

25 February 2014**Agenda Item:****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES****RUSHCLIFFE DISTRICT REF. NO.: 8/12/00856/CMA**

PROPOSAL: RESUBMISSION OF 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.

LOCATION: RED HILL MARINA, RATCLIFFE-ON-SOAR

APPLICANT: RED HILL MARINE LTD

Purpose of Report

1. Members will be aware that an appeal has been received by the County Council as the Minerals Planning Authority (MPA) relating to an application for the extraction of minerals and construction of a marina at Red Hill Marina, Ratcliffe-on-Soar. The appeal is on the grounds of non-determination of the application.
2. The purpose of the report is to inform Committee of the progress of the appeal and to seek its endorsement of the view of Officers that, had the application been brought before Committee prior to the appeal being lodged, it would have been refused planning permission on the grounds of inappropriate development in the Green Belt; unacceptable risk to aviation safety; unacceptable harm to archaeological remains; unacceptable noise levels received by nearby sensitive receptors; and insufficient information relating to flood risk; ecology; visual and cumulative impact; Best and Most Versatile Agricultural Land; and the sustainable transport of minerals.

The Site and Surroundings

3. The appeal site is located within the Nottinghamshire borough of Rushcliffe, approximately 10km south-west of Nottingham centre. Long Eaton is approximately 1.8km to the north and 450m south of the site is the village of Ratcliffe-on-Soar. The site is rural in nature and within a wider setting characterised by open agricultural land.

4. The site is 20.14 hectares in size and comprises three fields separated by hedgerows with hedgerow trees. It includes a small existing marina on its western side and a small pond to the south. Trees sporadically line the western edge of the appeal site next to the River Soar and a track also runs along part of the western and northern boundary of the site. In terms of topography the site is relatively flat and within the Trent Valley Washlands.
5. The site is bordered by the River Soar which meanders around the western and southern sides of the site forming the site boundary. The River Soar joins the River Trent 870m to the north. Beyond the River Soar to the west and south, the land is predominately open agricultural fields. The river curves around the northern edge of the site and, as it flows northwards, there are existing river moorings for boats. There is also a group of buildings associated with Red Hill Farm and the existing Red Hill Marina operations.
6. Immediately to the east of the site is agricultural land, beyond which sits the East Midlands Parkway (EMP) railway station and a park and ride facility serving rail passengers. At its nearest point, the EMP car park is approximately 100m east of the appeal site. EMP serves the Midland Main Line (MML), which runs in a north/south direction. The access road to the appeal site crosses the rail line, although in terms of the proposed marina basin the MML is approximately 185m to the east at its nearest point. Beyond the MML is the Ratcliffe-on-Soar power station, a coal fired power station operated by E.ON. The power station is the most dominant feature in the wider landscape with eight cooling towers, and a chimney which reaches almost 200m in height.
7. With regard to land designations, the site is located within the Nottingham-Derby Green Belt. The whole site is within Flood Risk Zone 3. The Lockington Marshes Site of Special Scientific Interest (SSSI) is approximately 100m from the development to the north-west on the opposite side of the river. The length of the River Soar bordering the site is designated as a Site of Importance for Nature Conservation (SINC), described as a slow moving river with notable plant communities. Approximately 230m to the north of the appeal site is the Roman site on Red Hill, which is a Scheduled Ancient Monument (SAM). Also to the north is a packhorse bridge at Red Hill Lock which is Grade II Listed.
8. Access to the site and the existing marina is off the A453 to the south, which runs in a south-west to north east direction. The A453 continues to the A52 (the Nottingham Ring Road) to the north-east and Junction 24 of the M1 to the south-west. In addition, there is a minor road, known as Soar Lane, which runs along the western bank of the River Soar and links the existing Red Hill marina access track to the village of Ratcliffe on Soar.
9. With regard to the nearest sensitive receptors there are a number of residential properties located on the existing marina access road that runs northwards from the A453, including Middle Gate Cottage, Mason's Barn and The Bungalow. Middle Gate Cottage is approximately 150m east of the appeal site, and Mason's Barn and The Bungalow are circa 50m to the east. To the north of the site Red Hill Farm is located approximately 60m from the appeal site. There is also North Bridge Cottage, adjacent to the access road roundabout off the A453. Notwithstanding the proximity of these properties it is reported in the

Environmental Statement (ES) that Middle Gate Cottage, Mason's Barn and The Bungalow are derelict and owned by Network Rail (purchased as part of the EMP Compulsory Purchase Order); North Bridge Cottage is unoccupied and also owned by Network Rail; and Red Hill Farm is occupied by the appellant.

10. The proposed marina site is significantly within the 13km aerodrome safeguarding radius for birdstrike hazard, with East Midlands Airport approximately 3.5km to the south-west.
11. Particularly noteworthy is the recently announced initial preferred route for the High Speed 2 (HS2) Phase 2 rail line from the West Midlands to Leeds. The initial preferred route was announced on 28th January 2013 and runs centrally through the appeal site. A route map of the relevant section is attached as Appendix A.

Proposed Development

Background

12. A planning application for the construction of a marina basin and associated buildings and moorings together with relevant infrastructure, incorporating the excavation, processing and removal of minerals and top soil was submitted in December 2009 by Red Hill Marine Ltd. The application underwent discussions relating to which the appropriate authority would be to determine the application, subsequent requests for necessary further information, and was not valid until May 2011.
13. The proposal sought planning permission for the extraction of a total of 860,000 tonnes of material (500,000 tonnes of which would be sand and gravel). The marina element of the scheme comprised a 632 berth marina for leisure moorings with a water area of 121,800m², a facilities block, workshop and boat repair building, toilet and shower block and car parking. This application was withdrawn in December 2011, following the consultation response from Rushcliffe Borough Council, which objected to the proposed development due to it being unjustified and inappropriate development in the Green Belt, without very special circumstances to justify the development.
14. A resubmitted planning application, albeit with reduced moorings, was received by the MPA in April 2012. A number of issues had to be resolved preventing the application from being validated until 14th May 2012.
15. Throughout the application processing period significant objections were raised from a wide range of bodies including, although not limited to, Rushcliffe Borough Council, Natural England, English Heritage, the Environment Agency and East Midlands Airport. Many of the consultees considered the level of information insufficient, inadequate, missing or out of date.
16. The responses received from consultees were passed on to the applicant to ensure that they were aware of the additional information which needed to be submitted and to give them the opportunity to prepare and submit any necessary reports or assessments. The only consultation response that the applicant responded to was from Rushcliffe Borough Council which objected to the

development on the grounds that it is inappropriate development in the Green Belt.

17. On the 28th January 2013 the Government announced the initial preferred route for the High Speed 2 (HS2) Phase 2 rail line from the West Midlands to Leeds. It showed the initial preferred route running centrally through the application site.
18. The applicant submitted an appeal to the Planning Inspectorate (PINS) on 14th March 2013 for non-determination of the application.
19. In defending the appeal the MPA has submitted a number of Appeal Statements, justifying the reasons for non-determination. On the 23rd May 2013 a report was taken to the Planning and Licensing Committee informing Members of the appeal and seeking support for the recommendation for refusal on the grounds of insufficient information. Committee Members expressed support for the position taken by Officers in affording the applicant opportunity to address deficiencies in the application and unanimously resolved to support the recommendation that, had the planning application been presented to committee prior to the appeal being lodged, the application would have been refused due to insufficient information.
20. On the 17th May 2013 PINS made a Regulation 22 request for further information from the appellant requiring the submission of additional information relating to areas which were identified as deficient in the Appeal Statement submitted by the MPA. The Regulation 22 request included the requirement for information relating to dewatering activities and hydrological impacts on the nearby Lockington Marshes SSSI; updated bat and Great Crested Newt species surveys; an assessment of the visual impact of lighting; clarification on visual impact viewpoints; a copy of the archaeological evaluation report; a complete version of the noise assessment; an assessment of construction traffic impacts; and an updated Non-Technical Summary.
21. On the 1st October 2013 PINS informed the MPA that a change of procedure was to take place and the appeal would be conducted as a hearing. Subsequent to this, PINS made a further Regulation 22 request on 21 October 2013 requiring the applicant to submit an assessment of bird strike risk to East Midlands Airport and a further revised Non-Technical Summary. The appellant submitted the bird strike risk assessment on 9th January 2014.
22. The MPA has been supplied with the additional information submitted to PINS under the Regulation 22 request, and has sought comments from the relevant consultees. The Appellant has submitted all the information required by PINS. As such, the purpose of this report is to fully assessment the merits of the planning application and come to a view, supported by Members, on what the decision would have been had the application been determined by MPA ahead of the appeal so as to inform the Hearing.

Proposed Development

23. The application to which this appeal relates is a resubmission of the abovementioned application for the creation of a marina through minerals extraction, albeit with reduced moorings (553). The proposed quantity of material

to be extracted has not been altered from that detailed in the original application. The applicant voluntarily submitted an Environmental Statement (ES).

24. The appeal relates to two elements of development; the extraction of minerals and the development of a marina. These elements are described in turn.
25. The development involves the extraction of soil, clay, sand and gravel. The sand and gravel is proposed to be taken off site for processing and the clay and soil would be retained for use in the construction of the marina basin. The ES states that there would be a total of 860,000 tonnes of material excavated, broken down into the following quantities:
 - Soils and upper clay 188,000m³ (340,000 tonnes);
 - Sand and gravel 296,000m³ (500,000 tonnes);
 - Basal clay 10,800m³ (20,000 tonnes).
26. It is proposed that some of the clay extracted may be removed off site to be used in local engineering projects, the volumes of which are estimated to be 20,000 – 30,000m³ over the life of the extraction phase. The excavation stage of the development would take 3-4 years, depending on market conditions. The ES states that this would result in extraction rates of 150,000-200,000 tonnes per annum, although 860,000 tonnes of material over a 3-4 year period would actually translate to 215,000 - 287,000 tonnes per annum.
27. It is proposed that the marina basin would be engineered to have a level 'floor' that allows a minimum water depth of 1.4m, based on a minimum water level of 27.6m Above Ordnance Datum (AOD). The appellant states that over excavation into the basal clay would be required to achieve these levels, and the basal clay and upper clays and soils would be used during the engineering works to stabilise the banks of the marina between 1:3 and 1:5 gradients on dry slopes and 1:2 on wet slopes. Recovered clays from extraction would be used to create islands and spits within the marina.
28. An eight phase approach (A to H) is proposed for the extraction process. Extraction would begin relatively centrally within the site, then moving northwards towards the Red Hill Farm (Phases A and B). Extraction would then move in a southerly direction (Phases C, E and F) with the exception of Phase D which is to the west. Phase G would be extracted in an easterly direction. Phase H is the footprint for the marina buildings and car park and would be extracted in parallel with Phase C.
29. When the proposed excavation starts in Phase A the soils and overburden would be placed on adjacent land. This storage would be temporary and this material would be replaced into the void to create marina features as the minerals are removed. This temporary storage would last for approximately 6 months before the material is placed in the Lagoon for construction purposes. The opening up of the excavation is predicted to last for 3-5 months, depending upon weather conditions. In this period a basal drainage system would be created to collect and channel groundwater entering the void. The initial quantity of clay would be used to 'batter' the mineral face which would reduce the inflow of groundwater. As soils and clay are removed from the subsequent phases they would be placed within

the void to create the islands and spits in a progressive manner allowing the marina to be built as the excavation proceeds southwards.

30. The ES highlights that the phases are indicative and the boundaries are flexible, but the purpose is to demonstrate generally how excavation would progress.
31. It is proposed to excavate the site and recreate the spits and islands with the excavated clays in order to avoid sterilisation of the mineral resources below the islands, spits and central platform. The appellant has identified the fill capacity as follows:
 - Base reprofiling – 85,500m³;
 - Central platform – 36,000m³;
 - Islands/spits – 50,500m³;
 - Banks and reeds 39,880m³.
32. The above material totals 211,880m³. The ES reports that there is a greater capacity than there is material arising (23,880m³) which means that the basal reprofiling would result in the water depth being marginally deeper than 1.4m.
33. The proposal is for dry excavation which would require dewatering to take place. This would require a pump to be working on a 24 hour, seven day per week basis, to dewater the extraction area.
34. Excavation would be undertaken by hydraulic excavators which would then load dump trucks or lorries. Overlying materials would be removed separately over short concentrated periods, with the transport being done by articulated dump trucks, and then placed into the void and engineered to the proposed profiles by a bulldozer. The short periods of soil and clay removal would expose minerals which would then be extracted on a more consistent day-to-day basis. The sand and gravel would then be taken off site for processing.
35. The minerals would be taken off site by lorry. Based on an extraction rate of 200,000 tonnes per annum and a 250 day working year, there would be an extraction rate of 800 tonnes per day. Using lorries with a capacity of 20 tonnes, this would result in 40 HGVs trips (80 movements) per day.
36. Normal working hours would be 07:00 – 18:00 Monday to Friday and 07:00 – 13:00 on Saturday, with no working on Sundays and Bank Holidays. However, as mentioned above a dewatering pump would be working on a 24/7 basis.
37. Following extraction, construction of the marina would begin. This would include development of roads and parking areas, as well as the construction of floating moorings and installation of lock gates. Water would then be allowed to fill the void until the water level is at the same height as the river. The ES states that this phase would take approximately 12 months and when the pontoons are in place the existing moorings on the river would be removed. Work would then commence on the construction of the facilities building.
38. The proposed marina would have a total water area of 87,600m². The marina would be tear-drop in shape, narrow to the north and wide in the south. The water body would measure approximately 620m in length (north-south) and between

30m (northern end) and 420m, (towards the south) in width. Within the marina there would be a number of spits extending into the water body and a total of six small islands.

39. Boats would be moored on linked floating timber pontoons that would be held in place by driven piles. Pontoons would be distributed around the marina with some running parallel to the marina banks and others protruding out into the water, with some reaching out to the islands. This would provide for a total of 553 berths, a reduction of 79 (or 12.5%) from 632 proposed in the original application. It is noted that the scheme does not propose to include any residential moorings within the marina.
40. Access for boats would be from the River Soar approximately half way along the western side of the marina, 50m north of the existing small marina basin. The marina entrance would have flood control gates which have a similar arrangement to a standard lock gate. These gates would normally be open, but in the event of high water levels they could be closed to hold water from flowing back into the river to allow a controlled release.
41. Vehicular and pedestrian access to the pontoons would be provided by a new road that would run adjacent to the marina banks, curving around the whole of the marina basin. Parking for vehicles would be available at numerous points on the access road surrounding the basin. There would also be a main car park on the eastern side of the marina adjacent to the main buildings. In total it is proposed to provide parking for 244 vehicles for the marina and 131 for the facilities building, boat house and toilets. The access track would be surfaced with crushed stone to allow permeability and low level lighting would be provided by bollard lights and ground inset uplighters. The ES states that there would also be disabled access and secure cycle parking facilities.
42. Total building floor space proposed amounts to 1,524m². The following structures are proposed around the site:
 - Main facilities block (997m²);
 - Boat house (450m²);
 - Secondary south facilities building (77m²);
 - Service compound and bin store;
 - Recycling points around the site.
43. The main facilities block would be located on the eastern side of the marina, adjacent to the water's edge. The building would be of a two storey hipped roof construction with dormer windows in the roof pitch on the second floor. The ground floor would have a glazed frontage and the roof would be clad in grey simulated slate. In addition to the two floors there would be an observation control room tower protruding centrally from the facilities block roof. The control tower would have a pyramid hipped roof in grey simulated slate. The building would be surrounded by raised decking. This building would provide management and business offices, chandlery, toilets, showers, laundry, café, staff accommodation and an observation control room. The ES states that the building would measure 48m by 14m and 15m in height. The building would be raised on piles with a floor level of 31.3m AOD, above the 100 year flood level of 30.61m AOD.

44. The boat house would be located on the eastern side of the marina, also adjacent to the water's edge, but to the north of the main facilities block. The building would be of a single storey pitched roof gable ended construction. There would be a combination of fair brick facing (flood resistant) walls to the lower level and natural timber cladding at upper levels, with grey profile steel covering with roof windows. The boat house would provide facilities for boat building and shed repair, toilets and showers. There would also be a slipway adjacent to the southern side of the boat house, and to the north there would be two service bays with fuel and pump out facilities. The building would measure 30m by 15m and 9.3m in height. The toilets and raised access would be set at the 100 year flood level, although the floor level of the workshop area (29.4m AOD) would be below it.
45. The secondary facilities building would be located adjacent to the marina edge in the south of the site. The building would be of a single storey hipped roof design, with lower level fair facing bricks and upper level natural timber cladding. The roof would be constructed of grey profile steel roof, with roof lights. The building would contain toilets and an equipment store and would measure 11m by 7m and 7.4m in height. The building would be set on piles with a floor level above the 100 year flood event level.
46. There would be a service compound and bin store located between the main facilities building and the boat house, adjacent to the west side of the car park.
47. A 'habitat creation area' is proposed in the south-western corner of the site. This area would retain existing mature trees located along the river edge and provide an area for wildflower and wetland planting. Also, grassland would be retained between the marina and the river. Trees would be planted in and around the car parking areas and along the banks of the marina, and trees and shrubs would be planted on the islands.
48. Species rich grassland would be planted in-between car parks, paths and roads within the marina development and the banks of the non-operational areas of the marina would be sown with a species rich grassland mix.
49. A species diverse hedgerow would be planted along the eastern boundary of the new marina and the hedgerow would be double planted to create a wide hedgerow. It is proposed that a field margin would be maintained to the east of the new hedgerow boundary of the site and would be managed to maintain a longer sward during spring and summer months.
50. The floating pontoons would enable marginal habitat to establish between the pontoon and the banks, which would be allowed to colonise naturally. Banks subject to wave action from the boats would be pre-planted with coir rolls at the base of the banks and protected with wire mesh to prevent ducks and other water birds from damaging emerging vegetation. Marginal species would also be planted/sown in areas to colonise the remaining banks. The corners of the marina would be created as shallows and be planted with reeds and marginal grasses.
51. The proposed marina would be accessed off the northern side of the A453, via an existing road that provides shared access to Red Hill Marina and East Midlands Parkway. After leaving the A453 vehicles would approach a roundabout and turn left taking the first exit, heading in a westerly direction and passing over the rail

line. Vehicles would then approach a second roundabout where the first exit leads to the existing Red Hill Marina and the second to East Midlands Parkway. The road off the second roundabout runs for approximately 650m before reaching the Red Hill Farm buildings, and is also a recorded Public Right of Way (Ratcliffe-on-Soar Footpath No. 7). This road would form part of the south-east boundary of the marina and the access track that curves around the perimeter of the marina. An existing access track would form the northern boundary of the site and also connect to the existing Red Hill Marina access road. The existing Red Hill Marina access off the A453 is included within the application red-line.

52. The proposal would create 14 full time jobs, and the marina would be staffed by at least one staff member 24 hours a day, seven days a week.

Consultations

53. The consultation responses outlined below have been provided in response to the planning application against which the non-determination appeal has been made. However, where the appellant has submitted additional information as part of the Regulation 22 request made by PINS, the MPA has re-consulted certain parties on this, and the subsequent consultation responses are also outlined below. Where this is the case it has been highlighted.

