responsible for advising on the suitability of an injunction and for the drafting and service of relevant documents to the courts and other parties. Legal Services will conduct proceedings in Court or be responsible for instructing an outside partner. Officers from the Monitoring and Enforcement Team will give evidence and be cross-examined as required. The Monitoring and Enforcement Team will be responsible for collecting evidence of compliance and advising Legal Services accordingly.

Prosecutions

7.6 In the event of a prosecution, this will be initiated by a memo to Legal Services signed by the Group Manager Planning or in their absence the Team Manager of Development Management. This will include details of the notices, the alleged offence and a review of the potential weaknesses of the case. Legal Services will prepare the case, produce and serve the information and conduct the legal case.

Liaison Meetings

- 7.7 Regular liaison meetings will continue to take place between officers from planning and legal services.

CHAPTER EIGHT - THE MONITORING AND ENFORCEMENT LEGISLATIVE AND POLICY FRAMEWORK

Statutory Background:

Enforcement is a complex area of planning law. Legislation relevant to enforcement and monitoring is contained within the following Acts;

- The Police and Criminal Evidence Act 1984 (PACE)
- Town and Country Planning Act, 1990
- The Planning and Compensation Act 1991
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000 (RIPA)
- The Planning and Compulsory Purchase Act, 2004
- The Localism Act 2011

and the following Statutory Instruments;

- The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013
- The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002
- Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedures) (England) Rules 2002
- Town and Country Planning (Enforcement) (Hearings Procedures) (England) Rules 2002
- Town and Country Planning (Enforcement) (Written Representations Procedures) (England) Regulations 2002
- Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002
- The Town and Country Planning (Temporary Stop Notices) (England) Regulations 2005.

Enforcement policy guidance is contained within:

- National Planning Policy Framework 2012
- Planning Practice Guidance
- The Planning Inspectorate Guides - Procedural Guide - Enforcement Appeals - England - March 2014
- Procedural Guide - Certificate of Lawful use or development appeals – England - June 2014

- Guide to taking part in enforcement appeals and lawful development certificate appeals proceeding by an Inquiry – England - March 2014
- Local Government Ombudsman - Fact sheet 7 - Complaints about planning enforcement
- Planning Portal - Enforcement Appeals.

Local policies are contained within:

- Nottinghamshire Minerals Local Plan (to be replaced by the New Minerals Local Plan and other Minerals Development Documents)
- Nottinghamshire County Council and Nottingham City Council Waste Core Strategy adopted December 2013 and other waste site specific and development management policies (forming the second part of the replacement Waste Local Plan)
- Nottinghamshire and Nottingham Waste Local Plan (Saved Policies) – adopted 2002
- Statement of Community Involvement – adopted 2013
- Various Local Plans produced by District and Borough Councils in Nottinghamshire.

The above legislative and policy framework have been taken into account in preparing this Local Enforcement Plan and are relevant to the monitoring and enforcement work of the County Council.

CHAPTER NINE - MONITORING AND ENFORCEMENT POLICY STATEMENT

- 1 In dealing with the enforcement of planning control the County Council will have regard to the provisions of the Development Plan, current legislation, government guidance and any other material considerations.
- 2 The County Council, in carrying out its enforcement duties, will be professional, consistent, transparent and fair with all parties, including those who are alleged to be responsible for unauthorised activity and those who have reported any alleged breach of planning control.
- 3 Investigations and action undertaken as part of the enforcement responsibilities of the County Council will be made public on the County Council website and in publicly available committee reports.
- 4 The details of all monitoring and enforcement work will be regularly reported to Members for information. Approval of the Chairman and Vice Chairman will be sought in enforcement cases where compensation issues may arise.
- 5 All monitoring and enforcement work will be undertaken in accordance with the Council's Corporate objectives and will aim to meet locally or nationally set performance indicators.
- 6 The County Council, in fulfilling its enforcement responsibilities, will liaise with other relevant parties (including the Environment Agency, District Councils and Environmental Health Officers) to resolve breaches of planning control. Appropriate contact with the general public and developers will be maintained.
- 7 The County Council will periodically review the resources that it makes available for enforcement and monitoring work to ensure staff and financial resources are sufficient to fulfil its responsibilities for the enforcement of planning control.
- 8 The County Council will undertake its monitoring and enforcement work in accordance with the Local Enforcement Plan. The Plan will be periodically reviewed and updated, as appropriate.

CHAPTER TEN - USEFUL CONTACTS

Monitoring and Enforcement Team:

Tim Turner – Senior Practitioner, Monitoring and Enforcement	0115 993 2585	tim.turner@nottsc.gov.uk
John Cranham – Senior Monitoring and Enforcement Officer	0115 993 2579	john.cranham@nottsc.gov.uk
vacant – Monitoring and Enforcement Officer	0115 993 2587	

Other useful contacts:

Environment Agency	08708 506 506	enquiries@environmentagency.gov.uk
Planning Portal		www.planningportal.gov.uk
Ashfield District Council	01623 450000	www.ashfield-dc.gov.uk
Bassetlaw District Council	01909 53 3533	www.bassetlaw.gov.uk
Broxtowe Borough Council	0115 917 7777	www.broxtowe.gov.uk
Gedling Borough Council	0115 901 3901	www.gedling.gov.uk
Mansfield District Council	01623 46 3463	www.mansfield.gov.uk
Newark and Sherwood District Council	01636 65 0000	www.newark-sherwooddc.gov.uk
Nottingham City Council	0115 915 5555	www.nottinghamcity.gov.uk
Rushcliffe Borough Council	0115 981 9911	www.rushcliffe.gov.uk

Appendix 1 Enforcement Complaint Form

Complaint origin: (please circle)

Member of public.....Councillor.....Environment Agency.....District Council..... Other (state).....

Complaint made via: (please circle)

Telephone.....Email.....Letter....Verbal...Other (state).....

Complainant details:

Name:.....

Address.....

.....

.....

.....

Telephone:.....

Email address.....

Description of complaint/alleged breach:

Date/time/duration:

Location of site:

Nature of complaint/breach:

Any other relevant information:

Complaint received by.....Date/time.....

