



12th November 2013

Agenda Item:

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

ASHFIELD DISTRICT REF. NO.: 4/V/2013/0361

**PROPOSAL: DISPOSAL OF INERT WASTE MATERIAL ON LAND ADJACENT TO
SHENTON LODGE AND ITS RESTORATION TO ECOLOGICAL AND
RECREATIONAL USE. (RESUBMISSION OF PLANNING APPLICATION
REFERENCE 4/V/2012/0127)**

**LOCATION: LAND ADJACENT SHENTON LODGE, DERBY ROAD, KIRKBY-IN-
ASHFIELD.**

APPLICANT: MR & MRS JB CUTTS

Purpose of Report

1. To consider a planning application for the development of an inert waste disposal/landfill facility with ancillary on-site recycling on land adjacent to Shenton Lodge, Derby Road, Kirkby-in-Ashfield. The key issues relate to the need for the disposal facility and whether there are more sustainable methods for managing the waste stream in the context of national and local waste policies, particularly in terms of the choice of site given its greenfield location and Green Belt designation. The development raises key issues regarding ecological impacts and has been treated as a 'departure' to the Development Plan. The recommendation is to refuse planning permission for the reasons given at Appendix 1.

The Site and Surroundings

2. The application site is situated on the south-eastern side of the A611 (Derby Road) between Annesley and Kirkby-in-Ashfield (see plan 1).
3. The site is made up of two plots of land extending to 1.34 hectares comprising a rectangular shaped paddock of grassland to the north-east of Shenton Lodge and a narrow 'V' shaped valley to its rear (south) (see plan 2).
4. The grass paddock measures roughly 100m by 50m and is predominantly flat in character. It is screened from the Derby Road by a hedgerow. An

existing field access, which provides vehicular access to the A611, is situated towards the northern corner of the paddock.

5. The valley/cutting area has steeply sided banks of up to 45 degree gradients which slope into a central valley. The valley base slopes in a north-east to south-west direction. The boundaries of the application site are drawn to incorporate approximately 200m by 70m of this valley. The land is uncultivated and overgrown in character incorporating a mix of gorse, grass and trees. The valley is crossed by an overhead electricity cable and forms part of a larger ecologically important designated site known as Robin Hood Hills Site of Importance for Nature Conservation (SINC), (also known as a Local Wildlife Site (LWS)). The site also lies immediately adjacent to an area of land that has been identified as part of both the 'Indicative Core Area' and 'Important Bird Area' in relation to the prospective Sherwood Special Protection Area (SPA).
6. The entire application site is located within land designated as Green Belt, as designated within the Ashfield Local Plan Review.
7. The nearest residential property is the applicants' house, Shenton Lodge which adjoins the site boundary to the north. Warren Hill Stables are situated approximately 270m to the south east. On the opposite side of the A611, is Beacon Poultry Farm and Winshaw Well, a building of local historic interest (200m to the north) which is recorded on the County Historic Environment Record. It is a stone built farm building which has been much altered but retains some heritage value. To the south of the proposal site, at a distance of 750m, is Annesley Colliery Conservation Area designated in 2000.

Relevant Planning History

8. Planning permission was refused by Ashfield District Council for tipping operations on the site on 1st September 1980 (ref 4/23/80/0773) for the following reasons:
 1. *The proposed development would, in the opinion of the Local Planning Authority, have a detrimental effect on the rural character of the area which constitutes an important informal recreation area for local residents. Moreover, the development would result in the loss of a footpath which is an important link in the footpath system in the locality.*
 2. *The proposed development, if permitted, could set a precedent for future tipping in the adjacent sandstone cuttings which form part of 'The Warren'.*
 3. *It is considered by the Local Planning Authority that the creation of an additional access for slow moving vehicles at this point on the A611 would be detrimental to the highway safety of the area.*
 4. *In the opinion of the Local Planning Authority adequate areas to cater for the disposal of waste materials exist with the benefit of planning permission, within reasonable proximity of the site.*