Consultees

54. **Rushcliffe Borough Council** – *The marina would represent unjustified and inappropriate development in the Green Belt, having a significant impact on the openness of the Green Belt by virtue of the engineering operations, associated urbanising effect, size and appearance of the site, dominance of access roads, car parking areas and parked cars, buildings, increased activity and unjustified proliferation of an existing operation. There are not very special circumstances that outweigh the harm caused. The development is contrary to the provisions of the National Planning Policy Framework (NPPF) and Policies EN14 (Protecting the Green Belt) and EN19 (Impact on the Green Belt and Open Countryside) of the Rushcliffe Non-Statutory Replacement Local Plan. An **objection** is raised by Rushcliffe Borough Council.*
55. **North West Leicestershire District Council** – *No objection.*
56. **Kegworth Parish Council** – *No objection, although concern is raised in relation to traffic movements. It is requested that vehicular traffic, particularly HGVs, do not pass through Ratcliffe-on-Soar and Kegworth. Financial contributions for road improvements are also sought.*
57. **NCC Planning Policy Team** – *From a minerals perspective the development is a departure from the Nottinghamshire Minerals Local Plan (MLP). The development could be viewed as a windfall in terms of sand and gravel extraction, although one which would have limited impact (an additional 9 weeks supply) upon Nottinghamshire's sand and gravel landbank. If the development is otherwise environmentally acceptable and Rushcliffe Borough Council support the proposal, it would be reasonable to grant permission.*

58. *In terms of the marina element of the proposal it is recognised that tourism development of this type requires such a location. However, there are concerns as to how the marina would be accessed other than by private car, and the potential negative impact of the buildings associated with the marina on the surrounding area and openness of the Green Belt. Overall an **objection** is raised due to the potential impact on the surrounding area and the openness of the Green Belt.*
59. **Environment Agency** – *Information to address the concerns of the groundwater team has not been provided, particularly in relation to dewatering. The Environment Agency **object** because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed.*
60. *Notwithstanding this objection, the Appellant has submitted a letter to PINS as an Appeal document (with the MPA copied in) from the Environment Agency which indicates that the EA now have no concerns relating to biodiversity, groundwater or contamination.*
61. **Trent Valley Internal Drainage Board** – *The proposed development is outside of the Board's district.*
62. **Canal and River Trust (formerly British Waterways)** – *There is no objection to the proposal subject to a number of conditions. It is considered that there are sufficient water resources available to meet the additional demands in relation to the scheme, although this assessment is on the basis that the existing river moorings move into the new marina.*
63. **Severn Trent Water** – *No objection.*
64. **Natural England** – *The proposal is in close proximity to Lockington Marshes Site of Special Scientific Interest (SSSI) and the application, as submitted, may damage or destroy the features of interest for which the SSSI has been notified. Natural England (NE) **object** on this basis.*
65. *The survey report provided by the applicant indicates that there is suitable habitat for Great Crested Newts (GCN) and roosting bats. Insufficient information has been provided and NE also **objects** on this basis.*
66. **NCC Ecology** – *Further to the Regulation 22 additional information, comments should be sought from Natural England and the Environment Agency with regard to the proposal's impact on Lockington Marshes SSSI.*
67. *Since the comments made in July 2012 the ecological surveys previously submitted in support of the application have aged another year. Whilst updated surveys/assessments have been carried out for bats and Great Crested Newts, surveys for water vole, otter and breeding and wintering birds are now over five years old. This needs to be recognised as a serious constraint.*
68. *Updated surveys were carried out in 2013 in relation to bats. The survey methodology does not appear to conform to national guidelines. Nevertheless the results from this and the 2008 survey indicate that bat activity at the site is*

generally low. As such, should planning permission be granted conditions should be attached to cover the mitigation measures indicated in the bat survey.

69. *NCC Ecology is satisfied that no further surveys for Great Crested Newts are required.*
70. *A lighting plan has been submitted. This shows low-level bollard lighting along much of the river bank adjacent to the marina. It is requested that bollard lighting proposed for the car parking along the river is removed, or evidence provided that it would not give rise to significant light spill or affect nocturnal wildlife including foraging/commuting bats.*
71. *A number of the points raised in previous consultation responses have been subject to the submission of further information. Nevertheless, many of the previous comments remain pertinent and should be taken into consideration when determining this application, these are outlined below.*
72. *It is noted that there would be a loss of SINC in order to provide access from the river to the marina. However, this loss would likely be offset by the removal of boats currently moored along the river bank, although some intervention would be required for a positive impact.*
73. *Details on proposed habitats are scarce. Prior to determination details of phasing of mitigation, compensation and enhancement measures should be provided. Thought should also be given to the long term management of the scheme given that the marina is effectively mineral restoration, possibly through a Section 106 Agreement.*
74. *In relation to the Bird Management Plan, the report appears to be reasonable. However, it is suggested that the 'trigger levels' at which management of hazardous species is taken needs to be set at this stage.*
75. *The above matters need to be addressed before the application can be determined, as such, the NCC Ecology comments are considered to be an **objection**.*
76. **Nottinghamshire Wildlife Trust** – *Further to the Regulation 22 additional information provided on the bat dawn swarming surveys and recording transects, NWT are satisfied that no trees used by summer roosting bats would be affected by the scheme. However, no information on the use of trees on the site for roosting at other times of the year is provided. Bat foraging habitat will be lost as part of the scheme and this should be replaced. In addition, it is not clear from the information submitted what commitments have been made to mitigate for impacts on bats from reduced and disrupted foraging.*
77. *Whilst no new survey for Great Crested Newts was carried out, in light of the Habitat Suitability Index (HSI) assessment, it is probable that they would not have colonised since. However, the information still does not satisfy the requirement to mitigate for the loss of a pond as recorded as being used by frogs, toads and smooth newts. Even where protected species are not present there is still a requirement to mitigate or compensate for the loss of ponds (a Biodiversity Action Plan (BAP) priority habitat) and their associated biodiversity.*

78. *The re-submitted noise assessment still does not contain an assessment of the noise of quarrying on birds. It is likely that the noise level in adjacent fields would be higher than the 45dBA level normally associated with a potentially significant impact on birds. No mitigation appears to have been offered to overcome the adverse impact and as kingfisher, a Schedule 1 species under the Wildlife and Countryside Act, has been recorded on site this is of particular concern.*
79. *There are concerns with the Bird Management Plan, in that it highlights inconsistencies with the application. There is a strong emphasis on the disturbed nature of the marina and it describes the habitat as limited. If this is the case then it is unlikely that the site would host large flocks of gulls, duck or starlings. However, this is in contrast to the applicant's assertion that the marina would provide meaningful habitat, including reedbed, as mitigation for the habitat that would be lost through quarrying.*
80. *The management plan only refers to the management of the marina one established and does not address possible bird strike issues that might arise during the four year quarrying period. The report also proposes techniques to scare birds away from the site if trigger levels were exceeded, but does not explore what trigger levels might be appropriate. This is considered important as techniques to scare higher risk species may also affect non-target species.*
81. *In addition to the above, there remain significant concerns as highlighted in previous consultation responses. These are outlined below.*
82. *There are significant concerns with the completeness of surveys undertaken, that some are out of date and the accuracy of the impact assessment. These concerns relate to the Phase 1, overwintering and breeding bird surveys. There are also concerns about the lack of survey/assessment for otters (recorded within 50m of the site), badgers, water voles, bats and the impact of the development on spined loach.*
83. *There are concerns about the restoration/creation of the marina and the fact there would be a substantial loss of BAP habitat. It is also considered there is insufficient detail in the habitat creation proposed.*
84. *Overall it is considered that the development is not compliant with the NPPF and there is not comprehensive up to date ecological information, the impact assessment and the mitigation measures are inadequate. Nottinghamshire Wildlife Trust **objects** to the development.*
85. **NCC Landscape** – *There is insufficient information on the mineral extraction activities and heights and locations of top soil, sub soil and overburden mounds. The direct impacts of the landscape should be quantified, arising from both the mineral extraction works and the construction of the marina. There has been no visual impact assessment of the proposed lighting arising from the development. The visual impact to key residential properties should be set out if they are not covered by one of the identified viewpoints. The submission of photomontages and detailed landscaping are requested.*
86. *Further to the Regulation 22 submission of the External Lighting Assessment (July 2013) the NCC Landscape Team comment that while the report contains*

further information on the lighting proposals the landscape and visual impact assessment has not assessed these changes in relation to the baseline situation and response remains as set out before.

87. **NCC Archaeology** – *Comments made in response to the Regulation 22 additional information. The site evaluation report as prepared by the former Birmingham University Field Archaeology Unit appears to be a sound piece of archaeological field evaluation. The unusually deep stratified Roman deposits with apparent continuities of occupation into the Anglo-Saxon period are of at least regional importance and may contain elements of national importance. The significance of the site is further enhanced by the proximity of nationally important designated remains comprising the Roman site on Red Hill Scheduled Monument (Ref: NT 141).*
88. *If the Planning Inspector is minded to recommend that the Secretary of State grants planning permission it is recommended that a condition secures a full scheme of archaeological mitigation to the approval of the Minerals Planning Authority covering the following:*
 - a) *No development shall take place within the appeal site until details of a scheme for archaeological investigation and mitigation (a Written Scheme of Mitigation) has been submitted to and approved in writing by the MPA.*
 - b) *Thereafter the scheme shall be implemented in full accordance with the approved details.*
89. *The Written Scheme of Mitigation for such archaeological work should (as a basis for its approval by the MPA) set out an iterative process of investigation, mitigation, recording, archiving and publication in which remains can be treated appropriately and proportionately to their significance and importance. Archaeological work should be structured by staged assessment and review, aligned where appropriate to adaption of design to preserve important features in situ (bearing in mind public benefits of the development and the public interest in the preservation of nationally important archaeological remains (including those of demonstrable equivalent importance to Scheduled Monuments should they be revealed).*
90. *Attention is drawn to paragraphs 139 and 141 of the NPPF which relate to remains of demonstrable equivalence to Scheduled Monuments and the recording and dissemination of archaeological investigations.*
91. **English Heritage** – *Comments made in response to the Regulation 22 additional information. The views of English Heritage reflect those of NCC Archaeology.*
92. **NCC Heritage** – *No built heritage assets are directly affected although there are several within the vicinity. Ratcliffe-on-Soar has a number of listed buildings, including a Grade I listed church, although there would be little impact due to separation by the A453. To the north of the proposal is the Redhill Lock and Overbridge, although the impact on this is considered neutral.*
93. *To the east and north there are non-designated heritage assets. There would be a minor impact from the loss of pastoral agricultural land which forms a contextual*

setting to the significance of the non-designated heritage assets. These should be assessed in line with Paragraph 135 of the NPPF.

94. **NCC Noise** – *Comments made in response to the Regulation 22 additional information. No objection subject to a number of conditions.*
95. **NCC Rights of Way** – *No objection in principle, although Footpath No.7 would be affected and further details are sought on gradients and how the footway would link into the existing track/footpath to ensure it meets standards.*
96. **The Ramblers' Association** – *It is requested that if any length of Soar Lane is affected, that it is also given a pavement with a kerb. If Soar Lane is affected and no pavement is in place before works commence it is requested that these comments are considered as an objection.*
97. **NCC Highways** – *Comments made in response to the Regulation 22 additional information. The Highways Authority has no objection to the principle of the proposed development as there would be no material impact on the highway network. However, should planning permission be granted it is recommended that conditions are attached relating to access arrangements, routing of HGVs, parking and the submission and implementation of a travel plan.*
98. **Highways Agency** – *No objection.*
99. **Leicestershire County Council (Highways)** – *The proposed marina would have little impact upon Leicestershire roads, although it is requested that should permission be granted the Authority has sight of any routeing agreement.*
100. *Notwithstanding the above, it is highlighted that the site has issues with sustainability being away from any settlements and the need to travel to the site by car.*
101. **Network Rail** – *There is no objection to the principle of the development, although concerns are raised in relation to the development having an impact on the safe operation of the railway/integrity of the railway infrastructure. Conditions are recommended should planning permission be granted.*
102. **Western Power Distribution** – *No objection.*
103. **NATS (formerly National Air Traffic Services)** – *No objection.*
104. **East Midlands Airport** – *Comments made in response to the Regulation 22 additional information. The proposed development is still not of a design whereby the risk to aviation is no longer present or suitable to be mitigated by means of a bird management plan. Accordingly, EMA maintains its safeguarding **objection** to the proposal.*
105. **High Speed Two (HS2) Limited** – *The site is currently shown as falling on land that, at this stage, is an initial preferred route of Phase Two of High Speed 2. As a result the site may in the future be required by High Speed 2 Ltd to construct and/or operate the railway. Consultation on the Phase Two route will begin in 2013, following which the Secretary of State will make an announcement of the*

preferred route in 2014. As a result the preferred route may be subject to some change as a result of detailed consultation. In determining the planning application the Inspector should have regard to the announcement of the Government's initial preference for Phase Two and the Government's commitment in January 2012 to delivering Phase Two as material considerations.

Public and Business Comments

106. There have been a total of 48 comments from individuals and businesses in relation to the proposed development, 28 of which were made directly to NCC and 20 were made to Rushcliffe Borough Council, which then passed the comments on. The comments were made through a combination of letters and e-mails.
107. There have been five representations objecting to the development, 36 supporting the development and seven making comments. Below is a summary of the reasons for support that have been raised in the representations received:
- (a) The development would enhance the wider area and the existing marina, providing new and additional leisure facilities. This is important as there is a need for investment, organisation and improved facilities at Red Hill Marina;
 - (b) The development would not interfere with any residential or industrial site. There would be little noise or traffic impact upon the village of Ratcliffe-on-Soar, and the A453 duelling will also help with this;
 - (c) The site is an ideal location for a new marina, with easy access by road, rail and air. It will also provide a stopping point for people using the A453;
 - (d) It would provide a destination for people to explore and access the local history and heritage;
 - (e) The marina would increase tourism, providing revenue and an economic boost for the surrounding area. In addition, it would increase jobs and industry helping to reduce unemployment;
 - (f) The development would help with flood control;
 - (g) The value of the Green Belt in this location is reduced by the Power Station, rail line and East Midlands Parkway. These developments have set a precedent and harm to the Green Belt should not be a reason for refusal;
 - (h) The development would result in a reduction of moorings on the River Soar, this would make navigation easier and also improve the rural aspect of the river from certain locations;
 - (i) The development would enhance the site as an environmental resource, creating a still water refuge for fish stock and bird populations. There would also be tree planting and wetland areas improving the landscape and benefiting the area visually;
 - (j) There is a shortage of existing storage land for boat restoration;

- (k) There is a shortage of live aboard facilities for canal boats, and boat habitation is becoming more popular with the economic downturn. The location would also allow residents to commute.

108. Below is a summary of the objections, issues and concerns that have been raised in the representations received:

- (a) The development would have a cumulative, unnatural urbanising effect. Comparisons have been drawn to the scale of a new village and it has been referred to as urban sprawl. The development would have a negative impact on the openness of the Green Belt, particularly the car park, buildings, access road(s) and several hundred cars. The development is contrary to Rushcliffe Local Plan Policies on the Green Belt, specifically Policies EN14 and EN19;
- (b) The benefits are not justified and do not outweigh the departure from the policies. The tourism and recreation that the development would create does not outweigh the harm to openness and visual amenity. There are not very special circumstances for the proposal;
- (c) The figures relating to need for leisure moorings are inaccurate, particularly in the 'need and alternative site analysis', and other local marinas are reporting that moorings are difficult to fill;
- (d) The assumption that 'on-line' berths would relocate to the marina is an inaccurate assumption to make;
- (e) The development is not in accordance with the County Plan (Minerals Local Plan). It has been highlighted that the minerals extraction aspect of the application has been played down and there is uncertainty as to whether that is the real objective of the application. There is worry that the marina would not be completed;
- (f) There is no proof of need for the sand and gravel extraction or the marina for residents. In addition, there is little connection between the marina business and users, and it would do little to enhance Ratcliffe-on-Soar community life;
- (g) The local area is a site of very significant archaeological importance, with potential archaeology lost if the area is excavated. It is considered that the cultural heritage and archaeological statement is inadequate and that during excavations archaeology would be lost as it would not be possible to sift and record all finds;
- (h) The site has no provision for main sewage or gas;
- (i) The development could result in an increase in traffic through Ratcliffe-on-Soar, particularly on the narrow Soar Lane which has no pedestrian pavements. It is noted that through traffic has been reduced due to an access road now being gated, but it is highlighted that this could be opened. There is also concern that the weight of construction vehicles on this road could cause a collapse as a retaining wall has severely eroded. It has also

been highlighted that the introduction of these gates has on occasion prevented ambulances accessing the Red Hill Marina site, and they had to be re-routed, causing delays;

- (j) Ratcliffe-on-Soar and Red Hill have the same post code which is awkward for postal deliveries and satellite navigation. The proposed development would make the situation worse;
- (k) There is run-off from local highways discharging into local brooks causing pollution and maintenance issues.

109. Below is a summary list of the comments and suggestions that have been raised in the representations received:

- (a) Stretches of the River Soar, particularly withy beds, should be cleaned up as a condition of planning permission being granted. In addition, Mason's Barn should be demolished as it is used as a dumping ground and is an eyesore;
- (b) Should permission be granted all archaeological findings should be published;

110. If approval is given, there should be measures put in place to ensure the development is not left as a quarry. This could include securing a bond or sequestration of profits to be held in escrow.

Publicity

111. The planning application subject to this appeal was received by Nottinghamshire County Council on 19th April 2012. Following submission, there were a number of issues that had to be resolved before the application could be validated, including how the fee was calculated; amendments to documents to remove references to protected species; tree survey clarification; submission of a red-line plan; how the development takes the A453 duelling into account; itemisation of changes from the previous application; details of costs for Environmental Statement, Non-Technical Summary and Application CD should a request be made; the supply of hard copies of the application and ES; and the submission of completed minerals application form. The application was validated on 14th May 2012. Site notices and consultation letters (including statutory consultees and neighbour notification letters) were posted on the 18th May 2012. The press notice was published in the Nottingham Evening Post on the 23rd May 2012. The application was advertised as a departure from the development plan.

112. In addition to the requested information and clarification outlined above, site sections of the completed marina and an isopach plan of mineral and overlying material across the site were also requested. This request was made before the application was validated. However, it was agreed to proceed with the application prior to the submission of these details, and at the time of the plans being provided the submission of new environmental information would be advertised accordingly.

113. The requested sections and isopach plans to accompany the Environmental Statement were advertised in accordance with Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Site notices and consultation letters (including statutory consultees and neighbour notification letters) were posted on the 10th July 2012. The press notice was published in the Nottingham Evening Post on the 13th July 2012.
114. Following the submission of the appeal the MPA has had no further requirement to undertake publicity. However, it is noted that the Appellant has published a press notification in the Nottingham Post (2nd September 2013) highlighting that further environmental information had been prepared for the application in relation to ecology, archaeology, transport and highways, lighting and a non-technical summary.

Observations

Introduction

115. A resubmitted planning application for the creation of a marina through minerals extraction was received by the MPA in April 2012. A number of issues had to be resolved, preventing the application from being validated until 14th May 2012. The applicant appealed for non-determination in March 2013, further to which the Planning Inspectorate has required the submission of additional information in two separate Regulation 22 requests.
116. The appellant has now submitted the necessary information required by PINS ahead of the appeal Hearing. As such, the purpose of this report is to assess the merits of the planning application as best as is possible with the information available and come to a view, supported by Members, on what the decision would have been had the application been determined by MPA. This Member supported decision will inform the MPA's position ahead of the appeal Hearing.

Planning Policy Assessment

National Planning Policy Framework (NPPF)

117. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
118. The NPPF states that certain forms of development are not inappropriate in the Green Belt, which include mineral extraction, engineering operations, local transport infrastructure, the re-use of buildings, and development brought forward under a community right to build order. However, the construction of new buildings in the Green Belt should be considered as inappropriate development, except in the following circumstances:
- (a) The provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
 - (b) The extension or alteration of a building;

- (c) The replacement of buildings;
 - (d) Limited infilling of villages;
 - (e) Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land).
119. Development not identified above is considered to be inappropriate development in the Green Belt and, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in exceptional circumstances. The NPPF states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
120. Chapter 13 of the NPPF relates to the sustainable use of minerals. Paragraph 144 states that when determining planning applications great weight should be given to the benefits of the mineral extraction, including to the economy. The MPA should ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and cumulative effect should be taken into account. Unavoidable noise, dust and particle emissions and any blasting vibrations should be controlled, mitigated or removed at source. In addition, restoration and aftercare should be provided for at the earliest opportunity and carried out to the highest environmental standards.
121. The NPPF also encourages Minerals Planning Authorities (MPAs) to plan for a steady and adequate supply of aggregates. One of the methods for doing this is by using landbanks of aggregate mineral reserves as an indicator of security of aggregate minerals supply. Provision should be made for the maintenance of at least 7 years for sand and gravel; longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.
122. Chapter 3 of the NPPF provides support for economic growth in rural areas in order to create jobs and prosperity. This should be done through supporting sustainable growth and expansion of all types of business and enterprise in rural areas; promoting the development and diversification of agriculture and other land based rural business; and supporting sustainable tourism and leisure developments that benefit businesses in rural areas, which respect the character of the countryside.

Nottinghamshire Minerals Local Plan – MLP (adopted December 2005)

123. Policy M6.2 of the Nottinghamshire Minerals Local Plan (MLP) states that the County Council will endeavour to maintain a landbank of permitted reserves of sand and gravel sufficient for at least 7 years extraction and also an adequate production capacity so that Nottinghamshire meets its reasonable share of regional provision of aggregates. Policy M6.3 of the MLP states that proposals for sand and gravel outside allocated areas will not be permitted unless it is evident that adequate landbanks cannot be sustained.