**Appendix 2 CRITERIA FOR DETERMINING MONITORING VISIT FREQUENCY FOR
MINERALS AND LANDFILL DEVELOPMENT IN ACCORDANCE WITH THE FEES
REGULATIONS**

No. visits per year	CRITERIA FOR FREQUENCY
1	Site is dormant or inactive (with no landscaping/aftercare obligations).
2	Site which is in aftercare only, (1 visit for annual aftercare meeting, 1 to review remedial works implemented and the second could be dropped if no issues arising, or remedial action required).
2	Established site with single planning permission and limited ongoing land take, little ongoing soil stripping/restoration or face/cell development, no complaint/breach history (1 visit for full audit, 1 (possibly unannounced) visit for general progress review).
3	Established site with single planning permission and limited ongoing land take, little ongoing soil stripping/restoration or face/cell development, but with substantiated complaint/breach history (1 visit for full audit, 1 (possibly unannounced) visit for general progress review, 1 to review areas of complaint/breach).
3	Established small site with single permission and ongoing extraction/landfill, soil removal and replacement, (no new infrastructure installation) and no history of non-compliance (1 full audit, 1 inspection to review soil stripping/replacement etc., 1 visit to review restoration and overview of development progress).
4	Established site with single/multiple permissions and with ongoing extraction/landfill, soil removal and replacement and no history of non-compliance (1 full audit, 2 inspections to review soil stripping/replacement/extraction, overview of progress etc. (1 or both unannounced), 1 visit to review restoration and overview of development progress).
5.	Established site with single/multiple permissions and with ongoing extraction/landfill, soil removal and replacement and history of substantiated complaint/breach (1 full audit, 2 inspections to review soil stripping/replacement and overview of progress etc., 1 visit to review restoration and overview of development progress, 1 to review specific areas arising from breach/complaint).
5	Established large site with single/multiple permissions and with rapid ongoing extraction/landfill, soil removal and replacement and history of non-compliance (1 full audit, 3 inspections to review soil stripping/replacement, overview of progress etc. (1 or 2 unannounced), 1 visit to review restoration and overview or development progress).
5	Small new greenfield development site with associated infrastructure, (1 initial inspection to review soil stripping and review conditions, 2 to review infrastructure preparation progress, 2 to review operational conditions once commenced, (including 1 full audit once site operational).
6	Established site (single or multiple permission) with ongoing extraction/landfill, soil removal and replacement and history of substantiated complaint/breach (1 full audit, 4 inspections to review soil stripping/replacement, areas of breach and overview of progress etc., 1 visit to review restoration and overview of development progress).

6	Medium/large greenfield development site with associated infrastructure, (1 initial inspection to review soil stripping and review conditions, 3 to review infrastructure preparation progress 1 to review operational conditions once commenced, and 1 full audit).
7	Established site with ongoing extraction/landfill, soil removal and replacement and history of substantiated complaint/breach (likely to be subject to formal enforcement action requiring monitoring), (1 full audit, 5 inspections to review areas of breach and overview of progress etc., 1 visit to review restoration and overview of development progress).
8	Site with history of non-compliance and failure to comply with conditions, a source of complaints and environmental impact. 1 site audit, 7 remaining visits to cover general operations and activities subject to noncompliance.
8	Substantial new development with significant infrastructure to install prior to commencement. 1 full audit later in the year, 7 further inspections within the year to cover infrastructure installation/site set up and initial operational works, any associated S106 works).

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28 April 2015**Agenda Item:10****REPORT OF CORPORATE DIRECTOR FOR POLICY, PLANNING AND
CORPORATE SERVICES****DEVELOPMENT MANAGEMENT PROGRESS REPORT AND END OF YEAR
PERFORMANCE****Purpose of Report**

1. To report on planning applications received in Policy, Planning and Corporate Services between 12 March 2015 and 31 March 2015 and to confirm the decisions made on planning applications since the last report to Members on 24 March 2015. The report also covers end-of-year performance.

Background

2. Appendix A highlights applications received since the last Committee meeting, and those determined in the same period. Appendix B highlights applications outstanding for over 17 weeks. Appendix C is a table of County Council performance nationally, for the year ending 31 December 2014.

‘County Matter’ planning applications

3. ‘County Matter’ applications relate to proposals for Minerals or Waste development. In the 12 months up to 31 March 2015, a total of 56 County Matters were received, 13 of which were accompanied by environmental statements. This compares with 62 received in the same period 2013/14. 28 were outstanding as at 1 April 2014, this gave a total of 84 to be processed in 2014/15, compared to 86 in 2013/14.
4. As at 1 April 2015, 39 applications were on hand. A total of 37 County Matter applications were determined throughout the year, compared with 45 in the previous year. Table 1 (overleaf) shows the performance over the year, indicating the time taken to determine applications. In addition of the 37 applications determined, 8 were withdrawn by the applicants. Of the 37 decisions, planning permission was approved for 36 and one was refused for the third time (land adjacent to Shenton Lodge, Derby Road, Kirkby in Ashfield for the processing, screening/crushing and disposal of inert waste material at land to the east of the A611 and its restoration to ecological and recreational). For the purpose of Table 1, applications accompanied by Environmental Statements are not included. One such planning application has been determined during this period, namely Langford Quarry extension, Committee has resolved to grant planning permission for two further

applications subject to the agreeing and signing of S106 Legal Agreements. These were Shortwood at Cossall for the extraction of coal and fireclay by surface mining, and Finningley Quarry for sand and gravel extension, near Doncaster.

5. This is the final year the performance report (using Table 1) will have this format. The Government has introduced a new method of measuring the County Council's performance. All county matter applications are classed as major applications and therefore should be determined within either a 13 week period or a 16 week period for applications accompanied by an Environmental Statement. The Authority is allowed to ask applicants for a time extension in which to determine applications. With acceptance of the time extension, and the determination of the application within the agreed time, the Authority will meet the required performance criteria. Reasons for seeking time extensions can range from the need to undertake further consultations, the timing of committee cycles or competing workload pressures.