9. Planning permission was refused by Nottinghamshire County Council (Ref 4/V/2012/0127) for the development of an inert waste disposal/landfill facility with ancillary processing on land adjacent to Shenton Lodge on 20th September 2012 for the following reasons:
1. *Landfill of Greenfield sites is inappropriate development in the context of Green Belt Policy and therefore contrary to Nottinghamshire and Nottingham Waste Local Plan (WLP) Policy W3.17 (Green Belt) and Ashfield Local Plan Review Policy EV1 (Green Belt).*
 2. *The disposal of waste on Greenfield sites is contrary to WLP Policy W10.3 (Greenfield Sites) and draft Nottinghamshire and Nottingham Waste Core Strategy (WCS) Policy WCS4 (Disposal sites for non-hazardous and inert waste) and represents the least favoured option for waste disposal under the sequential site selection criteria set out within WCS Policy WCS6 (General Site Criteria). WLP Policies W10.1 and W10.2 identify the important contribution that waste disposal can provide in reclaiming derelict and degraded land, the disposal of waste on Greenfield land at Shenton Lodge would not provide environmental benefits and therefore does not represent a sustainable use of the waste stream.*
 3. *The development would result in the loss of part of a Site of Importance for Nature Conservation (SINC) of heathland character as well as detrimental impacts to protected species. The 'mitigation hierarchy' as outlined in the National Planning Policy Framework directs development to locations where there is least ecological impact and therefore would not provide support for the location of the development. Any need for additional disposal capacity within Nottinghamshire is not critical and would not outweigh the environmental impact caused by the development. The development is therefore contrary to WLP Policies W3.20 (Heathlands), W3.22 (Biodiversity) and W3.23 (Nature Conservation (including geological) Sites and WCS Policy WCS12 (Protecting our Environment).*

Proposed Development

10. Planning permission is again sought for disposal of inert waste at Shenton Lodge. The proposed scheme is similar to the development refused planning permission in September 2012, however the applicant has sought to provide additional environmental information to address previous reasons for refusal.
11. The proposed tipping operations would be undertaken within the valley area of the application site (see Plan 3). The proposed site is capable of accommodating 210,000 tonnes of inert waste.
12. Prior to vegetation clearance and the stripping of soils from the landfill site a programme of reptile capture, translocation and barrier fencing would be carried out. An updated ecological assessment/method statement has been prepared which seeks to address concerns raised in connection with

the previous planning application regarding potential impacts from the translocation of reptiles. To resolve these concerns an area of land to the west of Shenton Lodge within the applicants' ownership has been identified as an additional translocation area. It is proposed to enhance the habitat in this area for reptiles by providing new grassland, tree planting, wetland areas and artificial hibernacula/habitat pile.

13. Following translocation and soil stripping the landfill site would be constructed using an appropriate engineered design incorporating a geological barrier/liner to minimise potential ground contamination risks.
14. The existing field access onto the A611 would be improved and hard surfaced and an internal haul road would be constructed to provide access to the tipping area. A wheel cleaning facility, security cabin and staff/lorry parking would be provided on the paddock land between the proposed landfill area and Derby Road. This paddock would also be used for the storage of topsoil within 3m and 4m high bunds which would subsequently be used for site restoration purposes following the completion of tipping operations.
15. The resubmitted scheme proposes a fill period of two years at a rate of approximately 105,000 tonnes per year, the scheme refused planning permission sought to fill the site over a four year period. The applicant states that this faster rate of filling would be achieved by making the site available to the wider waste industry, the original scheme was envisaged to predominantly serve one company: Colson Transport Ltd. The applicant also states a quicker rate of infilling would also ensure that any impacts are shorter in duration.
16. Waste would be sorted prior to its delivery so that only non-recyclable waste is received. All incoming loads would be inspected to ensure they are inert in character and suitable for tipping. Upon delivery incoming loads would be screened prior to disposal. Recyclable material would be sorted and stockpiled within a recycled produce storage area located in the north east corner of the landfill site. These materials would be periodically removed when there is sufficient quantity to be re-used/re-sold. Tipping would progress from the lowest (south-western) corner of the site in a north-easterly direction. Tipping levels would vary across the site to a maximum depth of 13m.
17. Operating hours of the site are proposed between 08:00 to 18:00 hrs Mondays to Fridays and 08:00 to 13:00 hrs Saturdays. The site would not operate on Sundays or Bank Holidays.
18. The traffic assessment has identified that the site would generate around 3,700 trips per year (7,400 movements). This equates to an average of approximately 3 trips (6 lorry movements) per hour. Incoming lorries would carry between 10 and 19 tonnes of material at a time.
19. Following the completion of waste disposal operations the landfill area would be capped with a combination of a geological barrier and a top liner prior to the replacement of the original soils. The final restoration profile

of the completed site would remove the 'V' shaped valley feature and provide a gentle sloping plateau area leading to a steep slope along the southern extent of the site. The site would be seeded and planted with the objective of recreating the bracken habitat of the existing site including scattered trees and scrubs, herb rich acid grassland and wavy haired grassland. The paddock would be reseeded to create an additional area of heathland habitat including a wetland area within two ponds.