124. Policy M14.1 of the MLP relates to incidental mineral extraction stating that proposals for the extraction of minerals as an incidental element of other development proposals will be granted provided that there are no unacceptable environmental impacts resulting from the mineral extraction; there are adequate interim reclamation measures to allow for possible delays or the non-implementation of the primary development; and the mineral extraction would be of a limited nature and short duration.

Rushcliffe Borough Local Plan 2006 (saved policies)

125. Only six policies from the Rushcliffe Borough Local Plan have been saved and remain part of the development plan. The most relevant of these is Policy ENV15 which identifies the extent of the Green Belt within Rushcliffe.

Rushcliffe Borough Non-Statutory Replacement Local Plan (adopted December 2006)

126. Policy EN14 of the Rushcliffe Borough Non-Statutory Replacement Local Plan (Rushcliffe NSRLP) relates to the protection of the Green Belt and states that within the Green Belt planning permission will only be granted for:

- a) Agriculture and forestry;
- b) Other uses which preserve the openness of the Green Belt including essential facilities for outdoor sport and recreation and for cemeteries;
- c) Alterations and limited extension or replacement of existing dwellings;
- d) Limited residential infilling in existing settlements within the Green Belt.

Planning permission will not be granted for inappropriate development, including the construction of new buildings other than those set out in the criteria, unless very special circumstances can be shown to outweigh the resulting harm to the Green Belt.

127. Policy EN19 of the Rushcliffe NSRLP relates to the impact on the Green Belt and the open countryside. It states that in the Green Belt and Open Countryside where a proposal is in accordance with other policies of the plan it must be demonstrated that:

- a) There will be no significant adverse impact upon the open nature of the Green Belt or open countryside, or upon important buildings. Landscape features or views;
- b) An appropriate landscape scheme is proposed as part of the development;
- c) As far as is possible existing buildings on the site have been used to accommodate indoor facilities and where new buildings or extensions are proposed they respect the general character of the area through siting, design and materials; and
- d) Any ancillary lighting, including street lighting is designed and located to minimise its impact beyond the necessary area.

Minerals Local Plan Review

128. The purpose of the Preferred Approach consultation exercise is to set out the draft Vision, Strategic Objectives, Strategic Policies, Minerals Provision Policies (including land allocations) and Development Management Policies that will guide the future development of minerals in the County.
129. Policy MP1 of the Minerals Local Plan Preferred Approach Document (MPAD) highlights the demand for aggregate minerals over the plan period (2012-2030) as 49.02 million tonnes of sand and gravel, and states that the County Council will make provision for the maintenance of landbanks of at least 7 years. It also states that proposals for aggregate extraction outside of the areas identified in the MPAD will be supported where there is a demonstrable shortfall in the landbank.

Nottinghamshire Minerals Local Plan - Local Aggregates Assessment (July 2013)

130. The production of Local Aggregate Assessments is a requirement set out in the NPPF, and the first one was adopted in July 2013. The assessment covers Nottinghamshire and sets out apportionment figures for aggregate minerals for inclusion in the future Nottinghamshire Minerals Local Plan (MLP). The document identifies that as of December 2011 the sand and gravel landbank stood at 7.3 years equal to 19.3 million tonnes.

Green Belt Policy Assessment

131. As shown on the Rushcliffe NSRLP proposals map, the proposed development site is within the Green Belt. As such, it is important to establish whether the proposed development is appropriate within the Green Belt, first the minerals element of the proposal and then the marina.
132. Policy EN14 of the Rushcliffe NSRLP outlines the types of development that planning permission will be granted for in the Green Belt and it does not include minerals extraction. However, the absence of minerals extraction from this policy is not seen in itself as a statement that it is inappropriate development, but more that the Borough Council leaves the appropriateness of location for minerals extraction up to the MPA. This view is reinforced by the fact that within the Committee Report that informed the consultation response from Rushcliffe Borough Council, rather than saying the minerals extraction element of the development is contrary to the policy, it states "*it is considered that it is a matter for Nottinghamshire County Council to consider whether the principle of minerals extraction in this particular location is acceptable*".
133. The NPPF states that certain forms of development are not inappropriate in Green Belt, including minerals extraction. Whilst the principle of mineral extraction is acceptable in the Green Belt, it is only in accordance with the NPPF if it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. It is difficult to consider the minerals extraction against this aspect of the NPPF in isolation, given that its purpose is to facilitate the development of a marina. As such, the mineral

extraction only meets the requirements of acceptability in the Green Belt if the end use (i.e. the marina) is acceptable in the Green Belt.

134. The appellant, within the original supporting statement and planning policy assessment, is of the view that the development is acceptable in the Green Belt as it is an engineering operation and includes essential facilities for outdoor recreation.
135. Paragraphs 89 and 90 of the NPPF set out the type of development that is acceptable within the Green Belt. Whilst it is accepted that engineering operations and appropriate facilities for outdoor recreation are contained within those paragraphs, it does not include a material change in the use of the land. On a strict interpretation of the NPPF, any material change in the use of land in the Green Belt will constitute inappropriate development.
136. Notwithstanding the above, the development would be appropriate in the Green Belt, in line with the NPPF, only if it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
137. It is the view of Officers that the engineering operation of creating a basin which would eventually form an open water body is not, in itself, inappropriate in the Green Belt. However, it is the use of the water body that needs to be considered. In this case, the water body would be used as a marina, to provide 553 new leisure berths catering for small leisure craft, narrow beam narrow boats and wide beam craft. Given that boats are man-made objects, at full capacity 553 boats, some up to 4m by 21m, would have an adverse impact on the openness of the Green Belt. Whilst it is recognised that the marina would not include residential moorings, owners of narrow boats generally moor their vessels in one place for large parts of the year, therefore, the impacts would not be a transitory use of the land. It is for these reasons that the proposed marina would constitute an inappropriate development in the Green Belt. It is also worth noting that this thinking, reflects that of two recent appeals (Ref: APP/W3710/A/13/2192451 & APPW3710/A/13/2195969) relating to canal marinas in the Green Belt off Coventry Canal which, both at 150 berths, were considerable smaller than the subject of this appeal.
138. In addition to the water body element of the marina, is the associated development namely the buildings and associated roads and parking facilities. The development would result in 244 parking spaces for the marina and 131 parking spaces for the facilities building. There would also be the creation of three new buildings, with the dimensions set out below:
 - a) Main facilities block with 997m² floor space (building dimensions 48m x 14m x 15m);
 - b) Boat house with 450m² of floor space (building dimensions 30m x 15m x 9.3m);
 - c) Secondary south facilities building with 77m² of floor space (7m x 11m x 7.4m).

139. With regard to the roads and parking, the hardstanding itself is not considered to have a particular significant impact on the openness of the Green Belt, however, it is the resultant users of the roads and parking that would have an impact with up to 375 vehicles parking at the site at any one time. The development of the buildings, by their very nature, would create built development where there was previously none, and in this respect they would not maintain the openness of the Green Belt.
140. In addition, whilst a marina in itself is not urban development, and can realistically only be situated on suitable watercourses, much of the associated infrastructure (i.e. buildings, roads and car parking) is of an urban character and certainly would not be view as normal countryside development. For this reason, it is considered that the development would also be contrary to the safeguarding the countryside from encroachment, one of the purposes of the Green Belt.
141. For the reasons set out above, the proposed development is unequivocally inappropriate development and is, by definition, harmful to the Green Belt. As such, approval should only be given in very special circumstances, which are discussed below.

Minerals Policy Assessment

142. The Appellant has not promoted this site on the basis of minerals extraction, relying on Policy M14.1 (Incidental Mineral Extraction) and M2.2 (Mineral Sterilisation) of the MLP to support the proposed development.
143. Policy M2.2 seeks to ensure that development does not sterilise minerals resources by making them unworkable, and sets out a series of criteria in which the sterilisation of minerals would be acceptable. Given that the proposed marina includes the extraction of existing sand and gravel resources to facilitate its development this policy is of little relevance.
144. Policy M14.1 relates to the extraction of mineral as part of other development, and states that planning permission will be granted where there are no unacceptable environmental or other impacts resulting from the mineral extraction; there are adequate interim reclamation measures to allow for possible delays or non-implementation; and the extraction is of a limited and short duration. The supporting text to the policy adds that if mineral extraction is a significant reason for justifying or promoting a development the proposal will need to be assessed against the relevant policies applicable to the mineral being worked.
145. The proposed development involves the extraction of approximately 500,000 tonnes of sand and gravels, with an overall extraction time of circa 3-4 years. The applicant states that the annual off take would be between 150,000 and 200,000 tonnes per annum. Estimated annual extraction rates are set out for sand and gravel in Table 1 below, compared with average Nottinghamshire extraction and apportionment:

Table 1: Sand and Gravel Estimated Annual Extraction and Apportionment

	Sand and gravel	Annual Allocation	Percentage of annual allocation	Average production over last 10 years	Percentage of average production over last 10 years
Year 1	150,000 – 200,000	2,650,000	5.66% - 7.55%	2,580,000	5.81% – 7.75%
Year 2	150,000 – 200,000	2,650,000	5.66% - 7.55%	2,580,000	5.81% – 7.75%
Year 3	150,000 – 200,000	2,650,000	5.66% - 7.55%	2,580,000	5.81% – 7.75%
Year 4	150,000 – 200,000	2,650,000	5.66% - 7.55%	2,580,000	5.81% – 7.75%

146. If the last three years of available data is considered (1.27, 1.56 and 1.71 million tonnes in 2009, 2010 and 2011 respectively) then the proposal would account for between 9.93% - 13.25% of Nottinghamshire's annual production. Whilst the Appellant has not promoted or justified the development from a minerals perspective, it is considered that the proposal would form a reasonable percentage of overall production in Nottinghamshire, certainly more than could be described as incidental. In addition, Policy M14.1 requires there to be no unacceptable environmental or other impacts resulting from the minerals extraction. It is for these reasons that the minerals aspect of the development cannot realistically be considered as incidental and should be fully assessed against the relevant policies applicable to the mineral being worked.
147. Given that the proposal is not within an area of allocation, the relevant policies in this case are M6.2 and M6.3 of the MLP which require the County Council will endeavour to maintain a landbank of permitted reserves of sand and gravel sufficient for at least 7 years extraction and proposals outside allocated areas will not be permitted unless it is evident that adequate landbanks cannot be sustained.
148. The most recent figures state that there was a landbank of 7.3 years as of December 2011. Given that two years have elapsed since, taking into account the slowing of production rates (1.27, 1.56 and 1.71 million tonnes in 2009, 2010 and 2011 respectively), using an average of the last three years (1,513,333 tonnes per annum) as of February 2014, 3.28 million tonnes will have been used since December 2011, leaving the landbank standing at approximately 6.06 years. It is of note that some sand and gravel resources have been granted planning permission since December 2011 including an extension to East Leake Quarry, granted in 2013 (390,000 tonnes) and the creation of two fishing lakes through minerals extraction at Scrooby Top (277,000 tonnes). These permissions combined add approximately 13 weeks to the landbank, taking it up to 6.31 years
149. The proposed extraction of 500,000 tonnes as part of this appeal would add approximately 10 weeks to the land bank, taking it up to approximately 6.5 years as of February 2014.
150. On the basis of the above, there is a shortfall in the County's landbank for sand and gravel and, as such, mineral extraction is allowed in unallocated areas in line with Policies M6.2 and M6.3 of the MLP.

151. It is of note that within the consultation responses the lack of proof for the need for sand and gravel extraction was highlighted. This may have been the case when the application was submitted (April 2012), however, there is now a demonstrable need for additional sand and gravel reserves.

Alternative Site Search

152. The appellant has undertaken a search of alternative sites suitable to accommodate a marina within the local vicinity, the purpose being to outline the main alternatives studied and provide an indication of the main reasons for the choice made, taking into account the environmental effects, in line with the requirements of the Town and County Planning (Environmental Impact Assessment) Regulations 2011.
153. The scope of the site search was over the length of the River Soar, from Ratcliffe on Soar to the north and Narborough to the south totalling nearly 40 miles. The initial investigation was undertaken as a desk top exercise using aerial photography and Ordnance Survey maps of the River Soar with three criteria used for identification:
- a) Adequate open area to accommodate a marina of between 200 and 600 berths;
 - b) Accessibility to the local road network;
 - c) River constraints – connections with other rivers or canals in the network, embankments and cuttings, major changes of level, aqueducts and locality to established marinas.
154. Using this methodology the Appellant identified 14 sites, with the majority being in open countryside, although four were in more urban areas.
155. The second stage of the site search assessment involved site inspections and the application of further selection criteria including:
- a) A review of the site area available including for the placement of soils removed during excavation;
 - b) The quality and safety of the access;
 - c) The feasibility of access from the river including an examination of the relative levels such as cuttings or embankments not visible from the desk top study;
 - d) Proximity of the sites to excessive noise from adjacent motorways or elevated roads;
 - e) Proximity of the sites to overhead high voltage cables or underground pipelines;
 - f) Direct impacts to known environmental constraints such as designated sites of nature conservation or heritage value (e.g. SSSIs or Scheduled Monuments and Conservation Areas).

- g) Water resources including flood plain or source protection zone.
156. Based on the site search assessment, the applicant has concluded that there are only three site that are feasible including one at Mountsorrel Lane, Mountsorrel (Charnwood Borough Council), one at Warrick Road, Whetstone (Blaby District Council) and the site subject to this appeal, Ratcliffe on Soar.
157. The Appellant highlights that both the Mountsorrel and Warrick Road sites are subject to Green Belt / Green Wedge designations. The Mountsorrel site has a nature reserve located on it and when this is combined with the Green Belt designation it is considered less suitable than the application site. With regard to the Warrick Road site, it is highlighted that the M1 runs directly parallel to, and above part of, the site. Overall, in relation to highways and railway lines the Appellant considers the Redhill site more suitable providing a sustainable marina site.
158. In reviewing the alternative site search assessment, there are a number of issues that, in the opinion of Officers, need further clarification, or even a full re-assessment.
159. Firstly, there is concern about the scope of the site search. The Appellant has focussed on an approximately 40 mile stretch of the River Soar, from Ratcliffe on Soar to Narborough. The locations identified are shown a Plan labelled 'Appendix I: Alternatives Sites Base Map – The River Soar Stretch'. The Appellant has provided no explanation or justification for their reasoning to limit the site search to the River Soar, when there are other waterways within close proximity that serve the same network of rivers and canals. Indeed, the River Soar joins the River Trent less than 1km to the north of the application site, and from the River Trent, the River Derwent, the Trent and Mersey Canal and the Erewash Canal are accessible. It is considered that to demonstrate that the site is the most appropriate an assessment of potential locations along the River Trent to the east and west, the River Derwent and the Erewash Canal should be undertaken, or a justification as to why these waterways were excluded from the original assessment.
160. The Appendix I map also includes City Exclusion Zones. Whilst it is assumed that these urban areas have been excluded due to insufficient space for a medium to large scale marina within and urban area, there does not appear to be an explanation within the Site Search Assessment as to why these areas have been excluded, and this requires clarification.
161. The second stage of the assessment highlights one of the criteria as being the proximity of the sites to excessive noise from adjacent motorways or elevated roads. It is not understood why this has been limited to noise from highways, and Officers consider that all potentially detrimental noise sources should be considered, in view of potential sources such as the Ratcliffe on Soar power station and nearby East Midlands Parkway and associated rail line. In addition, there does not appear to be any assessment of the visual impact surrounding development on potential sites being assessed; again, the power station would be a significant factor in the consideration of the proposed Red Hill site.

162. Whilst it is recognised that there is a degree of subjectivity to site search exercises, it is questioned whether the Appellant should have afforded differing levels of weighting to the site search criteria. It would be useful if the Appellant were to explain why this has not been done.
163. Possibly the most significant issue with regard to the site search assessment is the announcement of the proposed Phase Two route of the High Speed 2 (HS2) rail line, which passes centrally through the appeal site. The absence of this consideration from the site search assessment is certainly not the fault of the Appellant, given that it was announced almost a year after the application was submitted. However, it is now a fundamental consideration that could alter which site is considered the most appropriate in site search terms.
164. In summary, there are a range of factors that have not been considered fully, or at all, in the alternative site search report, and it is suggested that such an assessment is undertaken again.

Need

165. To support the proposals, and to attempt to justify very special circumstances for inappropriate development in the Green Belt, the Appellant has sought to demonstrate a need for the proposed marina.
166. The assessment of need sets out a context of growing waterborne leisure demand, highlighting the ageing population in the UK and that 80% of canal boaters are 50 years old or above. The assessment also asserts that boat licences¹ are still shown to be increasing by 2.5% per annum despite the economic downturn. The report also notes that British Waterways² believe that the demand for marina berths is sufficient that 20% of current boats moored would convert to marinas if the location was right and that there is currently unmet demand to justify the construction of 5-6,000 additional berths throughout the waterway network.
167. To demonstrate need the Appellant has relied heavily on the British Waterways 'Re-pricing of 12 month mooring permits 2012, market area report for the N.E Midlands'. From this report some statistics are highlighted including:
- a) The total market (Upper Trent, River Soar, Erewash, Nottingham and Beeston Canals and most easterly sections of the Trent and Mersey) comprise some 3,220 occupied berths.
 - b) Average occupancy levels currently stand at 98%;

¹ Issued by the Authorities that regulate waterways, for example the Environment Agency runs the River Thames, the Broads Authority looks after the Norfolk and Suffolk Broads and The Canal and River Trust has responsibility for the Severn, the Trent and the Yorkshire Ouse.

² On 2 July 2012, British Waterways ceased to exist in England and Wales and in its place the Canal & River Trust was set up to care for 2,000 miles of historic waterways.

- c) The supply of auctioned vacancies between October 2009 and August 2011 are shown to be in demand 8 times over with 416 bids made on only 48 available auctioned berths.
168. The assessment predicts there will be around 3,880 boats operating on the North East Midlands waterways by 2013 (and around 4,716 by 2017) with a shortfall of moorings, taking the newest marinas into the equation, of at least 760 berths. The Appellant asserts that a significant proportion of boats moored on the waterways network do not have a marina, that there are waiting lists, and this has led to the formation of the Canal and River Trust (CRT) New Marinas Unit. The report states that many boaters are currently forced to accept 'on-line' moorings (moorings on rivers and canals outside of marinas) or have a 'continually cruising' status. British Waterways are said to be anxious to discourage on-line moorings which cause congestion, erosion to banks and disturbance to river wildlife.
169. The assessment notes that there are 96 on-line river moorings to the west of the application site which can increase to 200 during the busier months. The Appellant states that the application would look to incorporate the identified 96 on-line berths into the marina should planning permission be granted, and a total of approximately 150 of the berths could be occupied by currently on-line boats.
170. There has been support for the relocation of on-line river moorings in consultation responses, highlighting that it would make navigation easier and improve the rural aspect of the river from certain locations.
171. The Appellant specifically states that because the data from the British Waterways market area report is so recent they have not chosen to undertake an assessment of individual marinas occupancy levels within the localised supply zone (40km is referenced within the report), particularly as British Waterways state that occupancy is over 98% in 2012. The Appellant draws attention to this statistic including occupancy data gathered from the larger and newer marina such as Mercia, Nottingham Castle, Pilling Lock and Sawley.
172. The need assessment also specifically addresses a number of "*frequently quoted statistics on marina development*", dismissing the following:
- a) 2010 calendar year data for lockage use shows a decline across the East Midlands and UK, illustrating boat usage is declining – dismissed because of weather factors and the increase in long term boat licences by 3% on the previous year in the 2009-2010 British Waterways accounts is highlighted;
 - b) There is a 12% surplus of moorings in the UK – dismissed, saying that these statistics have been withdrawn by British Waterways and repeats the market area report statistic that marina occupancy is at 98% in the North-East Midlands.
 - c) Other large marinas are currently under occupied – the Appellant makes particular reference to Sawley and Mercia Marinas stating that occupancy was 97% at Sawley and 71% at Mercia, with growth patterns suggesting Mercia would be 90% full by the end of 2012.