Table 1 Annual Performance

No. of County Matter applications determined	Within 8 wks*		Within 13 wks*		Within 17 wks*		Over 17 wks		Total	
	no	%	no	%	no	%	no	%	no	%
April 2010 to March 2011	12	17	29	40	41	57	31	43	72	100
April 2011 to March 2012	14	24	42	71	46	78	13	22	59	100
April 2012 to March 2013	13	22	26	43	33	55	27	45	60	100
April 2013 to March 2014	9	20	19	42	23	51	22	49	45	100
April 2014 to March 2015	6	17	18	50	25	69	11	31	36	100

* The figures are cumulative

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Total number of County Matter applications determined under delegated powers:	28
Total number of County Matter applications determined by Committee:	08
Total number of County Matter applications withdrawn:	08
Total number of County Matter EIA applications determined by Committee	01
Total	45

6. Government has imposed a threshold requiring Councils to determine at least 40% of major applications within the relevant time periods. The percentage of planning applications determined within 13 weeks has increased from 42% in 2013/2014 to 50% in 2014/2015.
7. Officers have continued to deal with other types of applications during the year; these include Non-Material Amendments (27 compared to 22 2013/14) and the discharging of conditions known as schemes (83 compared to 165 2013/14). Officers also carry out 'screening opinions' (9) on all planning applications to assess whether they trigger the need for Environmental Impact Assessment (EIA). In cases where EIA is required, Officers also carry out 'scoping opinions' (6) liaising with statutory bodies and other consultees to obtain their views on what environmental topics the EIA should contain. Offices offer pre-application advice (7) and advice in respect of permitted development rights (4) where officers determine whether the information submitted can be carried out under rights which preclude the need for formal planning permission or would require a planning application. Consultations are also received from other statutory bodies, for example the Environment Agency, who consult the team on waste management licences and environmental permits. Similarly, the district/borough councils consult the County Council on planning applications which may affect mineral or waste sites, for example a wind turbine on a sewage treatment works. Views are also sought on significant proposals outside but close to the county boundary.
8. The County Council recently introduced charges for providing pre-application advice. To date this has generated a modest income although it is proposed to keep the scheme under review to ensure that prospective applicants pay a reasonable contribution to these costs rather than the local taxpayers.

County Council Development

9. The County Council determines applications for its own development under the procedures laid down in the Town and Country Planning General Regulations 1992 (usually Regulation 3). This is a privileged position afforded to local authorities and it is essential that applications for the County Council's own developments are exposed to the same level of scrutiny as that for external applicants. In the 12 months up to 31 March 2015, a total of 103 County Council development applications had been received. This compares with 46 in the same period last year.
10. 25 were outstanding as at 1 April 2014 giving a total of 128 to be processed during last year, compared to 58 in 2013/2014. As at 1 April 2015, 27 applications were on hand.
11. During 2013/2014 a total of 69 County Council applications were determined all of which were granted permission. A further 7 applications were withdrawn by the applicant department.

Table 2 Annual Performance

No. of County Council Developments applications determined	Within 8 wks*		Within 13 wks*		Within 17 wks*		Over 17 wks		<u>Total</u>	
	no	%	no	%	no	%	no	%	no	%
April 2010 to March 2011	30	39	52	68	59	77	18	23	77	100
April 2011 to March 2012	40	53	61	81	68	90	7	10	75	100
April 2012 to March 2013	27	37	49	68	58	81	14	19	72	100
April 2013 to March 2014	20	43	25	54	31	67	15	33	46	100
April 2014 to March 2015	34	49	55	80	61	88	8	12	69	100

*The figures are cumulative

Total number of County Council Development applications determined under delegated powers: 61

Total number of County Council Development applications determined by Committee: 08

Total number of County Council Development applications withdrawn: 07

Total 76

12. Officers have dealt with other types of County Council's own applications during the year. These include Non-Material Amendments (11, compared to 8 in 2013/14); the discharge of conditions on applications that have been granted planning permission (186, compared to 149 2013/14); and permitted development proposals (27, compared with 14 in 2014/15).

Outstanding applications

13. The Department has previously historically set itself a target of 65% of County Council Development applications to be determined within 13 weeks. In the year just ended, 80% of such applications were determined within that timescale. By far the majority of these applications are dealt with under delegated powers.

14. At the start of this new financial year, a total of 39 County Matter applications and 27 County Council development applications were outstanding. A list of those applications outstanding for longer than 17 weeks is attached as Appendix B.

National performance

15. The Department for Communities and Local Government produces statistical information on planning applications received and determined by County Planning Authorities. The latest available tables include performance for the year ending December 2014 and are attached as Appendix C.
16. In that period, Nottinghamshire received 59 County Matter applications (i.e. Minerals and Waste), the third highest in the country and determined 37, fourteenth highest in the country.
17. In terms of County Council developments (Regulation 3 permissions), Nottinghamshire determined 56 applications, the tenth highest number nationally.

Monitoring and Enforcement

18. The determination of planning applications goes hand in hand with the monitoring and enforcement of development. A separate report on Monitoring and Enforcement work over 2014-2015 will be presented to the next available Committee.

Appeals

19. The County Council was involved in one appeal concerning an application for the construction of a leisure marina comprising marina basin with 553 leisure moorings and ancillary buildings, associated vehicle parking, landscaping and infrastructure and the incidental excavation and removal of minerals at Red Hill Marina, Ratcliffe on Soar. The appeal was lodged on the grounds of non-determination of the application. A Hearing was held in July 2014 reconvening for a further day in September. In January 2015 the Planning Inspectorate dismissed the appeal and refused to grant planning permission.
20. The County Council will be involved in a Public Inquiry for the proposed development of the Bilsthorpe Energy Centre (BEC) to manage unprocessed and pre-treated waste materials through the construction and operation of a Plasma Gasification Facility, Materials Recovery Facility and Energy Generation Infrastructure together with supporting infrastructure, at Bilsthorpe Business Park, Off Eakring Road, Bilsthorpe. The application was presented to Committee in November 2014 where it was resolved to grant planning permission upon the agreeing and signing of a S106 Legal Agreement. The application was then called in by the Secretary of State and a Public Inquiry will be held in November 2015.