20. The planning application is supported by a series of reports and technical assessments including a statement of need; operational method statement; planning statement; noise and dust impact assessment; flood risk assessment; pollution risk report/site inspection; landscape and visual appraisal; transport statement and ecological assessment. The issues raised within these reports are considered within the Observations section of this report.
21. As part of their supporting statement the applicant states that since planning permission was refused the situation regarding additional disposal capacity within Nottinghamshire has become critical. The applicant states that local waste hauliers are experiencing considerable difficulties in finding sufficient authorised facilities available for disposal needs. This shortage in available capacity is highlighted by the fact that several local hauliers have written to the County Council expressing their concerns over the shortage of disposal sites. The applicant also suggests that the shortage in disposal capacity has also resulted in the Nottingham Express Transit Phase 2 (NET2) tram extension project coming to a complete halt on the basis that the haulage contractors had nowhere to dispose of the material, and that this is having a direct impact on livelihoods.
22. The applicant argues that the situation regarding need for additional sites represents 'very special circumstances' necessary to justify what would otherwise amount to inappropriate development within the Green Belt.

Consultations

23. Ashfield District Council: *The District Council objects to the development for the following reasons:*
 1. *The information submitted is inadequate to demonstrate that the test of special circumstances for development in the Green Belt has been met.*
 2. *It is considered that the unnecessary and detrimental impact upon the Site of Importance for Nature Conservation (SINC) can be prevented and the application does not constitute a case where this is unavoidable as it has not been demonstrated through sufficient evidence that the tests for delivery have been met. These being:*
 - *That there is an overwhelming need for an additional inert waste disposal sites;*

- *That there are no other reasonable sites which could accommodate any of the identified need.*

Should the County Council be minded to grant planning permission, Ashfield District Council refer to various conditions that should be imposed.

24. Environment Agency: *Raise no objections subject to the imposition of a planning condition requiring the prior agreement of a surface water drainage scheme for the site. The Environment Agency note that the operation of the site would require an Environmental Permit.*
25. Network Rail: *Raise no objections subject to only inert spoil being used as the backfill material. In the event that biodegradable waste is imported to the site Network Rail would hold the operator responsible for any escape of hazardous landfill gas or leachate which may affect railway operations or the safety of the public.*
26. Nottinghamshire Wildlife Trust (NWT): *Raise objections to the development. NWT state that the survey for woodlark was undertaken too late in the season and the reptile surveys were not undertaken consistently across the whole site nor were visits undertaken within the optimum period. Notwithstanding these facts the reptile survey confirms that the population of lizards and grass snakes is very significant. The breeding bird survey has shown that there is an important assemblage of birds on the development site. The landfill proposal would result in a destruction of the habitat used by these birds. Whilst NWT acknowledge that the mitigation scheme including the restoration of the site and creation of a new area of habitat have potential to mitigate impacts over a period of time, the mitigation would take more than 10 years to fully establish therefore resulting in a time lag of providing suitable alternative habitat provision. There is also potential for birds breeding on the adjacent land to be detrimentally affected by noise from the development and it is noted that no proper assessment has been undertaken to quantify these impacts.*
27. *The proposed reptile translocation methodology is satisfactory, but would be subject to establishment of good quality habitat in the receptor areas in advance. The earthworks proposal plan and the text in the Ecology report do not appear to indicate that it would be possible to do this effectively.*
28. *The consultants recognise that the site is of County Importance for both habitat and reptiles, and as such accept that there would be a negative impact. As a starting point, damage to SINC's should be avoided wherever possible, as should loss of the habitat of a species assemblage of County importance, in this case reptiles (for which the site is also likely to qualify as a herptile SINC). If there is an over-riding need for the development which outweighs the need to avoid such irreparable damage, then a substantive programme of mitigation and compensation is required in accordance with the NPPF and the ODPM circular, which accompanies PPS9, which is still extant. Given the scale of loss of this SINC habitat and the period of time before similar habitat could be restored, and the reduced micro-habitats that would be present due to loss of the variable aspect and topography of the valley feature, the residual effect in the short-medium term should be considered as major adverse.*