- d) The application to North West Leicestershire District Council to convert 120 existing leisure moorings to residential indicates a surplus of 2,000 berths in the Midlands – this data is dismissed as being irrelevant for comparative purposes as it is being used to support residential moorings.
173. Having outlined the Appellant's assessment of need, there are a number of concerns, the most important being the age of the data. Given that the application was submitted in May 2012, the data that is presented in this assessment is now at least 2 years old. In addition, there is significant concern that the Appellant has specifically chosen not to do an assessment of individual marina occupancy, instead relying on one statistic that supports the need for the development. It is for this reason that Officers have decided to conduct a survey of marinas to assess up to date occupancy rates within the locality. The survey was undertaken in January and February 2014.
174. Whilst not exhaustive, 15 marinas within a 40 mile radius of the proposed Red Hill Marina site have been surveyed providing a relatively comprehensive and up to date picture of marina occupancy rates at this point in time. A 40 mile radius was chosen because this reflects the Appellant's site search distance (although there is criticism above that the site search was only conducted along the River Soar), and because the CRT state that when defining the market for new marinas around three out of four of all boat owners chose a mooring within 40 miles of their home³.
175. The survey results are outlined in Table 2 below. The Table shows the marina name, its location, the waterway on which it is located, the distance (in miles and time) from the proposed Red Hill marina site, the number of berths and the occupancy rates for each marina. The marinas were first contacted by telephone and then asked to confirm their berths and occupancy in writing (by e-mail).
176. In addition to surveying marinas within a 40 mile radius, the Table highlights a number of marinas which have received planning permission but have yet to be built, as this will (subject to implementation) have an impact on berth availability. In addition, consultation responses have made reference to a number of other marinas which lie outside of the 40 mile radius, these have been listed at the end of the table, although their berths and availability have not been assessed.
177. In addition to the above, there are a few other points in the need assessment that require attention. Firstly, the Appellant states that 15% of boats afloat on the East Midlands waterways are without permanent mooring. The CRT on their local market assessment web-site state that approximately 5% of owners are continual cruisers⁴. Whilst it is acknowledged that the former figure is East Midlands specific, it is considered some way off the figure now quoted on the CRT web-site and it is suggested that more up-to-date assessment is required.

³ and ⁴ <http://canalrivertrust.org.uk/new-marinas-unit/feasibility/local-market-assessment>

178. In addition, the Appellant claims that many boaters are forced to accept 'on-line' moorings or have a 'continually cruising' status. Far from being forced to accept 'on-line moorings' or 'continuous cruising' status, it has been anecdotally reported that some boaters are actively choosing this option, and leaving marinas, partly to save costs on mooring fees during the economic downturn.

Table 2 – Marina Berths and Occupancy Rates

Marina	Location	Waterway	Berth Capacity	Occupancy – as of January 2014	Confirmed in writing / telephone	Distance from Red Hill Marina (by road)	Notes
Sawley	Leicestershire	River Trent	620	400	Email	6.5 miles (14 minutes)	Only circa 3km of navigable waterway between the marinas.
Shardlow Marina	Derbyshire	River Trent	Circa 320	Circa 305	Phone	6.5 miles (15 minutes)	
Castle Marina	Nottingham	Beeston/ Nottingham Canal	198	193	Phone	9.6 miles (23 minutes)	Verbally confirmed that the marina predominantly serves cruisers, and that occupancy is approximately one third narrow boats.
Beeston Marina	Nottingham	River Trent	Circa 105	74	Email	11.6 miles (28 minutes)	A linear system is used so the size of boats determines the number of spaces.
Pilings	Leicestershire	Grand Union Canal	315	243 occupied	Email	12 miles (28 minutes)	
Sileby Marina	Leicestershire	River Soar	40	40	Email	14.2 miles (30 minutes)	
Mercia	Derbyshire	Trent and Mersey Canal	585 (643 not inc wide beam)	484 (75.27% occupancy)	Email	17.2 miles (24 Minutes)	
Barton Marina	Burton	Trent and Mersey Canal				26.1 miles (33 minutes)	
Leicester Marina	Leicester	River Soar / Grand Union Canal	135	120	Email	26.1 miles (36 minutes)	
Alvecote Marina	Tamworth	Coventry Canal	150	100-110	Phone	26.6 miles (37 minutes)	
Kings Bromley	Staffordshire	Trent and Mersey Canal	275	235	Email	33.4 miles (42 minutes)	
Trinity Marina	Hinckley	Ashby de la Zouch Canal	124	106-112 (85-90% full)	Email	34 miles (41 minutes)	
Debdale Wharf	Leicester	Grand Union Canal	Circa 150	???	Phone	34.2 miles (52 minute)	

Farndon	Newark	River Trent	Circa 300	258 (85.9% full)	Phone	34.4 miles (46 minutes)	
Kings Marina, Newark	Newark	River Trent	130	104 (80% full)	Email	35.8 miles (48 minutes)	
Marinas granted permission but not yet open							
Bosworth	Market Bosworth, Leicestershire	Ashby de la Zouch Canal	150		Website and email.	28.3 miles (36 minutes)	Granted permission in 2011 by Leicestershire County Council (Ref: 2011/0077/04). Work commenced in August 2013 and due to open in 2014. The site has received 10 provisional bookings and 38 people sign up to their newsletter through their website.
North Kilworth Wharf	North Kilworth, Leicestershire	Grand Union Canal	220		Website and Phone	37.7 miles (43 minutes)	Granted planning permission 17 January 2012 (Ref: 11/01793/FUL). This includes 156 leisure moorings and 64 brokerage, build, maintenance and repair moorings. The permission also contains a condition which restricts residential moorings to no more than 10. Construction not began – conditions remain to be discharged. Confirmed by Harborough District Council.
Barby Pools Marina / Onley Park Marina	Near Rugby	Oxford Canal	550 non-residential berths		Website	47.2 miles (55 Minutes)	Planning Permission Ref: DA/2012/0440) granted on 19 December 2013. Anecdotal informed that it has not been constructed due to inability to gain investment, as investors don't see the marina being filled.
Marinas mentioned in consultation responses that are over 40 miles (by road) from the Appeal Site							
Crick Marina			Near Rugby			41 miles (44 minutes)	
Brinklow Marina			Rugby / Coventry			41.7 miles (51 minutes)	
Aston Marina			North of Stafford			43.3 miles (56 minutes)	
Barby Moorings			Rugby			44.4 miles (50 minutes)	

Weltonfield Marina	Near Rugby	45.9 miles (52 minutes)
Whilton Marina	Danventry	47.4 miles (53 minutes)
Overwater Marina	Stoke on Trent	62 miles (1 hour 21 minutes)
Swanley Marina	Nantwich	65.9 miles (1 hour 25 minutes)
Whixall Marina	England / Wales Boarder	72.8 miles (1 hour 41 minutes)
Tatenhall Marina	Near Chester	77.1 miles (1 hour 43 minutes)

179. Table 2 above shows survey data for 15 marinas within a 40 mile radius of the proposed development at Red Hill Marina. 12 out of the 15 marinas provided data of their number of berths and occupancy rates. This gave the respondents a total of 3,355 berths with 2,610 occupied, demonstrating that there are 745 empty berths among those that responded (this figure is likely to be higher taking into account the two surveyed marinas that did not respond and the smaller marinas that did not form part of the survey). Of the marinas surveyed there is an average occupancy rate of 77.8%, which is significantly lower than the 98% that the Appellant has used in their need assessment.
180. It should also be noted that the winter is the low season for boating, with boat moored in marinas rather than cruising the waterways. As such, surveying marina occupancy at this time of year provides a picture where marinas are more likely to be reaching their highest occupancy rates.
181. The marinas considered are distributed around a 40 mile radius around the appeal site. However, when consideration alone is given to the very nearest marina at Sawley which is a marina with 620 berths there is a 65% occupancy rate. This means that there are currently 220 empty berths within 3.2km (along waterways) of the appeal site.
182. In addition to the 745 existing empty berths identified within 40 miles of the Red Hill site, there are a number of sites which have received planning permission for new marinas, but are not yet open. First is a site in Market Bosworth, which will create upwards of 150 new marina berths. This site is under construction and due to open this year. In addition, a site in North Kilworth has received permission for a 220 berth marina, although it is understood a number of conditions remain to be discharged before construction can commence. These two sites combined potentially create at least an additional 370 berths within 40 miles of the Red Hill site.
183. It is also worth mentioning that planning permission has been granted for a 550 berth non-residential marina at Barby Pools, near Rugby. This site is 47 miles (55 minutes by road) from the Red Hill site, and it is therefore outside of the 40 mile radius, however it is worth drawing attention to the site given its size.
184. To supplement the survey conducted by County Council Officers, attention is drawn to statistics released by the British Marine Federation (BMF) last year. Between 19th February and 8th March 2013 the BMF surveyed business to gain a snapshot of supply and demand for marina berths. On a national basis there was an occupancy rate of 80.5% and on CRT waterways (which the proposed Red Hill Marina would link to) the average occupancy rate was 79.4%⁵. This goes to demonstrate that the survey conducted by the MPA reflects a similar position in terms of occupancy rates as that conducted by the BMF.
185. One of the points raised in the need assessment is a criticism of statements being made that other large marinas in the area are under occupied. The assessment states:

⁵ http://www.britishmarine.co.uk/news__press/news_article.aspx?ArticleId=3963

“The data gathered by the applicants for the original planning application for Redhill Marina indicates that Sawley Marina was at 97% occupancy and Merica at 71%. Updated 2012 findings indicate that Sawley remains at the same level, whereas Mercia’s growth pattern indicates that it will be 90% full by the end of summer 2012.”

186. Sawley marina currently has an occupancy rate of 64.5%, which has been confirmed in writing, and is significantly below the 97% stated in the Appellant’s assessment of need. Mercia has an occupancy rate of 75%, which it is acknowledged has risen since the Appellant’s figures were submitted, but only by 4% and is certainly nowhere near the 90% full by the end of summer 2012 that was predicted.
187. The above survey provides a useful picture of the amount of vacant berths in the local area at this point in time. However, it does not indicate whether boat ownership and the need for berths is rising, falling or remaining static. As such, consideration has been given to the number of long term (12 month) boat licences issued over the past decade. This is important as the Appellant stated in the original planning application that boat licences were increasing by 2.5% per annum. The figures for the past decade are set out in Table 3 and Graph 1 below.

Table 3 – Boat Licences Issued by the British Waterway / CRT Between 2003 and 2013 ⁶

Year	Licences issued	% Change from previous year	Private Canal & River Boat Licences	% Change from previous year
2003/04 ⁷	26,240		20,225	
2004/05	27,078	+ 3.1%	21,567	+ 6.2%
2005/06	29,000	+ 6.6%	22,509	+ 4.2 %
2006/07	30,905	+ 6.2%	24,435	+ 7.9%
2007/08	32,566	+ 5.1%	25,309	+ 3.5%
2008/09 ⁸	33,879	+ 3.9%	26,651	+ 5%
2009/10	34,944	+ 3%	27,303	+ 2.4%
2010/11 ⁹	34,874	- 0.2%	27,933	+ 2.3%
2011/12	34,683	- 0.6%	27,016	- 3.4%
2012/13	33,227	- 4.4%		

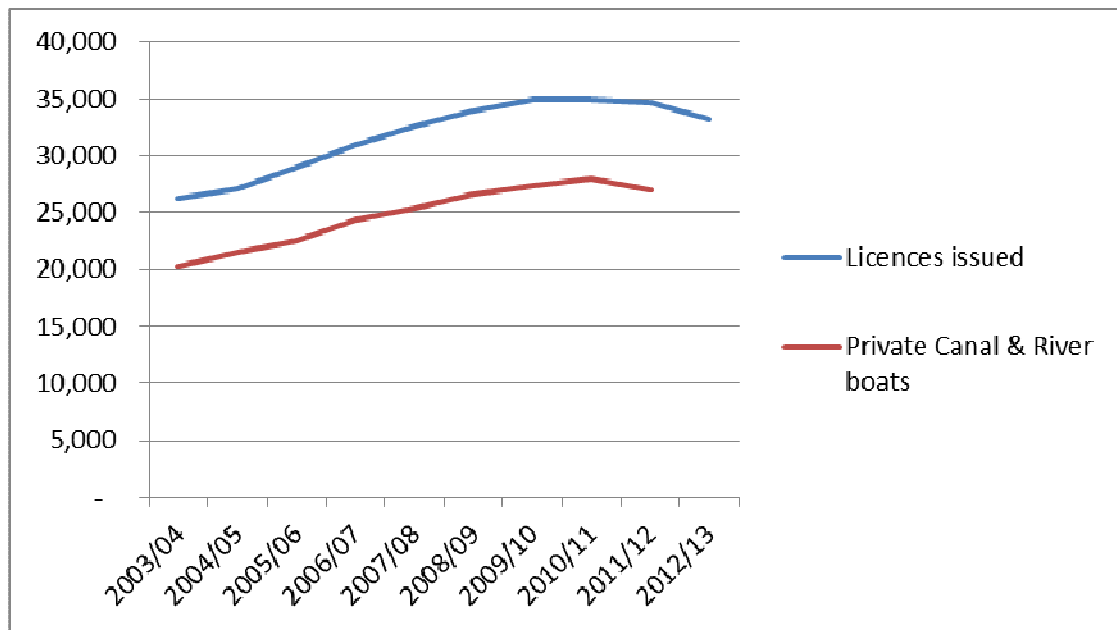
⁶ Figures are taken from British Waterways and CRT accounts from 2004/05 to 2011/2013. All reports are available on the CRT website - <http://canalrivertrust.org.uk/publication-scheme/publication-scheme/what-we-spend-and-how-we-spend-it>

⁷ 2004/05 Private Canal and River Boats were reported as 21,267 in the 2004/05 report, although this was later revised upwards by 300 boats due a delay in processing some licences whilst awaiting an ombudsman’s decision.

⁸ 2008/09 Private Canal and River Boats were reported as 26,309 in the 2008/09 report but was revised upwards to 26,651 to reflect improvements in the accuracy of the data.

⁹ 2010/11 Licences Issued was reported as 35,241, however, it was revised downwards to 34,874 in the following report. Private Canal and River Boats was reported as 27,933 in 2010/11, however, it was revised downwards to 27,566 in the following report.

Graph 1 - Boat Licences Issued Between 2003 and 2013



188. The figures gained from the CRT accounts show that the total number of boat licences issued peaked in the year 2009/10 at 34,944, with private canal and river boat licences peaking a year later in 2010/11 at 27,933. Since this time there has been a decline in all boat licence and private canal and river boat licences.
189. In summary, within a 40 mile radius of the appeal site there are at least 745 vacant berths, and there is planning permission for an additional 370 berths. Another 7 miles outside of the 40 mile radius and there is planning permission for another marina with 550 leisure berths. The survey indicates an average occupancy rate of 77.8% within a 40 mile radius of the site, and the nearest existing marina to the proposed Red Hill site has 220 empty berths (64.5% occupancy). In addition, boat licences figures from the CRT indicate that the number of boats on the waterways has peaked and is now in a period of decline. In conclusion, under the present circumstances there is no demonstrable need for additional marina berths in the local area.
190. It is noteworthy that a number of consultation responses received shortly after the submission of the application suggested that the figures provided in relation to leisure moorings were inaccurate and that existing moorings were difficult to fill. In addition, there was criticism of the assumption that 'on-line' berths would relocate to the proposed marina.

Very Special Circumstances

191. The appellant is of the opinion that the proposed development is appropriate in the Green Belt, nevertheless, they have still chosen to undertake an assessment of very special circumstances. In summary, the very special circumstances are briefly listed below:

a) Need;

- b) Most appropriate location;
 - c) A Section 106 Agreement would secure a reduction in online (riverside) moorings;
 - d) The built development is essential to a modern marina;
 - e) The surrounding villages would benefit from a potential source of employment, and a café and recreation area;
 - f) The impact of the marina and berths would be modest as they are not prominent in the landscape.
192. In addition to the very special circumstances set out within the application, consultation responses from the public have commented on the matter with differing viewpoint being reached. One perspective is that the value in the Green Belt is reduced by the presence of the power station, rail line and East Midlands Parkway and that these have set a precedent. With a different viewpoint being that there would be a cumulative, unnatural urbanising effect impacting on the openness of the Green Belt, particularly from the car park, buildings, access roads and car.
193. The appellant has only considered very special circumstances from the perspective of the proposed marina. It is arguable that mineral extraction in the Green Belt is appropriate development, and therefore very special circumstances do not need to be demonstrated. However, this is only the case if the mineral extraction preserves the openness of the Green Belt and does not conflict with the purposes of including land in it. Given the inextricable link to the marina development the minerals extraction does not meet these requirements and therefore is inappropriate development.
194. The appellant has not sought to demonstrate very special circumstances relating to the minerals aspect of the development are important. In this regard, the demonstrable need for sand and gravel to assist in meeting the County's 7 year landbank requirement is a very special circumstance, but it is only a very special circumstance relating to the construction element of the development, and given that this is just facilitating the construction of a marina it is certainly not considered sufficient to outweigh the harm caused to the Green Belt.
195. It is worth noting that at the time the application was submitted (April 2012) the County probably had a sufficient sand and gravel landbank, which is perhaps why the need for the minerals was not explored further within the original planning application submission.
196. The need for the proposed development has been thoroughly assessed in the preceding section. At this point in time there are a large amount of vacant berths within a 40 mile radius as demonstrated by surveying nearby marinas. Furthermore, it appears that the number of boats on the waterways has peaked and is now in decline. There is categorically no need for the construction of further marina berths in this location.

197. The attempt to demonstrate that the Appeal site is the most appropriate location for the proposal is redundant, given that there is no need for new marina berths. Nevertheless, the need assessment is seriously flawed having failed to assess potential sites within a 40 mile radius and only looking at the River Soar, when there are a range of other waterways within close proximity serving the same waterway network. In addition, subsequent to the alternative assessment being undertaken the proposed Phase Two route of HS2 has been announced, and runs directly through the centre of the site. This announcement should be a factor in assessing the site against alternative locations.
198. The Appellant states that the application would be supported by a Section 106 legal agreement to advertise jobs locally; reduce the number of existing on-line river moorings and accommodating them within the proposed marina; restricting the number of overnight stays and not including any residential moorings.
199. With regard to the commitment to reduce on-line river moorings, this is supported by the CRT in their original consultation response (then British Waterways), highlighting Chapter 5, Section 7.6 of the Environmental Statement, and stating that they wish to be re-consulted in the event that any on-line moorings are retained. It is worth drawing attention to the exact wording of this section:
- “There are about 100 moorings available along the River Soar adjacent to the site and there are currently approximately 60 residential boats located along the edge of the River Soar in this area. It is proposed as part of the works these boats are relocated into the new marina. Because of their removal from the fast flowing river and the significantly improved access arrangements, during both normal and flood conditions, this relocation will represent a significant reduction in the flood risk for the residents...*
- ... A variety of mooring types will be provided to service long-term residential boats”*
200. The movement of on-line boats to a marina location is an acknowledged benefit, supported by CRT. In terms of the impact of the boats on the openness of the Green Belt, whether the boats are located within on the marina or at the river side, there is little difference. However, the most fundamental issue of concern is the Appellant is suggesting measures to remove residential on-line river moorings and accommodate them within the marina, whilst at the same time offering to sign a legal agreement to ensure that the marina does not include residential moorings. The conflict between these two factors is incontestable.
201. A Section 106 Agreement to limit the number of overnight stays and advertise jobs locally appears tokenistic and holds very little weight.
202. The Appellant has argued that the proposed buildings are essential to a modern marina. This may well be the case, but simply stating that buildings are necessary to a marina does not provide a very special circumstance that outweighs the harm caused to the openness of the Green Belt. In fact, the buildings only serve to further detrimentally impact on the openness of the Green Belt.

203. Setting aside the contradictory nature of the proposed Section 106 Agreement, Officers are not aware that any draft S106, or even heads of terms, have been submitted to PINS. This is itself concerning given that the Appellant is relying on the contents of a S106 as a very special circumstance and the consultation response from CRT. It is also worth drawing attention to the Planning Inspectorate Good Practice Advice Note 16 which states at Paragraph 6:

*“If you intend to submit a planning obligation in connection with the appeal you should make sure that a final draft, agreed by all parties to it, is submitted to the Planning Inspectorate’s case officer **no later than 10 days before the hearing or inquiry opens**. The inspector’s and other parties’ ability to prepare for the hearing or inquiry is likely to be significantly hampered if this deadline is not met”.*

204. The application states that it is expected 14 job opportunities would be provided. Indeed, this is supported in consultation responses with comments suggesting that the marina would increase tourism, providing revenue and an economic boost for the surrounding area, and provide jobs helping to reduce unemployment. The creation of jobs and tourism are acknowledged economic benefit and supported in principle by the NPPF, at Chapter 3 (supporting a prosperous rural economy). However, many developments create jobs, and the creation of 14 is insubstantial, far from being a very special circumstance to justify the scale of harm to the Green Belt. In addition, the tourism benefit is questioned, given that there is no identified need for additional marina berths.
205. The creation of a café is considered to hold negligible weight, and attention is drawn to the fact that the Red Hill Marina has an existing café (the Waterside Café). Boating itself is a recreational activity, however, to describe a site for the mooring of boats as a recreational area for surrounding villages is considered somewhat of a stretch, and is only really applicable as a recreational area for local villagers’ own boats that would be moored in the marina.
206. Consideration that the impact of the marina and berths would be modest is an assertion as to how much harm would be caused to the openness of the Green Belt, but is not putting forward a very special circumstance that outweighs the harm. In any case, the claim that the marina and berths would not be prominent is disagreed with, when considering the impact on openness that would be caused by up to 553 boats, 375 cars and a number of new buildings (including the chandlery, café and office building which would have a built footprint of over 600m and be 15m in height. In addition, the value of the openness of the Green Belt in this location is enhanced by the surrounding presence of the power station, rail line and East Midlands Parkway.
207. There are some acknowledged potential benefits to the scheme including the creation of a small amount of jobs and the potential removal of existing on-line moorings (although the contradiction in this is considered above). However, neither of these benefits is considered very special circumstances at all, and is certainly far from being sufficient to outweigh the considerable harm that would be caused to the openness of the Green Belt by this proposed development. This view has been echoed in consultation responses.