Secretary of State Holding Direction

21. In December 2013, the Secretary of State exercised his powers under Article 25 of the Town and Country Planning (Development Management Procedure) Order 2010 to direct

the County Council not to grant planning permission for the Shortwood opencast coal planning application whilst he considered if the application should be referred to him for determination. In July 2014, the Secretary of State informed the County Council that he was not calling in the application and was content that it should be determined by the local planning authority. The accompanying S106 legal agreement is close to be finalised enabling the planning permission to be formally issued, although parallel discussions continue positively with a view to exploring scope for associated HGVs to access the site via the adjacent Trowell motorway service area.

Ombudsman investigations

22. One complaint has been referred to the Local Government Ombudsman (LGO) in the reporting period. It related to a planning condition regarding planting attached to a planning permission for development at a school site. The complainant argued the County Council had not taken enforcement action in respect of failed planting. The planting had been originally carried out in the summer of 2012, and it was brought to the County Council's attention in 2013 that the planting had failed. The area was replanted that autumn but it was again brought, to the attention of the County Council that the planting had again failed. The area was replanted a further time, but again failed resulting in a request for enforcement action to be taken. The County Council's Monitoring and Enforcement Officers were of the view, however, that there was no breach of condition, because the planting had been carried out and replanted as required by the terms of the condition.
23. The LGO chose not to investigate the complaint concluding that he could not see any evidence of fault in the County Council's decision not to take planning enforcement action. The complainant had also not evidenced what impact the lack of planting had caused so, even if the council was at fault, the expense of an investigation could not, in the LGO's opinion, be justified. The decision that the Council had taken could not be criticised.
24. During the reporting period Members may recall that the LGO issued a general report with the aim of learning lessons from complaints received in relation to planning and development. The report refers to experience from recent cases highlighting common areas where the LGO finds fault whilst also show-casing examples of good practice. The key themes of the report were presented to Committee in January.

Development Plan progress

25. Progress continues to be made in the preparation of new planning policy documents that will replace those saved policies within the adopted Nottinghamshire and Nottingham Waste Local Plan and the Nottinghamshire Minerals Local Plan that are becoming increasingly out of date.
26. Following adoption of the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy Part 1 in December 2013, work is underway on the Part 2 of the replacement Waste Local Plan. This will allocate specific sites for waste management use alongside a set of more detailed development management policies to ultimately supersede those saved in the Waste Local Plan

27. The new Minerals Local Plan seeks to set out an overall approach to future minerals provision within the County up to 2030. Key issues will be the amount of minerals needed to meet demand, the location of future sites and the social and environmental impacts of mineral working. The first stage of the consultation in 2012 on 'Issues and Options' was followed in late 2013 by a second stage of consultation on the Minerals Local Plan Preferred Approach. More recently, additional consultation was carried out in May 2014 on sand and gravel provision followed by a further consultation on sand and gravel provision in respect of Shelford West in October 2014. The comments received will inform a Submission Draft consultation document which will be subject to a further consultation prior to formal submission of the new Minerals Local Plan to the Planning Inspectorate for examination and, if found 'sound', adoption.

Other Issues

28. Following the introduction of the National Planning Policy Framework, a separate National Planning Policy for Waste (NPPW) was issued by the Government in October 2014 replacing the previous guidance contained in Planning Policy Statement 10. A report on the NPPW was presented to Committee around that time.
29. The Growth and Infrastructure Bill, which received Royal Assent in April 2013, aimed to kick start economic growth and reduce barriers to investment and job creation. The Act continues the theme of speeding up the development process with a simpler planning system designed to support sustainable growth. Provisions include reducing the volume of paperwork required to accompany planning applications and removing over-lapping development consent regimes that necessitate multiple additional permissions from different government agencies.
30. As previously reported to Committee, the Act also provides for planning applications to be determined by the Planning Inspectorate where a council has consistently failed to meet timescales for determining planning applications and has been designated as poorly performing. The implications of this are that where authorities are designated as poorly performing, applicants of major developments have the opportunity to apply directly to the Planning Inspectorate for a decision on their application. The designated authority would not receive the accompanying planning fee but would still be required to perform the associated administrative functions whilst also losing the ability to take decisions locally. As noted above, the County Council is performing in excess of the thresholds, although the 2014 Autumn Statement noted an intent to increase the threshold to 50% at some point in the future. A range of measures have been introduced to working practices to ensure that the County Council avoids the risk of becoming designated.
31. One such example relates to improvements to the back office planning database system. Of particular note are improvements to fully expand the range of planning consultations which can be undertaken electronically thereby delivering greater savings. Savings continue to be made by improving the information on the website for notifying members of the public of committee dates and registering to speak electronically. The Planning web pages have also been updated as appropriate to reflect changes to the Planning System.
32. The Government remains committed to maintaining a web-based resource of Planning Practice Guidance which is continually being expanded and reviewed. Government sees this approach as keeping such guidance as a single resource accessible to all.

33. Fracking continues to be a hotly debated issue and has been a particular topic where the Government has issued bespoke guidance. The County Council recently issued a Scoping Opinion in respect of a prospective exploratory borehole for shale gas, albeit understood to not involve fracking, at a site near Misson in Bassetlaw. The County Council may well be considering such an application in coming months.
34. Very recently the Government has issued the Town and Country Planning (Development Management Procedure) Order 2015 consolidating the 2010 Order and its 15 amendments. The new Order took effect from 15 April 2015. A key change is the local planning authorities (LPAs) will have eight weeks in which to discharge conditions but after six weeks applicants can apply for a deemed discharge. If no decision or extension of time is forthcoming within that final two week period there is an automatic discharge of that condition. There are, however, several types of conditions to which such provisions do not apply such including those related to EIA development, for the management of flood risk and where the site forms all or part of a site of special scientific interest (SSSI).
35. Of key relevance to the work of this Committee, there is now a need for written justification for those planning conditions which require particular matters to be approved before development starts. This, in effect, requires LPAs to cite clear reasons, as to why it is necessary to impose pre-commencement conditions.
36. Proposers for major applications will now also need to consult the County Council in its role as the Lead Local Flood Authority in respect of surface water drainage issues. With effect from 1 April 2015 the Highways Agency is a separate Government owned company known as Highways England which will continue responsibilities for strategic highways.
37. Finally, the Government has issued the Town and Country Planning (General Permitted Development) Order 2015 which consolidates the 1995 Order and its 22 amendments. This took effect from 15 April 2015. Some of the key amendments relevant to the work of the team include new permitted development rights allowing sewerage undertakers to install various developments not exceeding 29 cu.m and new permitted development rights for the installation of solar PV panels with a generating capacity up to 1 megawatt on the roofs of non-domestic buildings subject to certain restrictions.