29. The restoration of the site to similar habitats to that which is lost with additional mitigation area is supported, although this would not replace the complexity of the faunal assemblages currently present. The proposal to provide 15 years of land management following restoration is supported, subject to appropriate legal controls to secure these works being undertaken.
30. NCC (Nature Conservation): *The majority of the site is locally designated as a Site of Importance for Nature Conservation (SINC) otherwise known as a Local Wildlife Site – Robin Hood Hills SINC 5/38. The SINC is described as ‘a large area of acidic woodland, extensive bracken and notable heath communities on a south facing slope’. The nearest statutorily designated site, Kirkby Grives Site of Special Scientific Interest (SSSI), is approximately 1km to the west. The site makes up part of an important cluster of large and connected nature conservation sites in the Newstead area, which include Hollinwell Golf Course, Annesley Forest, Newstead and Annesley Country Park, Newstead Park, and Linby Quarries SSSI. As such it is a key component of the local ecological network. The site also lies immediately adjacent to an area of land that has been identified as part of both the ‘Indicative Core Area’ and ‘Important Bird Area’, in relation to the prospective Sherwood Special Protection Area (SPA).*
31. *The Updated Ecological Assessment identifies the main potential impacts arising from the proposed development are loss of part of the SINC, loss of reptile habitat, and potential harm to reptiles during the works, and that there will also be a reduction in habitat available for nesting birds and foraging bats.*
32. *The reptile surveys were carried out in 2010. Whilst ‘out of date’ and also incorporating survey data outside the optimum survey period, it is accepted that as conditions have not changed at the site, there is little value at this point in repeating those surveys. The surveys show the habitat to be of ‘high (County) value’ for reptiles, supporting a ‘large’ population of Grass Snakes and a ‘medium’ population of Common Lizards. A range of broadly suitable mitigation measures are proposed to avoid the killing of reptiles, focussing on a trapping and translocation programme and enhancements to adjacent habitat. The reptiles would be released onto a newly created habitat however concern is expressed that the measures would not be sufficient to raise the carrying capacity of the receptor site to accommodate the potentially large number of reptiles that would be displaced by the works.*
33. *The breeding bird surveys carried out in 2012 did not follow standard guidelines, with two (rather than three) morning surveys carried out late in the season. Notwithstanding this fact, the site provides a valuable habitat for breeding birds with red and amber listed birds of conservation concern present at the site. The proposed development would involve the temporary loss of breeding habitat and there would be increased levels of disturbance in surrounding areas due to increased noise and dust, and as a result of visual disturbance. Concerns are raised that the brief assessment of potential impacts on Woodlark and Nightjar is made*

within the context of the prospective Sherwood SPA is not sufficiently robust, and does not allow the Council to adopt the 'risk-based approach' advocated by Natural England. A more detailed impact assessment is required, consisting of a full and reasoned consideration of (particularly) indirect impacts arising from processing, screening/crushing and disposal operations, with additional assessments undertaken if necessary (such as noise modelling specifically in relation to ecological receptors). Further consideration on this point is therefore required.

34. *It is proposed to restore the site to a mosaic of bracken, grassland, heathland and scrub habitats, along with ponds and a wetland area. These proposals are appropriate to the location, but a detailed habitat restoration plan and working methods would be required.*
35. *It is therefore concluded that the proposed development would give rise to significant ecological impacts including loss of part of the SINC, loss of reptile habitat, and potential harm to reptiles during the works. Whilst mitigation, compensation and enhancement measures are proposed, concerns remain that the mitigation works are not sufficient, and that impacts in relation to the prospective SPA have not been sufficiently addressed. These matters both need further consideration.*
36. *In reaching a planning decision, due consideration should be given to the 'mitigation hierarchy', as outlined in the NPPF. This requires that significant impacts should first be avoided, then mitigated against, and finally compensated for. Whilst a range of compensation and mitigation measures are proposed, it first needs to be determined that the impacts cannot be avoided. This is a matter to be assessed in the terms of the need for the development at this location and possible alternatives, and should be done with reference to Waste Local Plan Policies W3.20 (relating to heathlands), W3.22 (relating to habitats of county importance), and W3.23 (relating to designated nature conservation sites), all of which require it to be demonstrated that the need for development outweighs the nature conservation interest of the features/sites covered by these policies.*
37. NCC (Countryside Access): *Raise no objections. It is noted that Kikby Footpath No. 44 passes over land to the south of the site but would not be directly affected by the proposals. The applicant discussed the potential to provide a new footpath link between Derby Road and this footpath as part of the restoration of the site. The opportunity to create a new public footpath to provide this link would be supported.*
38. NCC (Archaeology): *Raise no objections to the development.*
39. NCC (Built Heritage): *Raise no objections to the development on the basis that during the active stage the development is considered to have a slight harmful impact on the setting of the locally historic building at Winshaw Well and, a slightly harmful impact on the setting of the conservation area to the south. When the long-term impacts are taken into account the impacts are reduced to negligible levels.*