208. Chapter 9 of the NPPF highlights that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances have not been demonstrated and, as such, the development is contrary to Chapter 9 of the NPPF. The development is also contrary to Policy ENV14 (Protecting the Green Belt) of the Rushcliffe Borough Non-Statutory Replacement Local Plan as it does not preserve the openness of the Green Belt.

Ecology

209. An Extended Phase 1 Habitat Survey of the planning application site has been undertaken. It identifies that the site comprises twelve main habitat types (not including bare ground and hard standing) including arable, broadleaved woodlands, dry ditch, improved grassland, marginal vegetation, poor semi-improved grassland, running water, scattered broadleaved trees, scattered scrub, hedgerows, standing open water and tall herb/ruderal. The Extended Phase 1 Survey highlights that of the on-site habitats running water, woodland, standing water and hedgerows are UK Biodiversity Action Plan (BAP) habitat.
210. With regard to land designations, the site is located within the Nottingham-Derby Green Belt. The whole site is within Flood Risk Zone 3. The Lockington Marshes Site of Special Scientific Interest (SSSI) is approximately 100m from the development to the north-west on the opposite side of the river. The length of the River Soar bordering the site is designated as a Site of Importance for Nature Conservation (SINC), described as a slow moving river with notable plant communities. In addition, there are three other Local Wildlife Sites (LWS) outlined below:
- Red Hill, Ratcliffe-on-Soar – described as a rough calcareous grassland community (550m north of the site);
 - Thrumpton Park – described as a linear waterbody in parkland with a noteworthy aquatic and emergent flora in a formal setting (750m north-east of the site);
 - Pond, Ratcliffe-on-Soar – described as a small depression of particular botanical interest (1.2km east of the site).
211. During the Ecological Phase 1 Survey it was noted that signs, including tracks, droppings and burrows of protected species and the potential for habitat to support them were noted. In addition, two ponds present on site, which include some potential for breeding amphibians (including Great Crested Newts) were found. A Habitat Suitability Index (HSI) of these ponds was undertaken.
212. The Environmental Statement was also supported by breeding and wintering bird, bat, water vole and reptile surveys, all of which were undertaken in 2008.
213. Subsequent to the first Regulation 22 request for further information from PINS, the Appellant has submitted a HSI assessment in relation to Great Crested Newt (GCN), a bat survey and a bird management plan.

214. With regard to Lockington Marshes SSSI, Natural England and the Environment Agency initially raised concerns about the potential impact that the proposed marina could have, particularly by changes to the hydrological regime, decrease in water quality and effluent discharge. However, following the submission of supplementary information on water related issues and hydrological updates, both parties are satisfied that there is not likely to be an adverse impact on this site, and have withdrawn their initial objections. As such, the development is considered to be in accordance with the relevant part of Chapter 11 of the NPPF and Policies M3.19 (Sites of Special Scientific Interest) of the MLP and EN10 (Sites of Special Scientific Interest) of the Rushcliffe Borough Non-Statutory Replacement Local Plan, all of which seek to protect SSSIs.
215. With regard to the breeding and wintering bird, bat, water vole and reptile surveys, attention is drawn to the fact that these were undertaken approximately six years ago, in 2008. NCC Ecology and Nottinghamshire Wildlife Trust (NWT) are concerned that the findings of these surveys do not represent the ecological state of the site now, given the period of time that has elapsed since they were conducted. The importance for up-to-date ecological information is set out in Paragraph 165 of the NPPF which states that “...*decisions should be based on up-to-date information about the natural environment*”.
216. In terms of the bat survey that was submitted in response to PINS Regulation 22 request for further information NWT are satisfied that two potential tree roosts would be not be lost by the scheme and no trees used by summer roosting bats would be affected. Notwithstanding this, NWT highlight that a summer survey does not show whether the site is being used by bats at other times of the year, and note that bat foraging habitat would be lost (particularly hedgerow and riverside vegetation) and disrupted by artificial light. It is not clear from the information submitted what the mitigation measures are for the reduced and disrupted foraging. NCC Ecology comment that the survey methodology does not appear to conform to national guidelines. Notwithstanding this, the results from the updated survey, and that from 2008, indicate that bat activity at the site is low. As such, NCC Ecology recommend that should planning permission be granted conditions are used to secure mitigation relating to the removal of trees, tree protection measures, a native tree planting scheme, lighting and the erection of bat boxes. The conditions suggested by NCC Ecology are considered to address the concerns relating to mitigation by NWT.
217. With regard to the Great Crested Newt (GCN) Habitat Suitability Index (HSI) assessment submitted under the recent Regulation 22 request both NCC Ecology and NWT are satisfied that it is unlikely that GCN colonise the site. However, NWT note that there is still no mitigation for the loss of a pond recorded as being used by toads, frogs and smooth newts. The pond itself is a BAP priority habitat and there is a requirement to mitigate or compensate for its loss.
218. Concerns have also been raised in relation to lighting and noise. NWT note that the noise report submitted in relation to the Regulation 22 request shows that levels of 55dB(A) would be exceeded at the nearest sensitive properties and that 70dB(A) is considered acceptable for temporary noise levels. It is highlighted that previous surveys have recorded overwintering birds using the

site and that 45dB(A) is the level normally associated with potentially significant impacts upon birds. With regard to lighting NCC Ecology state that there should be a dark area retained along riparian areas, and the Regulation 22 light assessment indicates that there would be low-level bollard lighting along much of the river bank, adjacent to car parking. It is suggested that this is either removed or evidence is provided to demonstrate that it would not give rise to significant light spill.

219. Both NCC Ecology and NWT have also commented on the Regulation 22 Bird Management Plan submission. NCC Ecology are largely satisfied, although consider that a 'trigger level' is agreed for the management of hazardous species. NWT also agrees that a trigger level is agreed, given that management techniques could impact upon other sensitive non-target species. NWT also raise the concern that the Bird Management Plan does not cater for the management of hazardous species during the construction phase and they are also concerned about an apparent conflict between the down play of the marina's use by wetland birds due to its highly disturbed nature and the assertion that the marina would create meaningful habitat, including reedbed, as mitigation for the habitat that would be lost through quarrying.
220. Comments within consultation responses from the public have highlighted the potential of the site as an environmental resource, creating still water refuge for fishing stock and bird populations. However, there is concern from NWT and NCC Ecology regarding habitat loss, including the significant loss of riverside vegetation (part of the River Soar SINC) which would result from the creation of a marina entrance, the loss of one of two ponds present on the site, the loss of a 400m stretch of wet ditch, the degradation of a small area of moderately species rich semi-improved grassland, the loss of a number of individual scattered trees and shrubs, and the loss of a dry ditch and a defunct hedgerow. It is noted that there is proposed habitat as part of the scheme in the south-western 'habitat creation area' however, details are considered inadequate as to whether this area would suitably mitigate for the loss of BAP habitat elsewhere. NCC Ecology suggest that to aid mitigation a condition could be used to ensure the submission and implementation of a habitat restoration plan for the River Soar, where moorings are to be removed. However, as mentioned above, there is real concern as to whether the removal of riverside moorings could be secured.
221. There are a number of other conditions recommended by NCC Ecology in the event that planning permission is granted. These relate to the submission of a detailed habitat-specific management plan including monitoring and reporting procedure; provision of bird and bat boxes; and measures to control vegetation clearance in the bird breeding season. NCC Ecology also wish to see details of the phasing of mitigation, compensation and habitat enhancement measures as certain elements could, and should, be delivered in advance of (or in parallel with) site excavation so that the lag period between habitats being lost and then replaced is removed or reduced, and impacts are minimised.
222. In light of the above the proposed development, taking into account mitigation measures, would not have an unacceptable impact upon bats or GCN. However, due to the age of a number of the species surveys (breeding and wintering bird, water vole and reptile) which were undertaken in 2008, it is not

possible to accurately assess the impacts. This is contrary to Paragraph 165 of the NPPF which states that decisions should be based on up-to-date information about the natural environment. The lack of up to date information means that the development cannot be assessed against the relevant ecological policies, namely Policy M3.17 (Biodiversity) of the MLP and Policy EN11 (Features of Nature Conservation Interest) of the Rushcliffe Borough Non-Statutory Replacement Local Plan.

223. In addition, there is a noted loss of BAP habitat. Whilst the scheme includes the provision of a habitat creation area to the west of the site, details are not sufficient to establish whether it would fully mitigate the habitat being lost. It is therefore, not possible to assess whether the development is meeting the desire to minimise impacts on biodiversity and provide net gains in biodiversity where possible, as set out in the NPPF, or the requirements of Policies M3.17 and EN11. In summary, there is insufficient ecological information.

Landscape and Visual Impact

224. The site is located within the Soar Valley Farmlands Policy Zone TSV02 of the Trent Valley Washlands Character Area (Character Area 69). Within the Greater Nottingham Landscape Character Assessment this area is described as being:

“A low-lying narrow flood plain bordering the River Soar. Fields are bounded mostly by hawthorn hedgerows which are often species rich with frequent hedgerow trees which are mostly ash”.

225. The overall landscape strategy for this area is to conserve and enhance the existing landscape features, built form and other development/structures in the landscape.
226. The Appellant has undertaken an assessment of the landscape and visual impact of the proposed development. With regard to landscape, the construction phase is assessed as giving rise to impacts of slight adverse significance within the Soar Valley Farmlands with the loss or alteration of some key characteristics or features in the landscape, although the broader character of the Soar Valley Farmlands is said to remain unchanged. The proposed marina element of the development is considered to be of low beneficial significance with landscape planting and the removal of existing moorings from the River Soar being of landscape benefit.
227. The NCC Landscape Team has assessed the application and comment that, whilst described within the Landscape and Visual Impact Assessment, the loss of key features has not been quantified. In addition, there are concerns in relation to the illustrative construction plan, which does not include timescales for each phase, does not indicate when the bunds would be created and shows the proposed habitat creation area as being extracted. Notwithstanding these concerns the extraction phase has been assessed as having an overall **moderate adverse** impact on the landscape. With regard to the marina element of the proposal, the NCC Landscape Team differ from the Appellant's assessment of impacts, considering the sensitivity to change as being medium rather than low-medium and that the magnitude of change being medium adverse, which gives an overall significance of **moderate adverse** impact.

228. As discussed above, there is in principle support in the NPPF for sustainable rural tourism and leisure developments in rural areas, however, this is only the case if the development respects the character of the countryside. In addition, Policy M3.22 (Landscape Character) of the MLP seeks to protect landscape character, stating that planning permission should not be granted for minerals development which is likely to adversely impact upon the character of the landscape unless there are reasons of overriding public interest or where ameliorative measures can reduce the impact to an acceptable level. Given the comments by the NCC Landscape Team, the development is not considered to be in accordance with the NPPF of Policy M3.22 of the MLP.
229. The visual impact of the proposed development is also assessed within the Appellant's Landscape and Visual Impact Assessment (LVIA), with the most adversely affected being the residential property on the access road to Red Hill Farm, pedestrians and cyclists along the public footpaths and users of the canal network directly adjacent to the development site. However, attention is drawn to the removal of existing moorings on the River Soar as this would have some visual benefit. Overall the development is assessed as being in the 'slight adverse' to 'no change' categories. In addition, consultation responses from the public have commented that tree planting and wetland areas would improve the landscape and benefit the area visually.
230. The NCC Landscape Team has questioned why the assessment of view-points 1 to 13 have not been summarised within a table which sets out the sensitivity and magnitude of change, which makes it difficult to understand how the potential impacts for the construction (year 0) and restoration (year 15) periods have been derived. In addition, the visual impact from surrounding residential receptors and rights of way should also be assessed. Notwithstanding this, the NCC Landscape Team generally concur with the findings, apart from viewpoints 1-4, which raise the following concerns:
- View Point 1 – The view of the footpath crossing Red Hill Lock has not been positioned correctly on the photo view point location plan (Figure 4.6). The photograph has been taken slightly further to the north-east. Therefore, the description in the report does not match the photograph shown in view-point 1. The removal of the existing mooring along the river will not be very discernable at this distance due to tree cover on the western bank outside the site boundary. It is questioned whether there would be any visual benefit as described in the report. The NCC Landscape Team assess the overall visual impact as being slight adverse (at year 0) falling to negligible following restoration (at year 15).
 - View Point 2 – The significance of the impact is given as 'slight beneficial' immediately following completion and 15 years after completion. This is considered dependent upon the detailed landscape proposals and the maintenance and management.
 - View Points 3 and 4 – It is unclear why there is a difference in significance upon completion, and 15 years after completion, between view-point 3, which is classed as 'slight adverse' and view-point 4 which is classed as

‘slight beneficial’. Both these viewpoints are from the western bank of the River Soar and directed towards the site.

231. Policy M3.3 of the MLP states that minerals development should only be granted planning permission if the visual impact can be kept to an acceptable level. In view of the fact that the NCC Landscape Team generally agree with the conclusions of the Appellant’s LVIA that the development would be in the ‘slight adverse’ to ‘no change’ categories, the proposal is likely to be in accordance with Policy M3.3. Notwithstanding this, there are a number of points raised that would need to be clarified before the visual impact can be full assessed relating to the following:
- a) Insufficient information on mineral extraction phasing timescales; and the heights and locations of top-soil, sub-soil and overburden mounds;
 - b) The direct impacts on the landscape should be quantified;
 - c) Explanation of how the significance of the impact has been derived for the viewpoints; and an assessment of visual impacts to key residential properties should be set out if not covered by one of the identified viewpoints 1-13;
 - d) Whilst it is noted that further information regarding lighting proposals has been submitted, the LVIA has not assessed these in relation to the baseline situation.
232. Furthermore, part of the LVIA visual impact is based on the fact that moorings would be removed from the river side. As discussed above, there is concern as to whether this would actually take place given that no Section 106 agreement, or head of terms, has been submitted as part of the application.
233. The landscape proposals are still at an illustrative stage and more details in terms of the habitat to be created and the planting and long term management of the River Soar bank should be provided. The submission of such a scheme could be secured by condition, and if considered that long term management beyond the statutory 5 year aftercare period is required, this could form part of a Section 106 Agreement. This approach would be in accordance with Policy M3.4 of the MLP and EN13 of the Rushcliffe Borough Non-Statutory Replacement Local Plan, both of which seek the use of suitable screening and landscaping to mitigate and reduce visual impacts.

Airport Safeguarding and Bird-Strike Potential

234. For all civil aerodromes within the UK there is a requirement to consult the aerodrome on any development within a 13km radius that is likely to attract birds as set out in Circular 01/2003 (advice to local planning authorities on safeguarding aerodromes and military explosive storage areas). The proposed marina is approximately 3.5km north-east of East Midlands Airport (EMA).
235. Given that the proposal is to create a large new waterbody, the development is considered to have the potential to increase habitat suitable for birds, particularly large and flocking waterbirds, within close proximity to an airport. As

such, EMA were consulted on, and objected to, the planning application as submitted. Subsequent to this, PINS requested an updated bird management plan as part of their Regulation 22 request for further information. EMA has been re-consulted and maintain their objection.

- 236. EMA judge the development as still not being of a design whereby the risk to aviation is no longer present or suitable to be mitigated by means of a bird management plan. EMA highlight that over the course of the planning application they have maintained a position that any islands within the development which have no land bridge to the mainland pose an unacceptable increase in risk of birdstrike. This is because islands which have no land bridge are an ideal breeding habitat for key high risk species such as Canadian Geese, and the presence of a land bridge allows natural predators to access these areas and remove the risk.
- 237. EMA welcome the work that has been put into the updated bird management plan, but state that it does not address the main concerns (i.e. the presence of islands) that they have with the design of the marina.
- 238. It is of note that NATS (formerly National Air Traffic Services) has also been consulted, and do not object, stating the application have been examined from a technical safeguarding aspect and that it does not conflict with their safeguarding criteria.
- 239. In light of the above, there is a difference of opinion between NATS and EMA. However, in light of the more detailed identification of the reasons for an objection highlighted by EMA, it is the view of the MPA that the development would have a potentially unacceptable adverse impact on aviation safety. In light of this, the development is not in accordance with the NPPF which, at paragraph 144, requires MPAs when granting planning permission for mineral development, to ensure that there are no unacceptable adverse impacts on aviation safety.

Traffic and Transportation

- 240. The proposed development is located to the north of the A453, and to the west of East Midlands Parkway and Ratcliffe of Soar power station. The site is served by an unadopted access road to the south that connects to a roundabout which also serves the East Midlands Parkway and leads to the A453.
- 241. The connection from this roundabout to the A453 passes over the Midlands Mainline railway, meeting a second roundabout before connecting to the A453 at a signal controlled junction. The junction sits opposite Kegworth Road which leads to Ratcliffe on Soar village.
- 242. The A453 provides a connection between Junction 24 of the M1 and the south of Nottingham, connecting to the A52. As a trunk road it is the responsibility of the Highways Agency. The road is a single carriageway with a 50mph speed limit and has historically suffered from congestion. At present there are significant works being undertaken to widen the road to a dual carriageway, which are expected to be complete around July to September 2015.

243. As part of the works to the A453, the existing signal controlled junction will be changed to a grade-separated layout with on and off slip roads connecting to the A453 in both eastbound and westbound directions.
244. In addition to the A453 there is a minor road, known as Soar Lane, which runs along the western bank of the River Soar and links the existing Red Hill marina access track to the village of Ratcliffe on Soar.
245. The proposed extraction phase of the development is expected to result in 150-200,000 tonnes of mineral being taken off site per annum. Based on 250 working days in a year this would equate to 800 tonnes being removed per day. If this material is removed in HGVs with a 20 tonne capacity, there would be 40 HGV trips (two way), or 80 movements (one way) per day. Over an 11 hour working day this would amount to approximately 4 trips (8 movements) per hour. The application assumes that approximately one third of these journeys would be to and from Nottingham along the A453 and the remaining would be via junction 24 of the M1.
246. The assessment also assumes that there would be a third of the traffic travelling from the A453 to the north and two thirds to/from junction 24 of the M1 motorway once the marina is operational.
247. The vehicle numbers associated with the proposed marina operation have been estimated using the Trip Rate Information Computer System (TRICS) database, using information from existing marinas located on inland waterways. Table 4a below sets out the estimated trip rates and traffic flows, as shown in both the original ES documentation and the additional information submitted following the Regulation 22 request by PINS.

Table 4a: Proposed Marina Trips and Trip Rates

Peak Hour	Trip Rates			Trips		
	Arr	Dep	Total	Arr	Dep	Total
Weekday						
AM Peak 08:00-09:00	0.036	0.026	0.062	19	14	33
PM Peak 17:00-18:00	0.043	0.059	0.107	26	31	57
Daily Total	0.661	0.652	1.313	352	348	700
Saturday						
Peak 11:00-12:00	0.102	0.079	0.181	54	42	96
Daily Total	0.719	0.740	1.459	383	393	776
Sunday						
Peak – 12:00-13:00	0.082	0.089	0.171	45	49	94
Daily Total	0.621	0.686	1.307	319	338	657

248. The traffic and transport assessment contained within the ES and the additional information dealing with highways, traffic and transport matters do not actually explain what the 'trip rate' data shows. However, it appears that the trip rate is the number of vehicle movements per marina berth, and it is this figure that has been used to calculate the actual number of trips.
249. There appears, however, to be inaccuracies in the data presented in Table 4a above. If the weekday daily total trip rate is used to calculate the number of trips based on a 533 berth marina (i.e. 1.313 x 533) it would result in a total of 727

trips. The reason for these inaccuracies appears to be because a 532 berth marina has been used to calculate trips.