Statutory and Policy Implications

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

Equal Opportunities Implications

39. Development Management activity takes into account equal opportunity issues.

Crime and Disorder Implications

40. Development Management activity takes into account issues relating to crime and disorder.

RECOMMENDATIONS

41. It is RECOMMENDED that the report and accompanying appendices be noted.

JAYNE FRANCIS-WARD

Corporate Director for Policy, Planning and Corporate Services

Constitutional Comments

"The report is for noting only. There are no immediate legal issues arising. Planning and Licensing Committee is empowered to receive and consider the report." [HD – 16/04/2015]

Comments of the Service Director - Finance

The contents of this report are duly noted – there are no direct financial implications. [SES-16/04/2015]

Background Papers Available for Inspection

None

Electoral Division(s) and Member(s) Affected

All

For any enquiries about this report please contact:

Report Author / Case Officer

Ruth Kinsey

0115 9932584

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

16/04/2015

Planning Applications Received and Determined
From 12th March 2015 to 31st March 2015

Division	Member	Received	Determined
BASSETLAW			
Tuxford	Cllr John Ogle	Movement of Weighbridge and movement of office accommodation (re-location), Alpine Industrial Estate, Jockey Lane, Elkesley, Retford. Received 17/03/2015	
Misterton	Cllr Liz Yates	Application for a proposed new working area with restoration to nature conservation and a temporary new access off Bawtry Road, Newington West, Newington Quarry, Land to the south of Bawtry Road, Misson. Received 24/03/2015	
Misterton	Cllr Liz Yates	Variation of conditions: 1,2,3,13,21,25,32,38,51,62,63,& 65 of planning permission 1/32/12/00007, to allow additional extraction to the south of the existing working area , Newington South Quarry, Misson. Received 24/03/2015	
Blyth & Harworth	Cllr Sheila Place	Retention of the northern slope of the separation bund at the quarry for the filling and restoration area of the quarry from the northern (old) part of the quarry to the south of Main Street due to the ecological interest and habitat. Styrrup Quarry, Main Street, Styrrup. Received 30/03/2015	

MANSFIELD			
Mansfield West	Cllr Darren Langton Cllr Diana Meale	Demolition of temporary single storey double classroom building and erection of a replacement permanent single storey freestanding double classroom in the same location, with amenity lighting and associated landscaping works and drainage. Farmilo Primary and Nursery School, Woburn Road, Pleasley. Received 23/03/2015	
Mansfield East Mansfield South	Cllr Alan Bell Cllr Colleen Harwood Cllr Stephen Garner Cllr Andy Sissons		Erection of a two storey replacement 420 place primary and 26 place nursery school, with additional single storey 13 place private nursery, additional car parking, lighting and CCTV, and landscaping. Alteration to pedestrian and vehicular access including widening of junction with Stuart Avenue and school gates. New and re-use of 2.4m high weldmesh fencing. Sprinkler tank, pump house and bin store with 3.5m and 2.5m high timber enclosure. Demolition of concrete shelter, removal of former school building foundations, replaced by new building, hardstanding play areas and landscaping. Former Sherwood Hall School site Stuart Avenue, Forest Town. Granted 25/03/2015 (Committee)

NEWARK & SHERWOOD			
Rufford	Cllr John Peck		Variation of Condition 1 and 2 of planning permission 3/13/00493/FULR3N to retain sand-based carpet with associated concrete apron and ground fixings until 31 December 2015 and erection of 20m x 20m marquee from April-October 2015 inclusive. Rufford Abbey, Rufford Country Park, Ollerton Road, Rufford. Granted 10/02/2015
Farndon & Muskham	Cllr Mrs Sue Saddington	Mini skip hire, storage of mini skips and storage of reclaimed materials for recycling. Sorting of waste from mini skips, sorting to be done undercover in existing building. Unit 3, Quarry Farm Industrial Estate, Bowbridge Lane, Newark. Received 24/03/2015	
Rufford	Cllr John Peck	Demolition and restoration of Sherwood Forest Visitor Centre, Sherwood Forest Visitor Centre, Edwinstowe. Received 30/03/2015	
ASHFIELD			
Hucknall	Cllr Alice Grice Cllr John Wilmott Cllr John Wilkinson	Erection of a single storey 75 place freestanding Foundation Unit Classroom with canopy addition to the Primary School. 6 place single storey double classroom addition to the Junior School. Formation of hardstanding for additional 11 car parking spaces with lighting and associated landscaping works and drainage. Butlers Hill Infant School and Broomhill Junior School, Broomhill Road, Hucknall. Received 13/03/2015	

Kirkby in Ashfield South	Cllr Rachel Madden	Installation of solar panels to assist in power generation at Kirkby-in-Ashfield Sewage Treatment Works, Park Lane, Kirkby-in-Ashfield. Received 23/03/2015	
BROXTOWE			
Chilwell & Toton	Cllr John Doddy Cllr Richard Jackson	Erection of a single storey 3 classroom KS1 extension. Erection of a two storey 2 classroom KS2 extension. Additional parking spaces and new pedestrian access. Chilwell College House Junior School, Cator Lane, Chilwell. Received 23/03/2015	
GEDLING			
Carlton East	Cllr Nicki Brooks Cllr John Clarke		Amendment to processing capacity of site to increase permitted inputs to 150,000 tonnes annual capacity, installation of additional CHP Engine together with minor modifications to site boundary and siting of secondary digester tank, extension to concrete surfacing within site and additional porta cabin. Bio Dynamic (UK) Limited, Private Road 4, Colwick Industrial Estate. Granted 25/03/2015 (Committee)
Newstead	Cllr Chris Barnfather	Retention of a new visitor's car park constructed at Bestwood II Quarry, Mansfield Road, Papplewick. Received 27/03/2015	