40. NCC (Reclamation): Raise no objections. From the aspect of contaminated land management the application would appear to have addressed the main issues related to potential impacts to both human health and the wider environment from the proposed development. The development would be subject to the provision of Waste Management Licensing Regulations and as such will be regulated and inspected by the Environment Agency (EA). The following issues need to be addressed to minimise potential contamination risks:
- Additional boreholes to depth to identify the depth of local groundwater and assess contamination at depth.
 - Infiltration testing required to ensure the proposed (SUDS) soakaway drainage system is feasible.
 - The site drainage system will need to be agreed with the EA.
 - Monitoring of the discharge waters from the landfill body to the SUDS drainage system will need to be undertaken in addition to the proposed gas/groundwater monitoring proposed for periphery of the site.
 - Design details for the proposed geological barrier/liner will need to be provided and agreed with the EA.
 - A robust waste management plan will need to be agreed with the EA.
41. NCC (Highways): Raise no objections. The section of the A611 where vehicle access is proposed is subject to the national speed limit. Whilst sections of the A611 in the vicinity of the vehicle access are at, or near to capacity, the Highway Authority consider the potential numbers of vehicles accessing the site (6 movements per hour) does not represent a high traffic generation for the surrounding road network and therefore it would be difficult to justify recommending refusal of the proposal solely on the additional numbers of vehicles using the A611.
42. The access into the site provides sufficient width to enable two lorries to enter and leave the site simultaneously. The supporting traffic statement identifies that it would be necessary to provide a visibility splay at the junction measuring 2.4m by 215m to provide adequate visibility for traffic moving at 60mph. However, a speed survey has been undertaken which identifies that the average speed of vehicles on the A611 is lower than 60mph and therefore the visibility splays which are available are considered to be satisfactory to serve the new junction
43. In the event that planning permission is granted planning conditions are recommended to ensure that the new access is installed and suitably surfaced/drained prior to the commencement of tipping operations and thereafter vehicle numbers are limited to the levels set out within the planning application. A wheel wash facility should also be provided.
44. NCC (Noise Engineer): Raises no objections. The noise assessment demonstrates that noise emissions from the proposed operation would not cause annoyance or disturbance to nearby residents of Warren Hill Stables and Winshaw Well Farm. All noise levels from site operations are predicted

to be equal or less than the permitted levels in NPPF, i.e. less than or equal to 55dB $L_{Aeq, 1hour}$ for normal operations and less than 70dB $L_{Aeq, 1hour}$ for a maximum of 8 weeks per annum. The consultant has not included Shenton Lodge in the assessment as the applicants own and reside at this property. If planning permission was granted planning conditions should be imposed to control noise emissions including:

- Hours of working to be 08:00-18:00hrs Mondays – Fridays, 08:00 13:00hrs on Saturdays and no working on Sundays or Bank Holidays;
 - The amount of material to be processed on site is limited to 105,000 tonnes per annum (based on working life of two years);
 - Number of two-way HGV movements limited to 3/hour or 30HGVs/day or 60HGV movements/day;
 - Number and type of plant and machinery to be used on site limited to those used in Noise Impact Assessment report number KCA280911/2384/A dated March 2013;
 - All plant, machinery and vehicles operating within the site shall incorporate noise abatement measures and be fitted with silencers maintained in accordance with the manufacturers' recommendations and specifications to minimise any disturbance at all times and vehicles/plant, operating under the control of the applicant to be fitted with white noise reversing alarms;
 - Imposing noise limits in accordance with NPPF standards.
45. NCC (Landscape): Consider the development would result in some short term landscape disruption, however these visual effects would be quite limited due to the character of the local landscape and the valley feature which would screen tipping operations. Overall the Landscape Team support the development and consider the application provides an opportunity to create a diverse new area of landscape upon restoration subject to the use of appropriate native planting. The planning conditions also provide an opportunity to secure the long term protection and management of the site.
46. Severn Trent Water Limited, Western Power Distribution, National Grid (Gas) and National Grid Company PLC have not provided a consultation response. Any response will be orally reported.