250. In addition, a number of the trip rates, as presented in the ES and Regulation 22 information, do not match those in the TRICS Marina Trip Assessment Table in the original ES. In light of the apparent inaccuracies, a recalculation of trip numbers is set out in Table 4b below using the original data source.

Table 4b: Proposed Marina Trips and Trip Rates – recalculated trip rates

Peak Hour	Trip Rates Per Marina Berth			Trips		
	Arr	Dep	Total	Arr	Dep	Total
Weekday						
AM Peak 08:00-09:00	0.036	0.026	0.062	20	15	35
PM Peak 17:00-18:00	0.048	0.059	0.107	27	33	60
Daily Total	0.661	0.652	1.313	366	361	727
Saturday						
Peak 11:00-12:00	0.102	0.079	0.181	57	44	101
Daily Total	0.719	0.740	1.459	398	410	807
Sunday						
Peak – 12:00-13:00	0.085	0.093	0.178	48	52	99
Daily Total	0.599	0.636	1.235	332	352	683

251. As shown in Table 4b, the trips based on a 553 berth marina are higher for all days and all AM and PM peak hours. However, it is acknowledged that the figures are only marginally higher with an addition 27, 31 and 26 trips per weekday, Saturday and Sunday respectively.
252. Some consultation responses from the public have stated that there would be little traffic impact, and that the site is ideally located, with easy road, rail and air access and provide a stopping point for users of the A453. However, concern has also been raised regarding traffic impact on Ratcliffe on Soar, particularly Soar Lane. It is highlighted that a gate has been erected on Soar Lane which has reduced through traffic, although it has on occasion prevented emergency vehicles from using the lane which has resulted in rerouting and delays. There is also concern about the weight of any HGV or construction vehicles using this route.
253. The Highways Agency has not objected to the proposed development. In addition, following the submission of the additional Regulation 22 information dealing with highway, traffic and transport matters, the NCC Highways Team no longer objects to the principle of the development, although they do request a number of conditions to be attached should planning permission be granted relating to the following:
- The submission and approval of detailed access arrangements based on the 'Masterplan – Option 1 Revision D';
 - A lorry routing agreement, and associate signage, preventing the use of Soar Lane;
 - Individual parking spaces to be clearly marked out prior to the site being brought into use, and kept available for parking for the life of the development;

- d) The submission of a Travel Plan including travel survey proposals.
254. NCC Highways also states that the access to Soar Lane from the proposed marina should be permanently gated for vehicular traffic, but left open to allow pedestrians, cyclists, horse riders and emergency vehicles to use it as a safe route into Ratcliffe on Soar and beyond. In addition, a pedestrian link on Soar Lane is requested. This outside of the application boundary so would have to be secured by a legal agreement.
255. It is also highlighted that the access road and bridge to the A453 is under the ownership of Network Rail and the Appellant would need to consult with, and seek approval from, them should any improvement works take place in their ownership. In addition, the Appellant would need to ensure that during the construction period no mud or debris is transported onto the adjacent roads, as this is an offence under S148 and S151 of the Highways Act 1980.
256. Chapter 4 of the NPPF relates to sustainable transport and states that all development that generates significant amounts of traffic should be supported by a Transport Statement or Assessment. The applicant has met this requirement in the submission, although there is concern with the accuracy of its content, as highlighted above.
257. The NPPF goes on to say that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Whilst the inaccuracies in the traffic data is noted, it is considered highly unlikely that the impacts would be severe given the lack of objection from the Highways Agency and NCC Highways, and the fact that the recalculated traffic movement figures are only marginally higher. It is for this reason that inaccurate highways information is not recommended as a reason for refusal. Notwithstanding this, the inaccuracies of the data will be drawn to the inspector's attention in any further written representation prior to the hearing, suggesting that the Highways Agency and NCC Highway's positions are re-confirmed.
258. Policy M3.13 (Vehicular movements) of the MLP states that planning permission for minerals development will only be granted where the highway network can satisfactorily accommodate the vehicle movements likely to be generated and would not cause unacceptable impact upon the environment and disturbance to local amenity. Given the position of the Highways Authority and NCC Highways, the development is considered to be in accordance with the policy, subject to conditions.
259. Policy M3.12 of the MLP relates to the prevention of mud and other deleterious material from entering the public highway. It is recommended that conditions relating to wheel cleaning facilities and the sheeting of lorries are attached should planning permission be granted.
260. In line with the comments from NCC Highways, should planning permission be granted it is recommended that conditions and/or a legal agreement is used to ensure that HGVs associated with the mineral extraction phase of the development do not use Soar Lane. This approach would be in line with Policy M3.14 of the MLP.

261. Policy M3.15 of the MLP relates to the bulk transport of minerals and states that where major proposals rely on road transport, planning permission will not be granted unless it has been demonstrated that more sustainable forms of transport are not viable. Given that the minerals phase of the proposed development involves extraction immediately adjacent to a watercourse it would be reasonable for the Appellant to have at least explored the option, however, this does not appear to be the case. As such, the application is not in accordance with this policy.
262. Policy MOV1 of the Rushcliffe Borough Non-Statutory Replacement Local Plan seeks the submission of a travel plan where a proposal exceeds the thresholds set out in the Nottinghamshire County Council guidance on parking provision. The Appellant has assessed this condition, simply stating that it is considered that a travel plan is not required. The County Council does not have guidance thresholds for marinas, however, the NCC Highways Team considered that one would be necessary. This could be secured by condition.
263. Policy MOV9 of the Rushcliffe Borough Non-Statutory Replacement Local Plan states new development which otherwise accords with policies of the plan will be permitted where it conforms to the Highways Authority's parking guidance. There is no County Council parking guidance that applies specifically to marinas, however, the ES states that the standards recommended by British Waterways are 1 space for every 2 berths. Based on this figure there should be 277 parking spaces. However, the application proposes a total of 375 spaces (244 spaces for the marina and 131 for the facilities building).
264. The Road Traffic Generation and Car Parking Requirements of Marinas Briefing Note (November 2008),¹⁰ issued by British Waterways indicates that during peak times (1pm to 4pm Sunday afternoon) a 100 boat marina would require 64 parking spaces for the whole marina. Using this ratio, a 553 berth marina would require approximately 354 parking spaces. In light of this, the proposed number of parking spaces at the marina is considered to be sufficient to accommodate the parking demand generated by a facility of this size.

Noise

265. Chapter 11 (Conserving and enhancing the natural environment) of the NPPF contains guidance on noise, stating that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from being put at risk from, or being adversely affected by, unacceptable levels of noise pollution.
266. Supplementary advice is provided in the Technical Guidance to the NPPF document, relating specifically to minerals development. The technical guidance states that, subject to a maximum of 55dB(A) minerals planning authorities should aim to establish a noise limit at noise sensitive properties that does not exceed the background level by more than 10dB(A). Evening limits (19:00-22:00) should not exceed limits by more than 10dB(A) and night time limits should not exceed 42dB(A) at noise sensitive dwellings. All mineral activity will

¹⁰ <http://canalrivertrust.org.uk/media/library/322.pdf>

have some particularly noisy short term activities that cannot meet the limits set for normal operations (e.g. soil stripping and creation of baffle mounds). However, these activities can bring longer term environmental benefits. Increased temporary day time noise limits of up to 70dB(A) for periods of up to 8 weeks a year at noise sensitive properties should be considered to facilitate essential site preparations and restoration works.

267. In addition to the above, Policy M3.5 of the MLP states that planning permission will only be granted where, subject to conditions, noise emissions outside the boundary of the minerals workings do not exceed acceptable levels. Policy GP2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan seeks to achieve noise attenuation.
268. The Appellant has undertaken a noise assessment, with four properties being identified as the nearest noise sensitive receptors: Red Hill Farmhouse; Middle Gate Cottage; Mason's Barn and the Bungalow; and North Bridge Cottage and caravan (see Plan 1 for locations). The background noise levels are detailed in Table 5 below. It is noted that background noise levels for Red Hill Farmhouse have not been recorded.

Table 5: Background noise levels at nearest sensitive receptors

Location	Period	Weekday Period Noise Levels [dB]	
		Laeq,T	LA90
Middle Gate Cottage	Day (10:00 – 19:00)	51	46
	Evening (19:00 – 23:00)	46	43
	Night (23:00 – 07:00)	45	42
Mason's Barn and The Bungalow	Day (10:00 – 19:00)	53	48
	Evening (19:00 – 23:00)	48	45
	Night (23:00 – 07:00)	47	43
North Bridge Cottage	Day (10:00 – 19:00)	56	50
	Evening (19:00 – 23:00)	52	48
	Night (23:00 – 07:00)	51	46

269. The noise assessment notes that the background noise levels were influenced by traffic on the surrounding road network and railway movements on the Midlands Mainline. In addition, noise associated with the power station was audible at the two closest dwellings at times when road traffic noise decreased, although it was not audible at Red Hill Farmhouse.
270. The assessment of noise levels during the construction works is set out in Table 6 below. The assessment considers different activities during the construction period:

Table 6: Noise levels during extraction and construction

Receptor	Calculated Freefield Noise Levels [dB L _{Aeq,T}]			
	Minerals Extraction Operations	Piling of jetties	Use of dozer	Dewatering (24 hour)
Red Hill Farm	51.5	55.6	51.8	35.5
Middle Gate Cottage	50.9	54.2	50.4	33.1
Mason's Barn and the Bungalow	49.7 with bund 57.6 no bund	55.4 with bund 61.1 No bund	48.1 with bund 57.3 No bund	35.5
North Bridge Cottage	50.3	53.3	47.1	32.8

271. The calculations indicate that noise levels could exceed 55dB L_{Aeq} at the Mason's Barn and Bungalow receptor, particularly during the piling of jetties. However, the noise assessment identifies these properties as derelict at the time of assessment and, as such, no additional noise mitigation measures would be required. Although if the properties do become occupied the proposed bund on the eastern side of the site should be extended northwards by 100 metres.
272. In addition to noise levels associated with the minerals phase of the proposed development, the Appellant has assessed the noise at the nearest sensitive receptors that would arise from on-going marina operations. From the marina itself, the principal source of noise is considered to be the manoeuvring of boats into and out of the marina. The typical noise level from a boat is given as 53.7dB L_{Aeq} at a distance of 10 metres. Noise levels have been calculated as 29dB L_{Aeq} at Middle Gate Cottage, and 34 dB L_{Aeq} at Mason's Barn and the Bungalow. As such, the noise levels associated with boat movements at these dwellings would be considerably lower than the existing background noise levels during day and night times.
273. The refuelling and pump out stations, which would be located next to the boat house and toilets, would work during day time hours, seven days a week. The facility would be located 250m from the nearest dwellings, Middle Gate Cottage and Mason's Barn. Noise from the refuelling and pump out station has not been assessed, although the noise assessment recommends a daytime noise limit at the dwellings of 45 dB L_{Aeq, 1 hour}.
274. The noise assessment has considered operational noise associated with the movement of vehicles to and from the site, estimating an average of 10 vehicle movements per hour. On this basis, the vehicles would give rise to a noise level of 46dB L_{Aeq 1 hour} at a distance of 10 metres. The closest parking area to a property is stated as being along the eastern boundary which is approximately 150m from Mason's Barn. The noise assessment calculates the noise level from the proposed vehicle movements at this property against the existing day time ambient noise levels, predominantly attributed to road traffic, which were around 51 L_{Aeq 1 hour} during the day time, resulting in a worst case rise of less than 1dB(A) at the property. A 1 dB(A) increase in noise levels is not considered perceptible under normal listening conditions.

275. There has also been a consultation response commenting that there would be little noise impact upon Ratcliffe on Soar. This has not been assessed, although given the distance and separation by the A453, this assumption is agreed with. In addition, noise impact on Ratcliffe on Soar is not an issue raised by NCC Noise.
276. The noise assessment has been reviewed by the NCC Noise Engineer, who considers the findings satisfactory, subject to a number of conditions as summarised below:
- a) Hours of extraction and construction being limited to 07:00 – 18:00 Monday to Friday and 07:00 – 13:00 on Saturdays, with no working on Sundays and Bank Holidays;
 - b) No percussive piling to be allowed;
 - c) Only silenced dewatering pumps to be employed on the site, and if pumps are used within 100m of any property, details of noise mitigation to be employed should be submitted to the MPA for approval;
 - d) Noise from the refuelling and pump out station not to exceed 45 $L_{Aeq, 1 \text{ hour}}$ at any surrounding residential property;
 - e) Noise from construction and mineral extraction activities should not exceed 55 $L_{Aeq, 1 \text{ hour}}$ at any surrounding noise sensitive receptor.
 - f) If Mason's Barn or the Bungalow become occupied when mineral extraction is being carried out in proximity to the properties, the earth bund to be constructed on the eastern site boundary (bund 1) be extended northwards along the access track by approximately 100 metres;
 - g) The number of HGV movements be limited to 80 per day.
277. The operation of the proposed marina would not result in adverse noise levels at nearby sensitive receptors, with the imposition of the conditions suggested by the NCC Noise Engineer. As such, the marina is in accordance with the requirements of the NPPF and Policy GP2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan.
278. With regard to the extraction and construction phase, it is noted that there would be some activities that would generate noise levels above 55dB $L_{Aeq T}$ at some of the nearest dwellings, particularly the Mason's Barn and the Bungalow receptor with minerals extraction operations reaching 57.6dB $L_{Aeq T}$, piling of jetties 61.1 $L_{Aeq T}$, and the use of dozer 57.3 dB $L_{Aeq T}$. The noise assessment also considers the noise levels with a 100 metre northwards extension to the eastern bund. However, there is serious concern about the creation of such an extension for two reasons. Firstly, it would reduce flood water storage capacity within an area of high flood risk, and whilst excavations may more than offset the reduction caused by the soil bund, it has not been assessed and does not form part of the flood plain storage capacity calculations. Secondly, and more fundamentally, it would fall outside of the planning application boundary. As

such, it could not be secured by condition. In addition, piling of jetties is predicted to generate levels of 55.6dB L_{Aeq T} at the Red Hill Farm dwelling.

279. In light of the above, the minerals extraction and construction element of the development is considered to be contrary to the guidelines for minerals noise levels set out in the NPPF Technical Guidance document and Policy M3.5 of the MLP. Notwithstanding this, it is worth noting that the Red Hill Farm dwelling is currently occupied by the land owner and the Mason's Barn and Bungalow dwelling is currently unoccupied and appears derelict.

Heritage and Archaeology

280. Approximately 230m to the north of the appeal site is the Roman site on Red Hill, which is a (Scheduled Ancient Monument – SAM – Ref: Notts 141, SMR 500). Ratcliffe on Soar has a number of listed buildings including a Grade I listed church, and to the north is a packhorse bridge at Red Hill Lock which is Grade II Listed.
281. With regard to built heritage there is considered to be little impact on the Grade 1 listed church in Ratcliffe on Soar due to its separation from the site by the A453. The impact on the Red Hill Lock and bridge has been assessed as neutral. There are non-designated heritage assets and, whilst there would be no direct impact, there would be a minor indirect impact on their setting with the loss of pastoral agricultural land. Overall NCC Heritage does not object but states that the impact should be assessed in line with Paragraph 135 of the NPPF.
282. An archaeological evaluation including desk top and trench excavation of the Appeal site has been undertaken. A total of 68 trenches were dug across the application site to characterise and assess the depth and nature of archaeological deposits. The evaluation summarises the findings as:

"The trenches aligned parallel, and close to the farm track revealed deep, urban style stratigraphy with a thick Roman layer overlying discreet features. The archaeology was characterised by rubbish pits and gully like drainage features. There were also four inhumations with associated grave goods in two of the trenches. A number of metal artefacts were also recovered, mostly comprising Roman coinage. The pottery recovered was wide ranging in style and status but all was very well preserved. A small amount of possible prehistoric or Saxon material was also recovered which is illustrative of the longevity of the site.

Later episodes of medieval ridge and furrow cultivation were visible as well as negative features. These features tail off towards the floodplain edge and are good indicators for the limit of dryland exploration in antiquity. The floodplain deposits were found to consist mostly of oxidised alluvium overlying grey inorganic silts".

283. The report also highlights that previous evaluation work (2001) has identified floors and building remains, although this was to the east of the farm track outside of the application area. In addition, it is highlighted that the settlement within this area thrived due to its proximity to the Roman Shrine at Red Hill and

that excavations during the 1950s and 1960s revealed curse tablets along with human remains.

284. NCC Archaeology and English Heritage consider the archaeological field evaluation to be a methodologically sound piece of field evaluation. The unusually deep stratified Roman deposits with apparent continuation into the Anglo Saxon period are of at least regional importance and potentially contain elements of national importance. The significance of the site is considered to be enhanced by the proximity of the SAM at Red Hill.
285. Consultation responses to the original planning application have also highlighted the importance of archaeology at the site, not just from a Roman perspective, but also Iron Age, Bronze Age, Saxon and Mediaeval. The response considers that the cultural heritage and archaeological statement contained in the planning application is inadequate and that during excavations archaeology would be lost as it would not be possible to sift and record all finds.
286. The public comments relating to the inadequacy of the cultural heritage and archaeological statement are noted, however, subsequent to this the full archaeological assessment has been submitted in response to the Regulation 22 request from PINS which NCC Archaeology and English Heritage find methodologically sound. The significance of the site has also been raised, with concern that it would not be possible to sift and record all finds. Notwithstanding this, should planning permission be granted, it is requested that all archaeological findings are published. As an alternative viewpoint, one consultation response stated that the marina would provide a destination for people to explore and access the local history and heritage.
287. NCC Archaeology and English Heritage recommend that, should planning permission be granted, no development should take place until a details of a scheme for archaeological investigation and mitigation has been submitted to and approved in writing by the MPA, with the scheme being fully implemented in accordance with the approved details. The written scheme of mitigation for the archaeological work should set out an iterative process of investigation, mitigation, recording, archiving and publication in which remains can be treated appropriately and proportionately to their significance and importance. The archaeological work should be structured by staged assessment and review, aligned where appropriate to adaptation of design to preserve important features in situ (bearing in mind a proportionate approach to significance and specifically between the public benefits of the development and the public interest in the preservation of nationally important archaeological remains – including those of demonstrable equivalent importance to Schedule Monuments should they be revealed).
288. Chapter 12 (Conserving and enhancing the historic environment) of the NPPF states at Paragraph 135 that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In addition, paragraph 139 states that non-designated heritage assets of

archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

289. Policy M3.24 (Archaeology) of the MLP states that planning permission will not be granted for minerals development which would destroy or degrade nationally important archaeological remains and their settings, whether scheduled or not. Planning permission will only be granted for development which would affect archaeological remains of less than national importance where it can be demonstrated that the importance of the development outweighs the regional or local significance of the remains and where appropriate provision is made for the excavation and recording of the remains.
290. The actual significance of the archaeology in this area would not be fully known until a full investigation take place, however, the NCC Archaeological Team have assessed the site as being of at least regional importance, potentially containing elements of national importance. Policy M3.24 allows for development which would affect remains of less than national importance where the importance of the development outweighs the significance of the remains. Based on the assessment of need, it is the view of the MPA that the importance of the marina does not outweigh the significance of the remains and is therefore contrary to Policy M3.24. It is also considered, therefore, that the development is contrary to the NPPF. It is also necessary to highlight that the NPPF states the ability to record evidence of our past should not be a factor in deciding whether such losses should be permitted.
291. Notwithstanding the above, should planning permission be granted it is recommended that a condition requiring a written scheme of mitigation should be attached as recommended by NCC Archaeology and English Heritage, and that the findings should be made publicly available in line with paragraph 141 of the NPPF.

Flood Risk

292. The majority of the application site is in Flood Risk Zone 3b (the functional floodplain) which is the area where water has to flow or be stored at the times of flood. The NPPF Technical Guidance document states that only water-compatible uses and essential infrastructure (as listed in the NPPF flood risk vulnerability classification) should be permitted in this zone and development should be designed to remain operational and safe for users at times of flood; result in no net loss of floodplain storage; not impede water flows; and not increase flood risk elsewhere.
293. The Technical Guidance to the NPPF identifies sand and gravel workings and marinas as water compatible development. All development in Zone 3b should be accompanied by a Flood Risk Assessment (FRA).
294. The Appellant undertook a FRA in 2010 which highlights that flooding has taken place at the site in the past. The FRA identifies the predicted 1 in 100 year flood event with water levels reaching 30.61m AOD at Ratcliffe Lock and 30.43m AOD opposite Red Hill Farmhouse. The FRA also recommends setting a

+100mm allowance for climate change when setting levels for floating pontoons and boardwalks.