RUSHCLIFFE			
Ruddington	Cllr Reg Adair	To install two 25m2 areas of tarmac to the rear gates that access on to the school field, both areas of tarmac to be installed on the school field, within the school boundary and will act as waiting areas for parents. James Peacock Infant & Nursery School, Manor Park, Ruddington. Received 17/03/2015	
Bingham	Cllr Martin Suthers	Renovation of west facing elevation wall, Bingham Library and Children's Centre, Eaton Place, Bingham. Received 23/03/2015	

Applications outstanding over 17 weeks at 31st March 2015

Division	Member	Description	Weeks Out Standing	Comments
BASSETLAW				
Blyth & Harworth	Cllr Sheila Place	Planning application to vary conditions 7,12,13,14 and 16 of planning permission 1/66/02/00015. Variation of condition 7 to refer to updated plant and machinery details. Condition 12 to allow for an amended restoration scheme, condition 13 to refer to a surface run-off scheme. Condition 14 to refer to foul and surface water details. Condition 16 to extend the time for deposit of waste to 31 December 2017. Styrrup Quarry, Main Street, Styrrup	103	Resolved to grant permission upon agreeing and signing of a legal agreement at Committee on 12/11/2013. Negotiations on legal agreement still ongoing
Misterton	Cllr Liz Yates	Planning application for a 56 Hectare extension to and re phasing of existing sand and gravel extraction, including use of existing processing plant with restoration to a mixture of agriculture and woodland. Finningley Quarry, Croft Road, Finningley, Doncaster.	55	Legal Agreement has been signed and decision notice will be issued shortly
Misterton	Cllr Liz Yates	Variation of conditions 6 and 7 of planning permission 1/32/02/00017 for an extension of time to allow the remaining sand and gravel reserves to be extracted. Finningley Quarry, Croft Road, Finningley, Doncaster	35	Awaiting additional ecology survey

MANSFIELD				
Mansfield North	Cllr Joyce Bosnjak Cllr Parry Tsimbiridis	Variation of condition 2 of planning permission 2/2010/0227/WT to allow continuation of crushing and screening plant to recycle building materials for a further 5 years. Cast Quarry, Vale Road, Mansfield Woodhouse.	94	Resolved to grant permission upon agreeing and signing of a legal agreement at Committee on 16/12/2014.
Mansfield North	Cllr Joyce Bosnjak Cllr Parry Tsimbiridis	Continuation of restoration of former limestone quarry by landfilling with inert waste and i) amendments to the final restoration scheme so as to increase the overall volume and duration of the landfilling and ii) retain the mobile plant storage facility until no longer required for the operation and restoration of the site. Vale Road Quarry, Vale Road, Mansfield Woodhouse.	33	Resolved to grant permission upon agreeing and signing of a legal agreement at Committee on 16/12/2014.
NEWARK				
Newark West	Cllr Tony Roberts	Regularisation of use of additional land in connection with scrapyards, Briggs Metals Limited, Great North Road, Newark	220	Still awaiting response to EA's flood issues from the applicant.
Rufford	Cllr John Peck	Proposed development of the Bilsthorpe Energy Centre (BEC) to manage unprocessed and pre-treated waste materials through the construction and operation of a Plasma Gasification Facility, Materials Recovery Facility and Energy Generation Infrastructure together with supporting infrastructure. Bilsthorpe Business Park, Off Eakring Road, Bilsthorpe	71	Resolved to grant permission at 18/11/2014 Planning & Licensing committee. To be determined following a public Inquiry which is scheduled for November 2015

Ollerton		Installation of a wood drying plant, storage silo for dried sawdust, green waste picking station and associated fixed trommel screen. Variation of Condition 3b and 3c (site layout) 7 (controls relating to storage), 9 (controls relating to green waste handling), 10 (controls relating to green waste handling), 12 (plant and machinery), removal of condition 18 (parking) and discharge of condition 21 (development within extension land) attached to planning permission 3/10/01533/CMA. Retrospective permission for the retention of timber processing picking station and associated static shredder; water storage tank; plus retention of shredder, conveyor and feed hopper between units 92 and 93. RM Right Wood Recycle, Unit 89B, Boughton Industrial Estate, Boughton.	63	Negotiations still ongoing between applicant and EA to secure suitable dust management
Farndon & Muskham Balderton	Cllr Mrs Sue Saddington Cllr Keith Walker	Erection of a steel framed building for the use as a materials recycling facility (MRF), Trent Skip Hire Limited, Quarry Farm Transfer Station, Bowbridge Lane, New Balderton, Newark	55	Was presented to committee on 24/03/2015 and deferred for Member's site visit
Farnsfield & Lowdham Rufford	Cllr Roger Jackson Cllr John Peck	Removal and temporary storage 75,000cu.m of colliery spoil from lagoon 4 prior to the removal off site of approximately 40,000 cu.m of coal material; and any red shale arising from the works to be either used on site or exported. Bilsthorpe disused colliery, Eakring Road, Bilsthorpe	46	Can be found elsewhere on the agenda

Southwell & Caunton	Cllr Bruce Laughton	Re-submitted with new access - Application for a new planning permission to replace extant planning permission 3/03/02626 CMA in order to extend the time limit for implementation. Cromwell Quarry, Land to the East of the A1, Cromwell, Newark.	23	Reg 22 re-consultation undertaken, awaiting responses
Collingham	Cllr Maureen Dobson			
ASHFIELD				
Hucknall	Cllr Alice Grice Cllr John Wilkinson Cllr John Wilmot	Planning application for the continued use of an Aggregates Recycling Facility at Wigwam Lane for the treatment of waste to produce soil, soil substitutes and aggregates. Total Reclaims Demolition Ltd Wigwam Lane, Bakerbrook Industrial Estate, Hucknall	138	Awaiting traffic impact assessment from the applicant
Sutton in Ashfield East	Cllr Steve Carroll	Erection of a sprinkler tank and pump housing with a 4.0m high hit and miss timber fence enclosure, and the re-provision of 4 disabled car parking spaces. Fountaindale School, Nottingham Road, Mansfield	30	Awaiting plans from the applicant
Hucknall	Cllr Alice Grice Cllr John Wilkinson Cllr John Wilmot	Use of site off Wigwam Lane for the recycling of inert materials (retrospective) and the construction of a 5 metre high sound attenuation wall. Plots 10, 11, 12, 13, 14 and 16, Wigwam Lane, Hucknall	20	Awaiting responses on revised noise assessment