Publicity

47. The application has been publicised by means of a site notice and a press notice as a Green Belt departure to the development plan. Neighbour notification letters have been posted to the residents of Winshaw Well, Beacon Poultry Farm, Derby Road and Warren House, Annesley in accordance with the Council's adopted Statement of Community Involvement.
48. Councillor Rachel Madden, the local County Councillor has been notified of the application.

49. Councillor Gail Turner objects to the planning application on the following grounds:
- a. *The need for this application is questioned on the basis that it is a greenfield site. The land is a natural depression and its infilling would bring no environmental benefits to this natural area which is in natural condition.*
 - b. *The natural ecology of the site should not be interfered with as there is no overriding need to infill. The snakes and other reptiles do not need to be moved as translocation has many risks and these risks do not outweigh benefits as there are no environmental benefits brought by this application.*
 - c. *Not only would this application bring no benefits but would bring harm to a natural area in its natural condition that has no need for infill or restoration of any kind.*
 - d. *As there is only so much inert infill material available this needs to be directed to sites that are in great need of restoration and would bring huge benefits to communities.*
50. The issues raised are considered in the Observations Section of this report.

Observations

Weight to be attached to various elements of the development plan and government policy.

51. The starting point for deciding this planning application is the Development Plan comprising the Nottinghamshire and Nottingham Waste Local Plan (WLP) and the Ashfield Local Plan Review (ALPR), unless material considerations indicate otherwise.
52. The WLP is a comparatively old document dating from 2002, nevertheless its policies remain material and should not necessary be considered out-of-date simply because they were adopted prior to the publication of the National Planning Policy Framework (NPPF).
53. Since the WLP was adopted under legislation pre-dating the Planning and Compulsory Purchase Act 2004, weight should be attached to its policies according to the degree of consistency with the national government policy, principally in this case the NPPF and Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10). Specifically PPS10 paragraph 23 states:

'In considering planning applications for waste management facilities before development plans can be reviewed to reflect this PPS, (waste planning authorities should) have regard to the policies in this PPS as material considerations which may supersede the policies in their development plan.'

54. The NPPF incorporates advice on the weight that may be attached to emerging planning policies in development plans when making planning decisions. Specifically paragraph 216 advises that decision makers may give weight to policies within emerging plans; the more advanced the preparation of the plan the greater the weight that may be given to its policies.
55. The Joint Nottinghamshire and Nottingham Waste Core Strategy (WCS) is at an advanced stage and when adopted will replace relevant policies of the WLP. The strategy has undergone an independent examination and the Inspector's report has been received which has found the plan sound. The Inspector considered the Waste Core Strategy Proposed Submission Document published March 2012, as subsequently modified by a Schedule of Main Modifications and other Additional Modifications published June 2013, this version of the plan is referenced in this report.
56. Both the City and County Councils are currently in the process of taking the formal steps to adopt the plan as part of the development plan, a report is scheduled to be taken to the County Council's Environment and Sustainability Committee on the 14th November 2013 for information. Approval to adopt the plan is scheduled to be requested from the Full Council at their meeting on the 21st November 2013. Since the WCS is at an advanced stage of preparation with adoption imminent, very substantial weight can be given to the policies it incorporates.

Planning Policy Considerations

57. National waste policy set out in Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS 10) states that the overall objective of Government policy on waste is to manage it in a more sustainable way. PPS 10 identifies that the main method of achieving this objective is to ensure that planning decisions are made in accordance with the 'waste hierarchy'. The waste hierarchy is identified within figure 1 (see below), and encourages the development of waste facilities which contribute to the reuse, recycling and other recovery of waste with facilities for the disposal of waste viewed as a last resort.

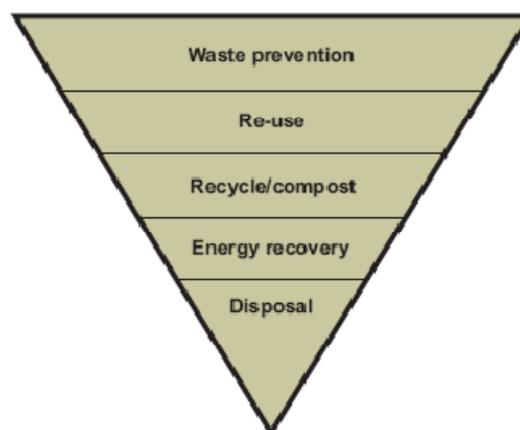


Figure 1: The Waste Hierarchy.