295. With reference to the mineral extraction and construction element of the development the extraction would take place over a 3-4 year period, commencing towards the north of the site and moving southwards, with mineral processing taking place off-site. The FRA states that the key issues relate to flood plain storage and conveyance.
296. The FRA states that the excavation would create large gains in the available flood storage volume at lower levels. With proposed off-site mineral processing there would be the construction of storage bunds for storing clay and soil locally before it is reused for filling the edges of the excavation and providing landscaping. The FRA states that there were originally planned to be 5 long-term bunds (due to on-site processing of minerals) but with off-site processing this has been reduced to 2. The bunds would be orientated in a NNW direction so that they would not impact upon flood flows. The assessment also states that there will be no works that directly impact on the River Soar itself, in terms of conveyance capacity – the rate at which water can be transported by a waterway.
297. Reference is made to a watercourse that crosses the site from the adjacent power station. It is suggested that when excavation begins the water course would discharge into the excavation area, with the water then being pumped into the river along with other water that enters the excavation.
298. Flood risk and the marina element have also been considered as part of the FRA. One of the factors that has been considered is vehicular site access, with the design aiming to provide as high a level of access to and around the marina as possible, without compromising flood plain storage and conveyance. The FRA states at Section 7.2:
- “The highest access levels will be given to the southern and eastern parts of the site, and in particular the Facilities area at the centre of the marina (minimum road level of 30.4m).”*
299. Elsewhere the access routes around the marina would utilise the existing flood banks between the River Soar and the marina and a cross fall would be provided, giving one side of the road a slightly higher level than the other. The existing identified low point of the site access road near Mason’s Barn would be raised to a minimum of 30.40m AOD to benefit existing users of the properties and facilities to the north, as well as the marina itself.
300. In terms of pedestrian access the FRA states that all moorings would utilise floating pontoons, which would provide dry access to boats in the 1 in 100 year event and higher. There would also be raised timber walkways (causeways) raised to above the 100 year flood event level, linked to the pontoons.
301. The FRA includes a detailed assessment of the existing and proposed available flood storage volumes at different levels, the results of which are briefly set out in Table 7 below:

Table 7: Increases in flood plain storage volumes

Level (mAOD)	31.0	30.8	30.6	30.4	30.2	30.0	29.8	29.6	29.4	29.2
Storage Vol. Change (m ³)	-58	175	214	79	352	318	28	907	4,378	11,632

302. The table indicates that for all of the 0.2m deep levels other than 31.00mAOD there would be an increase in flood plain storage capacity. The FRA does not consider the loss of storage volume at 31.00mAOD as an issue given that the 1 in 100 year event flood level is approximately 30.5mAOD.
303. The FRA acknowledges that there would be some works to the banks of the river (e.g. to create the marina entrance), but that this would have no impact on the conveyance capacity of the River Soar.
304. The FRA highlights that there are approximately 100 moorings available along the River Soar and that there are currently 60 residential boats located on the river, which would be relocated into the new marina. This is said to result in a significant reduction in flood risk for residents as they would be removed from a fast flowing river to an area with improved access arrangements, both during normal and flood conditions. In addition, the removal of boats from the river would benefit flow conditions and overall waterside environment.
305. The FRA does, however, acknowledge that the creation of a marina would result in an increase in the number of visitors to a flood risk area. However, numbers would be highest during peak periods (i.e. dry summer weekends) and significantly lower at other times, particularly during poor weather conditions, when flooding is more likely. The FRA states that it is difficult to quantify these issues, but is of the view that the relocation of boats, improved access arrangements (for vehicles and pedestrians), additional site personnel and a detailed flood management system would offset the increase in boats and people.
306. The FRA commits to the production of a Flood Management Plan to prepare for, and set out procedures during, the event of a flood. The key elements of the plan are summarised below:
- a) The site would be permanently manned;
 - b) Staff would be trained in flood management roles and responsibilities;
 - c) The marina would be linked to the EA's flood warning system;
 - d) The facilities and management building would be used to co-ordinate actions in the event of a flood, due to its central and raised location;
 - e) A flood warning system would be implemented (lights/flags/audible warnings and site management touring the site with verbal warnings);
 - f) For the 1 in 25 year event (30.14mAOD) evacuation would be encouraged;
 - g) For the 1 in 50 year event (30.30mAOD) evacuation would be compulsory other than marina staff;

- h) Special consideration would be given to the needs of disabled people.
307. The design of the buildings on site has taken account of flooding. The main facilities building would be raised on piles, with a raised access route, so that it is at least 500mm above the 1 in 100 year flood water level. The boathouse and workshop would be at a lower level, flooding regularly. It would be constructed of flood resilient materials and would be design to drain out easily. All vulnerable services would be elevated above the 100 year flood level.
308. With regard to climate change the FRA states that the increase in peak river level is likely to only be marginal (typically 0.1m) and, as such, there is not anticipated to be an increase in the number of existing properties at risk of flooding.
309. Appendix C to the FRA is a letter from the Environment Agency (dated 16 September 2008), stating that they agree with the findings of the report on flooding issues to the site. Subsequent to the submission of the application the EA has not raised any objections in relation to flooding or flood risk. However, following the submission of the appeal for non-determination the EA has submitted a letter setting out a list of conditions that they would wish to see attached should planning permission be granted. The requested conditions are summarised below:
- a) The storage of excavated materials shall be limited to the areas described on drawing 0523/CP/1 (Appendix A of the Flood Risk Assessment) as bund 3 and Bund 4;
 - b) The finished floor level of the office illustrated on drawing 0523/CP/1 (Appendix A of the FRA) shall be set above the 1 in 100 year flood level;
 - c) There shall be no removal of material within 8m of the toe of the flood bank;
 - d) Mineral extraction shall be limited to those areas marked A through to G on drawing 0523/CP/1 (Appendix A of the FRA).
 - e) Upon completion of the earthworks and prior to the occupancy of the marina basin a ground level survey shall be submitted to the MPA. The survey shall confirm that the earthworks have been undertaken in accordance with Appendix D (Flood Storage Calculations) of the FRA.
 - f) A safe route of access and egress shall be afforded to all moorings and Central Services Building in accordance with paragraphs 7.2 and 7.3 of the FRA. The pontoons shall be of a rise-and-fall type and shall enable the pedestrian walkways to rise to an elevation at or above the 1 in 100 year (climate change) flood level.
 - g) Details to the proposed works to the existing flood bank around the perimeter of the marina shall be submitted to and approved in writing by the MPA prior to the commencement of development. Unless otherwise agreed in writing, the perimeter access track shall be set at the general existing top of bank elevation and shall be of a construction which prevents the ingress of water through the floodbank;

- h) The finished floor level of the central services building shall be set at least 600mm above the 1 in 100 year flood level, or at least 300mm above the 10 in 100 year flood level with a scheme for flood resilience;
 - i) The boathouse shall be designed as a floodable structure, incorporating openings in at least two sides of a length no less than 20% of each side and extending from ground level to the 1 in 100 year (climate change) flood level;
 - j) Occupancy of the marina shall not exceed 60 residential boats until such a time as all moorings and associated facilities on the bank of the River Soar have been removed, and the river bank reinstated to a natural form;
 - k) Details of the river entrance to the marina shall be submitted to and approved in writing prior to the commencement of development. The entrance shall be afforded sufficient erosion protection unless otherwise agreed in writing, gates shall be installed at the entrance to a specification agreed in writing by the MPA.
 - l) Prior to occupation of the marina a flood management plan shall be submitted to the MPA.
310. The EA letter highlights that the flood storage calculations referred to in various conditions above was supported in pre-application discussions by a drawing to illustrate the proposed ground levels (Ref: 0523/CP/1 – cited as Appendix A of the FRA). The EA state that they cannot find this in the Environmental Statement, but recommend that it is requested from the applicant and written in to the aforementioned planning conditions as a reference drawing for proposed ground levels.
311. In addition, the EA note that they are currently in the process of updating their estimated flood levels for the River Soar. As such, they recommend that the applicant remains in contact, to ensure that the development is adequately protected against the risks associated with flooding. Although they cannot at this stage confirm any change in water level, initial, draft output from the new study suggests water levels are reasonably similar, but there could be changes that should, if possible, be reflected in minor modifications to the design. For example, the trigger levels for flood evacuation planning could be changed, and minor elevation changes could be made if necessary to the safe access routes.
312. It is also noted that a public consultation response supports the proposed development due to its assistance with flood control.
313. Chapter 10 of the NPPF (Meeting the challenge of climate change, flooding and coastal change) contains guidance on development in areas of flood risk. Paragraph 103 states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas of risk of flooding where, informed by a site-specific flood risk assessment following the sequential test, and if required the exception test, it can be demonstrated that:

- a) Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
 - b) Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
314. Policies M3.9 of the MLP and WET 2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan relate to flooding, seeking to prevent development which would have an unacceptable impact on surface water flow, flood storage capacity or flood defences.
315. The NPPF highlights the need for a sequential test. The undertaking of a sequential test is discussed in FRA, although no other sites have been considered. The Appellant has undertaken an alternative site search as part of the application, although the adequacy of it is questioned. In any event, the nature of developing a marina means that it would almost always involve development in an area at risk of flooding and would also involve creating a link between the marina basin and a waterway, thereby water levels in the marina would reflect any increase in river water levels. As such, it is not considered appropriate to look for sites sequentially at less risk of flooding. Given that the development is water compatible no exception test is required as set out in Table 3 of the NPPF Technical Guidance document.
316. The FRA has sought to demonstrate that the design of the development ensure that the most vulnerable areas are at the lowest risk of flooding. This includes the main facilities building which has its finished floor level set above the 100 year flood event level plus a factor for climate change, and also the access paths and roads set at a levels which would not be affected except in the most extreme of flood events. The other buildings (e.g. the boat house) would be designed to flood and there would be an emergency plan in place. In addition, the FRA appears to demonstrate that there would be no increase in flood plain storage capacity and there would be no impedance to the flow of floodwater, ensuring that the development would not increase the risk of flooding elsewhere. As such, the development appears to meet the requirements of the NPPF and policies M3.9 and WET 2, provided that the conditions recommended by the EA are attached should planning permission be granted.
317. Attention should be drawn to the fact that the 'Masterplan – Option 1 Rev D' and the 'Site Plan – March 2012' shown access road levels towards the east of the site and in the car park set at 30.14m AOD (the 1 in 25 year flood level). As stated above, the FRA identifies these areas as having a minimum road level of 30.4m AOD. Whilst a lower level may or may not be acceptable, it is inconsistent with Section 7.2 of the FRA, and the EA have recommended a condition on the basis of access and egress being set at the level identified in that section.
318. It is acknowledged that the EA has not objected and they appear satisfied on Flood Risk subject to a wide range of conditions. Although, the recommended conditions on a drawing which does not appear to have been submitted as part

of the application, indeed, this is acknowledged in the EA's letter. There is concern about relying on a drawing which appears not to have been submitted as part of the application. This is particularly important as the FRA states, and the EA seek to secure through condition, only two soil/clay storage bunds during the excavation period. However, the phasing plan submitted (Figure 2.2) shows a total of 4 bunds. These additional bunds may reduce flood plain storage capacity at certain levels during the excavation, altering the volume calculations provided in the FRA. In addition, there is also a recommendation in the noise assessment that one of the eastern most bunds is extended in the event that some properties are re-occupied which would also affect flood plain storage capacity calculations.

319. Given the inconsistency between finished levels of access road and bund numbers and size it is considered that clarification is needed, and possibly flood plain calculations will need to be revisited. It may be possible to overcome these issues relatively easily, however, at this point in time there is insufficient information to fully assess the development against the NPPF and policies M3.9 and WET 2.

Hydrology and Hydrogeology

320. As part of the Regulation 22 request, PINS required the submission of a description of the dewatering activities and an assessment of the impacts of dewatering on the water environments, particularly in relation to Lockington Marshes SSSI.
321. The Appellant has undertaken the requested assessment. It identifies that the construction of the marina would have the potential to impact on the local water environment with the two features with the greatest potential to be affected being Lockington Marshes and the River Soar. The impact principally arising from the potential lowering of the watertable. The discharge of water off-site is also considered.
322. The assessment states that, with regards to dewatering, when pumping is maintained to lower water levels a cone of depression develops around the dewatered area within which the watertable is depressed, known as drawdown. The assessment calculates the maximum extent radius of drawdown as 180m in this case. The closest part of Lockington Marshes is 110 from the boundary of the proposed marina. However, the actual radius of influence is considered to be less for three reasons:
- a) The SSSI is situated within a meander of a former course of the River Soar with an assumed near surface geology being silt and clay rich. This would restrict hydraulic connectivity with the underlying sand and gravel. The features and relative elevations of the ground surface and water table are such that the SSSI is considered highly likely to be supported predominantly by rainfall derived water.
 - b) The placement of low permeability materials against a dewatered face will greatly reduce the drawdown and inflows.

- c) The River Soar is situated between the proposed development and Lockington Marshes SSSI and therefore good hydraulic continuity between the river and the sand and gravel is assumed. The river would act as a recharge barrier, mitigating drawdown effects to the west of the river.
323. The assessment considers the potential adverse impact upon the hydrological system within the SSSI as insignificantly small and specific mitigation measures are not proposed.
324. With regard to the River Soar, during dewatering there may be a flow from the riverbed into the underlying sand and gravel. However, all the water entering the workings would be discharged to the River upstream, therefore, having no net effect on river flow. The assessment states that once a marina has been constructed there would be no post-construction residual impacts upon the local water environment.
325. With regard to water resources, the marina would have a volume of 148,540 m³. The installation of lock gates would take place prior to water entering the marina and would provide the means of controlling the rate of water entering the basin. The rate of ingress is said to be slow to prevent adverse impacts on river flow, but actual timings and rates would be agreed with the EA at a later date. However, the EA has highlighted that an abstraction license would be needed.
326. The supplementary information on water related issues (June 2013) states that the only anticipated water quality issues associated with discharge off site is suspended solids that may be derived from mobilised fines. The suggested solution is that these would be settled out in the basal drainage ditches, the pump sump and settlement lagoons. It is also highlighted that a permit would be required for pumping water off site. Notwithstanding the above, the EA have requested a condition relating to a scheme to treat and remove suspended solids from surface water run-off during the mineral extraction and construction works. Whilst the process has been set out, it is considered that a full and details scheme should still form a condition should permission be granted.
327. There is also the risk of pollution to water from the marina operations. This has been considered in the original application submission. A pump out station would be located on the quay for foul water vacuum removal. Boat tanks would be directly pumped out to a below ground holding tank. The waste from the tank would be removed by tanker approximately once a month. Anti-pollution measures would be incorporated into the daily running of the marina, and would consist of:
- a) The provision of an oil receptor sump at any drain connection;
 - b) Twin 110% capacity bunded fuel tank above ground with an alarm;
 - c) An oil boom and spill kit to be on hand next to the diesel pump;
 - d) Stop planks can be placed at the marina entrance to prevent pollution of the river from the marina, or vice versa.

328. Chapter 13 (Facilitating the sustainable use of minerals), specifically paragraph 143, seeks to ensure that permitted minerals operations do not have an impact on the flow and quantity of groundwater, and migration of contamination. Chapter 11 of the NPPF seek to prevent new development from contaminating water. In addition, Policies M3.8 (Water Environment) of the MLP and WET 3 (Groundwater resources) seek to ensure groundwater levels are not adversely affected and new development does not give rise to water pollution. Natural England has confirmed that their previous concerns relating to dewatering and impact on Lockington Marshes SSSI. In addition, the Environment Agency has confirmed that they have no objection biodiversity, groundwater or contamination concerns. As such, the development is in accordance with the relevant groundwater and contamination policies.

Air Quality and Dust

329. The air quality issues predominantly relate to the potential for dust generation during the excavation and construction phase of the development.
330. The NPPF Technical Guidance document highlights that unavoidable dust emissions should be controlled, mitigated or removed at source and that a dust assessment study should be undertaken by a competent person/organisation with acknowledged experience of undertaken this type of work.
331. The applicant has included a cursory consideration of dust impacts within the ES, but it does not constitute a dust assessment meeting the key stages of a dust assessment study set out in the NPPF Technical Guidance document, and it does not identify or consider the potential impact of dust on the nearby sensitive receptors, some of which are less than 100m from the site.
332. Notwithstanding the above, the Appellant considers the potential to generate dust to be low. In relation to soil and overburden handling there is the potential to generate dust in very dry conditions, although the material is considered to have a level of moisture content which would prevent dust in normal conditions. With regard to the sand extraction, whilst the proposal is to dewater the site, there would be noticeable retained moisture content. It is also highlighted that dust is not normally associated with sand and gravel extraction.
333. The ES states that the potential for dust generation would predominantly be associated with the movement of vehicles on unbound surfaces. The use of water bowsers to damp down roads when weather dictates is suggested.
334. Notwithstanding the lack of formal dust assessment, it is considered that with suitable conditions dust could be controlled to an acceptable level, provided suitable mitigation measures are in place, and secured by condition. The following measures are recommended:
- a) The use of water bowsers to dampen haul roads, material stockpiles, and other operational areas of the site;
 - b) Internal roadways, storage areas and hard surfaces shall be regularly swept to keep them free of mud and debris likely to give rise to dust;

- c) The regular re-grading of internal haul roads;
 - d) Bulk loads arriving at or leaving the site shall be carried in enclosed or sheeted containers;
 - e) The fitting of all mobile plant with exhaust systems which cannot be emitted in a downward direction;
 - f) Soil storage mounds which are not to be used within 3 months shall be graded and seeded;
 - g) The minimisation of exposed surfaces on the soil mounds;
 - h) Upon the request of the MPA, the temporary suspension of mineral extraction and associated activities in periods of unfavourably dry or windy weather conditions.
335. In light of the above, whilst it is acknowledged the ES does not comply with the requirements of the NPPF Technical Guidance document, it is considered that the development would be in accordance with Policy M3.7 (Dust) of the MLP, which states planning permission for minerals development will only be granted where dust generation would not lead to an unacceptable impact, and where appropriate conditions would be imposed to suppress dust generation.

Best and Most Versatile Agricultural Land

336. Best and Most Versatile Agricultural Land (BMVAL) is that which falls into Grades 1, 2 and 3a.
337. Chapter 11 (Conserving and enhancing the natural environment) of the NPPF requires planning authorities to take into account the economic and other benefits of the BMVAL (paragraph 112). Chapter 13 (Facilitating the sustainable use of minerals) seeks to safeguard the long term potential of BMVAL. In addition, Policy M3.16 of the MLP and EN21 of the Rushcliffe Borough Non-Statutory Replacement Local Plan seek to protect BMVAL.
338. The ES states, in its assessment of Policy EN21 of the Rushcliffe Borough Non-Statutory Replacement Local Plan, that the application site is subject to regular flooding and therefore does not constitute BMVAL. Whilst flooding is an acknowledged factor in assessing whether land is BMVAL, it does not on its own preclude land from falling into categories 1, 2 and 3a, as it depends on the frequency, duration and season in which flooding occurs¹¹.
339. It is acknowledged that the site falls into Flood Risk Zone 3b (the functional floodplain), and the majority of the site is at or below 29.5mAOD which gives suggests a 1 in 5 year flooding event. In light of this the potential for the site to be BMVAL is low, however, no formal assessment has been undertaken and therefore it is not possible to assess the development against the requirements of Policies M3.16 and EN21.

¹¹ <http://archive.defra.gov.uk/foodfarm/landmanage/land-use/documents/alc-guidelines-1988.pdf>

Public Right of Way

- 340. Policy M3.26 of the MLP and MOV8 of the Rushcliffe Borough Non-Statutory Replacement Local Plan relate to public rights of way. They seek to ensure that where planning permission is granted which would affect a public right of way, provision should be included within the development for its retention, or a diversion which aims to offer equivalent interest or quality.
- 341. The NCC Countryside Access Team has identified that Footpath No. 7 runs along the access road into the site. The proposals include raising the access road to reduce flooding vulnerability and, as such, will involve changes to the existing footpath. NCC Countryside Access has requested details of the proposed footpath improvements to ensure that it meets the standards for pedestrian access.
- 342. The access track and Footpath No. 7 are not anticipated to be closed during construction as it would be required by the existing Red Hill Marina users and businesses. However, there would be HGVs using it. As such, the NCC Countryside Access Team requests the use of suitable signs to warn the public of HGVs, and vice versa.
- 343. In light of the above, the development is in accordance with Policies M3.26 of and MOV8, subject to conditions relating to footpath details and suitable signage.