BROXTOWE				
Beeston South & Attenborough	Cllr Kate Foale	Variation of condition 3 of planning ref 5/06/01039/CCR to amend the alignment of the weir, associated bridge structure and reduce distance of the diversion to footpath No 69, Land southwest of Attenborough Nature Reserve, Barton Lane, Attenborough	316	Report written but conditions to be finalised
Kimberley & Trowell	Cllr Ken Rigby	Change of use to waste timber recycling centre including the demolition of existing building and construction of new buildings. Shilo Park, Shilo Way, Cossall	115	Noise issues still be resolved. Under government guidance new green belt issues, awaiting further ecology, landscape information
Kimberley & Trowell Nuthall	Cllr Ken Rigby Cllr Philip Owen	Extraction of coal and fireclay by surface mining methods with restoration to agriculture, woodland, nature conservation and public amenity. Land off Cossall Road between the villages of Cossall and Trowell, referred to as the Shortwood Site	80	Resolved to grant permission upon agreeing and signing of a legal agreement at Committee on 10/12/2013
GEDLING				
Newstead	Cllr Chris Barnfather	Improvement works to the country park involving the remodelling and partial in-filling of lake 2 for development as a fishery, and wider landscape improvement works and path upgrades, in total requiring the importation of circa 17,000m3 of inert materials and soils. Newstead and Annesley Country Park, Newstead Village	122	Resolved to grant permission upon agreeing and signing of a legal agreement at Committee on 25/02/2014

Newstead	Cllr Chris Barnfather	Vary conditions 2 and 18 of the discontinuance order to allow the continuation of mineral extraction until 2035 and to amend the limit on transport movements from a daily to weekly figure. Yellowstone Quarry, Quarry Lane, Quarry Banks, Linby	19	Awaiting further ecology information from the applicant
RUSHCLIFFE				
Soar Valley	Cllr Andrew Brown	Request for none compliance of condition 6 of planning permission 8/12/01488/CMA to extend the time period necessary to restore land. East Leake Quarry, Rempstone Road, East Leake	47	Revised restoration scheme received and consulted upon, which has raised landscaping and bird strikes issues, which need to be resolved. Held in abeyance by the applicant to run with the Extension application
Cotgrave	Cllr Richard Butler	Land reclamation of former mineral workings through the importation of inert waste with restoration to notable native and alien plant species habitat, characteristic of the Cropwell Bishop Gypsum spoil wildlife site, Canalside Industrial Park, Kinoulton Road, Cropwell Bishop	37	Awaiting transport assessment to be produced by applicant
Soar Valley	Cllr Andrew Brown	Application to consolidate previous planning permissions and extension of existing quarry involving the extraction of sand and gravel with restoration to agriculture and conservation wetland. Retention of existing aggregate processing plant, silt lagoon and access/haul road. East Leake Quarry, Rempstone Road, East Leake	33	Reg 22 received and re-consultations undertaken, awaiting responses

Table P144: 'County matters' planning authorities - Planning applications received, decided and granted and Regulation 3 and 4 consents by authority (year ending December 2014)

Planning authority	ONS code	Applications			Decisions ¹				Decisions made ²	
		Received	Decided	Granted	Within 13 weeks or agreed time		Within 16 weeks or agreed time		Regulation 3	Regulation 4
					Number	%	Number	%		
England		1,503	1,345	1,262	1,128	84	1,174	87	1,433	25
County councils		1,114	972	925	809	83	842	87	1,416	23
Buckinghamshire	E10000002	18	22	21	17	77	18	82	18	-
Cambridgeshire	E10000003	32	23	22	12	50	14	58	29	-
Cumbria	E10000006	49	39	37	38	97	39	100	38	-
Derbyshire	E10000007	49	41	40	38	93	38	93	87	-
Devon	E10000008	56	53	49	48	91	49	92	46	-
Dorset	E10000009	30	28	27	15	54	16	57	43	-
East Sussex	E10000011	21	15	15	14	93	15	100	50	-
Essex	E10000012	47	46	43	40	87	41	89	47	-
Gloucestershire	E10000013	27	24	23	20	83	20	83	15	-
Hampshire	E10000014	43	40	32	29	73	33	83	77	-
Hertfordshire	E10000015	24	23	19	23	100	23	100	32	-
Kent	E10000016	42	35	35	34	97	35	100	115	-
Lancashire	E10000017	46	41	40	39	95	40	98	110	-
Leicestershire	E10000018	49	51	50	49	96	49	96	26	-
Lincolnshire	E10000019	88	73	69	65	89	67	92	90	-
Norfolk	E10000020	69	64	62	36	56	42	66	66	-
North Yorkshire	E10000023	21	20	20	18	90	18	90	81	-
Northamptonshire	E10000021	38	35	34	31	89	31	89	33	-
Nottinghamshire	E10000024	59	37	37	30	81	32	86	56	-
Oxfordshire	E10000025	57	40	38	36	90	36	90	20	-
Somerset	E10000027	28	23	22	13	57	15	65	54	-
Staffordshire	E10000028	56	45	45	43	96	43	96	37	-
Suffolk	E10000029	31	39	39	25	64	29	74	86	23
Surrey	E10000030	49	31	28	27	87	28	90	64	-
Warwickshire	E10000031	35	38	38	26	68	27	71	21	-
West Sussex	E10000032	24	23	18	23	100	23	100	55	-
Worcestershire	E10000034	26	23	22	21	91	22	96	20	-

28 April 2015**Agenda Item:11****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****WORK PROGRAMME****Purpose of the Report**

1. To consider the Committee's work programme for 2015.

Information and Advice

2. A work programme has been established for Planning and Licensing Committee to help in the scheduling of the committee's business and forward planning. It aims to give indicative timescales as to when applications are likely to come to Committee. It also highlights future applications for which it is not possible to give a likely timescale at this stage.
3. Members will be aware that issues arising during the planning application process can significantly impact upon targeted Committee dates. Hence the work programme work will be updated and reviewed at each pre-agenda meeting and will be submitted to each Committee meeting for information.

Other Options Considered

4. To continue with existing scheduling arrangements but this would prevent all Members of the Committee from being fully informed about projected timescales of future business.

Reason/s for Recommendation/s

5. To keep Members of the Committee informed about future business of the Committee.

Statutory and Policy Implications

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

RECOMMENDATION

That the committee's work programme be noted.

Jayne Francis-Ward
Corporate Director- Policy, Planning and Corporate Services

For any enquiries about this report please contact: David Forster, Democratic Services Officer

Constitutional Comments (HD)

7. The Committee has authority to consider the matters set out in this report by virtue of its terms of reference.

Financial Comments (NS)

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

Background Papers

Relevant case files for the items included in Appendix A.

Electoral Division(s) and Member(s) Affected

All

Committee Work Programme

<u>Date to Committee</u>	<u>Reference</u>	<u>Location</u>	<u>Brief Description</u>
2 June 2015	2/2015/0057/NT	Heatherley Primary School, Heatherley Drive, Forest Town, Mansfield	Creation of new three classroom teaching block plus additional staff car parking.
2 June 2015	4/V/2014/0603	Plots 10,11,12,13,14 and 16 Wigwam Lane, Hucknall	Use of site off Wigwam Lane for the recycling of inert materials (retrospective) & the construction of a 5m high sound attenuation wall
2 June 2015	3/14/01995/CMA	Cromwell Quarry, Land east of the A1, Slip Road A1, Cromwell, Newark	Re-submitted with new access – Application for new permission to replace extant planning permission 3/03/02626CMA in order to extend the time limit for implementation
2 June 2015	4/V/2015/0041	Brierley Forest Primary School, Westbourne View, Sutton-in-Ashfield	Erection of 420 place 2-form entry, two storey replacement primary school (Class D1), replacement playing fields, areas of outdoor and hard soft play and associated landscaping. New service access road and replacement parking provision. Sprinkler tank and pump housing, cycle parking, external lighting and CCTV. 2.0m high fencing. Demolition and reinstatement of the site of existing school buildings and retention of existing sports hall. Reinstatement of sports hall elevations following demolition of existing buildings.
2 June 2015	1/15/00368/CDM	Land east of Snape Lane, Harworth	Proposed change of use for a waste metal recycling facility with external storage for plant and machinery, covered storage bays, weighbridge, portable accommodation & new temporary workshop/store & retrospective application for new estate road
2 June 2015		Land north of Woburn Lane, Pleasley, Mansfield	Proposed levelling of land to create football/training pitches involving extraction & processing of sandstone/limestone for a temporary period of 3 months.
2 June 2015	3/14/00614/CMA	Trent Skip Hire Ltd, Quarry Farm Transfer Station, Bowbridge Lane, New Balderton, Newark	Erection of a steel framed building for the use as a materials recycling facility (MRF).
2 June 2015	8/15/00050/CMA	Bunny Materials Recycling Facility, Loughborough Road, Bunny	To vary condition 1 of planning permission 8/13/01494/CMA to extend the use of land adjacent to the existing site for a further 6 months for the temporary storage of reclaimed aggregates.

30 June 2015	4/V/2015/0159	John Davies Primary & Nursery School, Barker Street, Sutton-in-Ashfield	Erection of two storey replacement 350 place primary school, replacement car parking, cycle parking & lighting. Re-use of weldmesh fencing. Sprinkler tank, pump house & bin store with 3.5m & 2.5m high timber enclosure. Demolition of existing school building to be replaced by hard play & areas of hard & soft landscape to cleared sites.
30 June 2015	3/14/02198/CMA	Besthorpe Quarry, Collingham Road, Collingham, Newark	Variation of Cond 3 of Plg Ref 3/02/2402CMA to enable temporary retention of the conveyor infrastructure until 31 Dec 2023 or for 12 months following cessation of sand & gravel extraction (whichever is the sooner).
30 June 2015	3/14/02200/CMA	Besthorpe Quarry, Collingham Road, Collingham, Newark	Variation of Conds 2, 4, 24 & 25 of planning consent 3/02/02403CMA to facilitate an extension of time to 31 Dec 2022 for the extraction of the remaining sand & gravel reserves with restoration to be completed within 12 months thereafter & also amendment of the approved restoration & working plans.
30 June 2015	8/14/01781/CMA	East Leake Quarry, Rempstone Road, East Leake	Extension to existing quarry involving the extraction of sand and gravel with restoration to agriculture and conservation wetland. Retention of existing aggregate processing plant, silt lagoons and access haul road.
30 June 2015	8/14/01550	Canalside Industrial Park, Kinoulton Road, Cropwell Bishop	Land reclamation of former mineral workings through the importation of inert waste with restoration to notable native & alien plant species habitat, characteristic of the Cropwell Bishop Gypsum spoil wildlife site.
30 June 2015	4/V/2014/0644	Central Waste Wigwam Lane, Hucknall	Construction of a new waste transfer station building to reduce dust and noise, including an overflow picking station plus the consolidation of the site into a single waste transfer station

Other Key Applications/Submissions in system but not timetabled to be reported to Planning & Licensing Committee before July 2015:-

<u>Reference</u>	<u>Location</u>	<u>Brief Description</u>
7/2014/1382NCC	Yellowstone Quarry, Quarry Lane, Linby	Continuation of mineral extraction until 2035 and amend condition controlling traffic.
5/13/00070/CM	Shilo Park, Shilo Way, Cossall	Change of use to waste timber recycling centre including the demolition of existing building and construction of new buildings
4/V/2012/0383	Total Reclaims, Wigwam Lane, Hucknall	Continued use of an Aggregates Recycling Facility at Wigwam Lane for the treatment of waste to produce soil, soil substitutes and aggregates
3/14/02277/CMA	Land adj Unit 17, Road A, Boughton Industrial Estate Boughton	Fenced compound to be used to store and process construction and demolition waste to produce soil and construction aggregates using mobile plant