Interim Reclamation Measures and Aftercare

- 344. Chapter 13 of the NPPF, at paragraph 143, seeks to ensure that worked land is reclaimed at the earliest opportunity. In addition, Policy M4.7 seeks details of interim reclamation measures for projects which are likely to be subject to unavoidable delays.
- 345. There have been public consultation responses that raise concern that the mineral extraction aspect of the development has been played down and that it may be the real objective of the application, and the marina would not actually being completed. It is also requested that if approval is given, measures should be put in place to ensure the site is not left as a quarry. It is suggested that a bond or sequestration of profits to be held in escrow could be used.
- 346. The likelihood of unavoidable delays is unknown, though it is largely dependent on demand for sand and gravel. As highlighted above, there has recently been a drop in sand and gravel production in Nottinghamshire, which suggests a drop in demand, in line with the recession. However, production has increased for the last three years of available data. Overall, given the relatively short duration of mineral extraction (three to four years) and the lack of sufficient evidence that delays are likely, the requirement for interim reclamation measures would not meet the criteria set out in Policy M4.7.
- 347. Notwithstanding this, it is recommended that should planning permission be granted, a condition is attached requiring mineral extraction to be completed within four years, and should the marina development not commence within a

timely period, an alternative restoration scheme should be submitted and undertaken.

348. The NPPF also requires high quality restoration and aftercare of mineral sites and policy M4.9 of the MLP states that the County Council will attach aftercare conditions to all mineral planning permission where reclamation is to agriculture, forestry or amenity (the supporting text to the policy indicates that amenity includes recreation and nature conservation).
349. In line with the NPPF and policy M4.9 it is recommended that, should planning permission be granted, a condition is attached to require the submission of an aftercare scheme to ensure that the nature conservation area, and planting around the site, is suitable established. This is considered particularly important given the identified BAP priority habitat that would be lost through the proposed development.

Cumulative Impact

350. Paragraph 144 of the NPPF states that in granted planning permission for mineral development, the MPA should ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and should take into account the cumulative impact of multiple impacts from individual sites and/or from a number of sites in a locality. In addition, Policy M3.27 (Cumulative impact) of the MLP states that planning permission will not be granted for development which would result in a significant adverse impact on the environment and/or the amenity of local communities.
351. The EIA regulations require a description of the cumulative effects of the development resulting from its existence, use of natural resources and the emission of any pollutants, creation of nuisances and the elimination of waste. The applicant has included a chapter on cumulative impacts within the ES, as required, assessing cumulative impacts relating to hydrology and flood risk, traffic, ecology, archaeology, noise, landscape and visual effect. The assessment concludes that the cumulative impact on the surrounding area is low due to the small number of possible developments of any significant cumulative influence and the mitigation measures should make any measurable cumulative impacts a negligible consideration.
352. It is reasonable to conclude that there would be no cumulative impacts relating to archaeology, as the development would only have direct impacts on the site.
353. In relation to flood risk, whilst it is currently considered that there is insufficient information, provided the flood storage calculations do demonstrate that there would be an increase in storage capacity, there would be no cumulative impact.
354. The generation of traffic has been assessed in the context of the existing situation, and the MPA are not aware of any significant future development that would affect highways capacity in the vicinity. Indeed, highways capacity is being increased with the ongoing works to widen the A453, which is due to be completed between July and September 2015.

355. It is considered that there would be a cumulative impact on the landscape character of the area as any reduction landscape characteristics accumulate. In terms of visual impact, there would be a cumulative impact for some of the nearby dwellings and users of surrounding rights of way, in that there would be a reduction in open countryside which would be replaced by a waterbody occupied by boats, car parking, buildings and other site infrastructure. This would have a cumulative impact with the adjacent power station and East Midlands Parkway.
356. The existing widening of the A453 is due to be completed in July to September 2015. If extraction and construction were before completion there could be cumulative impacts in relation to dust and noise, which in turn could have a cumulative impact on ecology.
357. The Appellant has not considered the cumulative impact with other minerals or waste development in the area, most notably the Wink Hill power station ash disposal site and the Marblaegis gypsum mine. Whilst there is not envisaged to be any significant cumulative impact with the gypsum extraction, as it is an underground mining operation, there is potential cumulative dust impacts associated with the ash disposal site.
358. The cumulative impact assessment has not taken into account the proposed route of phase 2 of HS2, which passes centrally through the proposed site. Whilst highly unlikely, if both the proposed marina and HS2 on the current route were constructed, there would be significant cumulative noise, ecological, landscape character and visual impacts.
359. The cumulative impact assessment and the bird management plan do not assess potential cumulative impacts in terms of bird strike risk to East Midlands Airport. It is considered that even with the designing out of suitable habitat for bird strike risk species and subsequent management, any increase in suitable habitat could have a cumulative impact with the existing surrounding suitable habitat (e.g. Lockington Marshes and Attenborough Nature Reserve).
360. The cumulative impact assessment makes no mention of cumulative impact on the Green Belt. It is considered that any inappropriate development in the Green Belt is having a cumulative impact in terms of the reduction of openness.
361. The Appellant has also not mentioned the cumulative impact in relation to the economy. Whilst it is not the role of planning to regulate competition, the identification of under-occupation of marinas within a 40 mile radius suggests that the creation of the proposed new marina, cumulatively with Bosworth (under construction), North Kilworth (planning permission granted) and Barby Pools (planning permission granted) there could be a detrimental effect on existing marinas, potentially resulting in closures. Whilst it is acknowledged as just a single example, Pilling's Lock Marina Ltd is identified as being between £1.2 to £1.4m down on projected turnover on mooring rental since they started

in March 2007, and CRT are taking action against them in the high court due to unpaid Network Access Fees¹².

362. In light of the above, it is considered that there may be identifiable cumulative impacts with surrounding development, although the significance is unassessed. As such there is insufficient information to establish whether the development is in accordance with Policy M3.27 of the MLP.

HS2

363. In January 2013 the Government announced the initial preferred route for Phase Two of the High Speed 2 rail line. The proposed route passes centrally through the site of the proposed marina.
364. The consultation on the proposed route has now closed, and the responses are being analysed. Following analysis a report on the findings will be published and used to look at possible changes to the route – known as the route refinement process. Recommendations will then be made to the Secretary of State for Transport, which will be responsible for the final decision on how Phase Two would proceed. The decision is expected to be announced towards the end of 2014.
365. High Speed 2 Ltd has been consulted as part of the application process. They raise no concerns or objections regarding the development but highlight that in determining the planning application the Inspector should have regard to the announcement of the Government's initial preference for Phase Two and the Government's commitment in January 2012 to delivering Phase Two as material considerations.

Other

366. There are a number of comments and concerns raised in public consultation responses that have not been addressed in the above observations. As such, they are dealt with below.
367. It is stated that the development would enhance the wider area and the existing marina, providing new and additional leisure facilities. In addition there is a need for investment, organisation and improved facilities at Red Hill Marina. The comments partially relate to the existing marina, to which this application would make no change. In terms of providing new and additional leisure facilities, it has been demonstrated above that there is no need for additional marina berths in this location.
368. A shortage of existing storage land for boat restoration has been highlighted. However, this application does not provide any new boat restoration space.
369. The shortage of live-aboard facilities for canal boats is cited as a reason that the application should be granted planning permission. Whilst there is contradiction

¹² <http://www.boatingbusiness.com/news101/industry-news/crt-takes-quorn-marina-to-court>

within various sections so of the ES, it appears that the development would provide only leisure berths.

370. There is concern raised that there is little connection between the marina business and users, and it would do little to enhance community life in Ratcliffe on Soar. The concern is acknowledged, however, the purpose of the development would not be to enhance community life in the neighbouring village and, it is not anticipated that it would be of detriment to community life, providing suitable conditions are in place (e.g. lorry routing agreement and gating of Soar Lane).
371. The lack of provision for main sewage or gas has been highlighted as an issue for concern. Details for these utilities have not been submitted as part of the application. As such, should permission be granted it is recommended that suitable details are provided.
372. Attention is drawn to Ratcliffe on Soar and Red Hill having the same post codes, which generates confusion for postal deliveries and there is concern that the proposed development would make the situation worse. On the basis that there would be no residential berths at the site, it is anticipated that the development of a marina at this location would not materially alter the situation.
373. There is concern that run-off from local highways discharging into local brooks would cause pollution and maintenance issued. The surface water runoff from roads and tracks is not anticipated to contain pollutants and is not an issue that has been raised as a concern by the Environment Agency or the CRT.
374. It is suggested that stretches of the River Soar, particularly withy beds, should be cleaned up, and this could be a condition on planning permission being granted. In line with suggestions from NCC Ecology and NWT, it is recommended that bank habitat improvements and enhancements are subject to a condition should planning permission be granted.
375. Mason's Barn is described as an eyesore in one response, and it is suggested that it should be demolished as it is a dumping ground. This would not be possible as part of this application as the property is outside of the application boundary and is thought to be in the ownership of Network Rail.

Conclusion

376. The proposed extraction of 500,000 tonnes of sand and gravel is not within an area allocation for minerals extraction within the Minerals Local Plan (MLP). However, the County has fallen below its requirement to maintain a 7 year landbank. As such, sand and gravel extraction outside of allocated areas is acceptable in line with Policy M6.2 (Sand and Gravel Landbank) and M6.3 (Sand and Gravel Extraction in Unallocated Land) of the MLP, and the NPPF.
377. The planning application site is located in the Green Belt. The extraction of minerals in the Green Belt is acceptable, in line with the NPPF, only if it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. As such, the minerals aspect of the

development cannot be judged in isolation, given that the minerals extraction is to facilitate the development of a marina.

378. The engineering operation of creating a basin which would eventually form an open water body is not, in itself, inappropriate in the Green Belt. However, the water body would be used as a marina, to provide 553 new leisure berths catering for small leisure craft, narrow beam narrow boats and wide beam craft. Given that boats are man-made objects, at full capacity 553 boats, some up to 4m by 21m, would have an adverse impact on the openness of the Green Belt, and the impacts would not be a transitory use of the land. In addition to the water body element of the marina, is the associated development namely the buildings and associated roads and parking facilities. The development would result in 244 parking spaces for the marina and 131 parking spaces for the facilities building. There would also be the creation of three new buildings. This development would have a significant impact on the openness of the Green Belt and is therefore inappropriate development which is, by definition, harmful to the Green Belt. Given that the marina is inappropriate, the development that would facilitate it (i.e. the minerals extraction) is also judged to be inappropriate. As such, approval should only be given in very special circumstances.
379. The need for additional marina berths has been used to attempt to demonstrate very special circumstances. However, a thorough assessment of the existing marina berths within a 40 mile radius demonstrates that at this point in time there are a large amount of vacant berths. Furthermore, it appears that the number of boats on the waterways has peaked and is now in decline. There is categorically no need for the construction of further marina berths in this location.
380. There are some acknowledged potential benefits to the scheme including the creation of a small amount of jobs. However, these benefits are not considered very special circumstances at all, and are certainly far from being sufficient to outweigh the considerable harm that would be caused to the openness of the Green Belt by this proposed development.
381. In light of the above, the development is contrary to Chapter 9 of the NPPF, which seeks to protect Green Belt Land, and Policy ENV14 (Protecting the Green Belt) of the Rushcliffe Borough Non-Statutory Replacement Local Plan.
382. Due to the age of a number of the species surveys (breeding and wintering bird, water vole and reptile) which were undertaken in 2008, it is not possible to accurately assess the impacts. This is contrary to Paragraph 165 of the NPPF which states that decisions should be based on up-to-date information about the natural environment. The lack of up to date information means that the development cannot be assessed against the relevant ecological policies, namely Policy M3.17 (Biodiversity) of the MLP and Policy EN11 (Features of Nature Conservation Interest) of the Rushcliffe Borough Non-Statutory Replacement Local Plan.
383. In addition, there is a noted loss of BAP habitat. Whilst the scheme includes the provision of a habitat creation area to the west of the site, details are not sufficient to establish whether it would fully mitigate the habitat being lost. It is therefore, not possible to assess whether the development is meeting the desire

to minimise impacts on biodiversity and provide net gains in biodiversity where possible, as set out in the NPPF, or the requirements of Policies M3.17 and EN11.

- 384. Policy M3.3 of the MLP states that minerals development states that planning permission should only be granted where visual impact can be kept to an acceptable level. Whilst the development is likely to have a 'slight adverse' to 'no change' level of impact there is insufficient information to fully assess the impacts of the development against this policy.
- 385. The design of the proposed marina is considered to have an unacceptably adverse impact on aviation safety and is, therefore, contrary to paragraph 144 of the NPPF.
- 386. Policy M3.15 of the MLP relates to the bulk transport of minerals and states that where major proposals rely on road transport, planning permission will not be granted unless it has been demonstrated that more sustainable forms of transport are not viable. The Appellant has not considered this option within the planning application.
- 387. In light of the above, the minerals extraction and construction element of the development is considered to be contrary to the guidelines for minerals noise levels set out in the NPPF Technical Guidance document and Policy M3.5 of the MLP. Notwithstanding this, the sensitive receptors at which noise recommended noise levels would be exceeded (i.e. Red Hill Farm and Mason's Barn and Bungalow) are respectively occupied by the land owner and currently unoccupied and seemingly derelict.
- 388. The site is of at least regional importance for archaeology, and potentially contains elements of national importance. Policy M3.24 allows for development which would affect remains of less than national importance where the importance of the development outweighs the significance of the remains. Based on the assessment of need, it is the view of the MPA that the importance of the marina does not outweigh the significance of the remains and is therefore contrary to Policy M3.24 and the NPPF.
- 389. Given the inconsistency between finished levels of access road and bund numbers and size it is considered that clarification is needed. At this point in time there is insufficient information to fully assess the development against the NPPF and policies M3.9 (Flooding) of the MLP and WET 2 (Flooding) of the Rushcliffe Borough Non-Statutory Replacement Local Plan which seek to prevent development which would be at risk of flooding, or increase the risk of flooding elsewhere.
- 390. No assessment of the agricultural land to be lost has been undertaken. It is therefore not possible to assess the development against the requirements of Policies M3.16 (protection of best and most versatile agricultural land) of the MLP and EN21 (loss of agricultural land) of the Rushcliffe Borough Non-Statutory Replacement Local Plan.
- 391. The potential cumulative impacts of the development have not been fully assessed, particularly in relation to visual impact, noise, dust, aviation safety,

Green Belt and the local marina economy. As such there is insufficient information to establish whether the development is in accordance with Policy M3.27 (cumulative impact) of the MLP.

392. It is a material consideration that the initial preferred route for Phase Two of the High Speed 2 rail line passes centrally through the site of the proposed marina. Given the national importance of the proposed development and its location it is a material consideration which holds significant weight, and it is considered highly unlikely that should HS2 progress on its current route that the marina would be constructed.
393. There are some acknowledged potential benefits related to the proposed marina, including the creation of jobs and development of rural tourism. These are supported in Chapter 3 of the NPPF.
394. The need for additional sand and gravel reserves to meet the County's 7 year landbank is recognised. However, given that the extraction is only facilitative it holds little weight. In addition, the recognised jobs and tourism creation generated by the marina are not very special circumstances and little weight is given to these. The potential benefits do not outweigh the harm to the Green Belt; the unacceptable risk to aviation safety, unacceptable harm to archaeological remains; and unacceptable noise levels at nearby receptors. In addition, there is insufficient information relating to flood risk; ecology; visual and cumulative impact; Best and Most Versatile Agricultural Land; and the sustainable transport of minerals, contrary to Policy M3.1 of the Nottinghamshire Minerals Local Plan.
395. In light of the above, it is recommended that Planning Inspectorate is informed that, had the application been determined prior to the appeal being lodged, it would have been refused.

Other Options Considered

396. The report relates to an appeal against non-determination of a planning application. The only realistic option available to the County Council is to defend the appeal.

Statutory and Policy Implications

397. 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, Equalities, Safeguarding of Children, Crime and Disorder and Human Resources

398. No implications.

Financial Implications

399. The appeal is to be conducted by hearing and there may well be costs associated with hiring a suitable venue for the duration.
400. In certain circumstances a costs award can be made in appeal cases. A costs award, where justified, is an order which can be enforced in the Courts. It requires one party to pay the costs of another party, in full or part, which have been incurred during the process for reaching the Inspector's or Secretary of State's decision on the appeal.
401. Either of the main parties, the appellant or the MPA, can apply for costs if they consider the other party has behaved 'unreasonably'. Any interested third parties in an appeal can also apply for costs if, for example, a hearing or inquiry is cancelled, as a result of 'unreasonable' behaviour by the appellant or the MPA.
402. An award of costs is always at the Inspector's or Secretary of State's discretion. But he/she would normally make an award if:
- (i) one of the parties has applied for costs at the appropriate stage *and*
 - (ii) a party has behaved 'unreasonably'; *and*
 - (iii) this 'unreasonable' behaviour has caused the applicant for costs to incur or waste expense unnecessarily.

Human Rights Implications

403. The report is seeking a Member supported position to inform an appeal against non-determination and no planning determination is being made. As such, human rights are for the Inspector to consider in coming to their decision. Notwithstanding this, the position that Members take will inform the Inspector's decision and, as such, 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) and Article 1 of the First Protocol (Protection of Property) may be affected due to the proposed minerals extraction, and the construction and operation of the marina. The proposals have the potential to introduce impacts such as risk to aviation safety; and noise, dust and flood risk upon nearby sensitive receptors.
404. The potential impacts need to be balanced against the benefits the proposals would potentially provide such as economic benefits from job creation and tourism. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Implications for Sustainability and the Environment

405. This report relates to the retrospective endorsement of a recommendation. No planning determination is being made. There are no implications for sustainability and the environment, although the recommendation that planning

permission would have been refused on the grounds of inappropriate development in the Green Belt, the unacceptable risk to aviation safety, unacceptable harm to archaeological remains; and unacceptable noise levels at nearby receptors reflects the fact that the decision not to support the proposals can be assessed in terms of sustainability and environmental impact.

RECOMMENDATIONS

406. It is **RECOMMENDED** that Committee endorse the position that planning permission would have been refused, had a decision been made prior to the appeal being lodged, and in the light of the information now submitted for the following reasons:
- a) The development of a marina in the Green Belt is inappropriate development and there is no demonstrable need for new marina berths within the local area. There are no very special circumstances to justify the harm to the openness of the Green Belt that would be caused by the proposed development. As such, it is contrary to the National Planning Policy Framework (NPPF) and Policy ENV14 (Protecting the Green Belt) of the Rushcliffe Borough Non-Statutory replacement local plan;
 - b) The proposed development is 3.5km from East Midlands Airport. The design of the proposed marina would create new habitat suitable for birds that are a birdstrike risk to aircraft. The development would have an unacceptable risk to aviation safety which is contrary to the NPPF.
 - c) The excavation of sand and gravel and the construction of the marina would generate noise levels at nearby sensitive receptors that exceed the maximum noise levels for minerals development as set out in the Technical Guidance to the NPPF. As such, the development would have an unacceptable noise impact contrary to the NPPF and Policy M3.5 (noise) of the Nottinghamshire Minerals Local Plan (MLP);
 - d) The site contains archaeology of at least regional importance, and potentially contains elements of national importance. Given the lack of need for the proposed marina, the importance of the development is not considered to outweigh the importance of the remains. Therefore, the development is contrary to the NPPF and Policy M3.24 (Archaeology) of the MLP.
 - e) There is insufficient information for the planning application to be fully assessed against policies M3.3 (Visual Intrusion), M3.9 (Flooding), M3.15 (Bulk Transport of Minerals), M3.16 (Protection of Best and Most Versatile Agricultural Land), M3.17 (Biodiversity) and M3.27 (Cumulative Impact) of the MLP; and policies EN11 (Features of Nature Conservation Interest), EN21 (Loss of Agricultural Land) and WET2 (Flooding) of the Rushcliffe Borough Non-Statutory Replacement Local Plan. As such, the development is contrary to Policy M3.1 (Information in support of Planning Applications) of the Nottinghamshire MLP which seeks to ensure that sufficient information is submitted to enable a balanced assessment of all relevant factors.
407. It is **FURTHER RECOMMENDED** that the Minerals Planning Authority informs the Planning Inspectorate that Committee supports the dismissal of the appeal.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

Committee have power to decide the recommendations

[SHB 14/02/14]

Comments of the Service Director - Finance

The financial implications are set out in the report.

[SEM 13/02/14]

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

Soar Valley – Councillor Andrew Brown

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W001229

APPENDIX A – INITIAL PREFERRED ROUTE OF HS2 PHASE 2