58. WCS Policy WCS2 is consistent with the waste hierarchy set out within PPS10 and states:

Policy WCS 2 Future waste management provision

The Waste Core Strategy will aim to provide sufficient waste management capacity for its needs; to manage a broadly equivalent amount of waste to that produced within Nottinghamshire and Nottingham. Future waste management proposals should accord with our aim to achieve 70% recycling or composting of all waste by 2025. Proposals will therefore be assessed as follows:

- a) priority will be given to the development of new or extended waste recycling, composting and anaerobic digestion facilities;
- b) new or extended energy recovery facilities will be permitted only where it can be shown that this would divert waste that would otherwise need to be disposed of and the heat and/or power generated can be used locally or fed into the national grid;
- c) new or extended disposal capacity will be permitted only where it can be shown that this is necessary to manage residual waste that cannot economically be recycled or recovered.

59. The applicant states that the primary purpose of the Shenton Lodge landfill site is to provide a disposal facility for waste material derived from the construction of the NET Phase 2, the facility would also be made available to receive waste from other sources for disposal. Waste streams of this character are normally readily recyclable. WCS Paragraph 4.22 notes that the six existing aggregate recycling sites in Nottingham, Mansfield, Sutton and Retford provide enough capacity to recycle up to 1 million tonnes of inert construction and demolition waste a year and therefore assist with diverting this waste stream from landfill disposal.

60. As a disposal site the facility represents a waste treatment option at the lowest level of the waste hierarchy. Nevertheless, PPS10 and the WCS recognise that not all waste is suitable for or capable of being recycled/reused and there is a need to make provision for disposal facilities. PPS10 paragraph 25 states that in the case of developments for waste disposal facilities.

‘Applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy’.

61. If reusable/recyclable waste was deposited at Shenton Lodge the facility would discourage the movement of waste up the waste hierarchy and

therefore fail to satisfy criteria C of Policy WCS 2. To ensure that this is not the case the applicant has confirmed that waste entering the site would be pre-sorted or pre-treated either at the construction site where the waste is generated or within the applicant's own Bunny waste transfer station to process the waste and minimise the amount of potentially recyclable inert waste deposited at the site. Appropriate controls could be secured through planning conditions to regulate that incoming waste has undergone some pre-treatment to ensure that it is not readily recyclable/reusable. Subject to such control it is concluded that the facility would not undermine WCS Policy WCS2 or PPS10 policy and would not significantly prejudice recycling operations at a higher level within the waste hierarchy.

62. The applicant has argued within their planning statement that there is a critical shortage of inert waste disposal capacity within Nottinghamshire. They have evidenced a number of letters which have been sent to County Council from local waste hauliers which highlight difficulties experienced in identifying sufficient sites for disposal. The applicant states that this alleged critical shortage of capacity has resulted in the NET2 tram extension construction project coming to a complete halt due to the haulage contractors having nowhere to dispose of waste material. The applicant therefore argues that the alleged shortfall in capacity is affecting economic prosperity. The applicant argues that these factors amount to an overriding need for the development and therefore very special circumstances to allow the facility within a Green Belt location.
63. Having regard to the issues raised by the applicant, the reliability of the evidence base is questioned. With regard to the letters from local hauliers, it is notable that these were received within a few days of each other shortly after the previous planning permission was refused. It is evident that the letters share similar paragraphs of text, some with identical sentence wording, indicating that they have been submitted as part of an orchestrated campaign. Notably the Council has not received any further concerns over capacity shortfalls from the industry either before or after these letters were received.
64. With regard to the impacts on the NET2 tram extension, Officers have spoken with the NET2 project team who have stated that whilst there was a short period when River Trent flooding affected the availability of disposal facilities, they have not experienced difficulties in finding appropriate disposal facilities and therefore the availability of disposal space has not affected the project delivery.
65. The WLP policy incorporates a sequential approach to the identification of new inert disposal sites. WLP Policy W10.1 gives preference to disposal schemes which assist with the reclamation of mineral voids and incomplete colliery spoil tips, WLP Policy W10.2 provides support for the reclamation of derelict or degraded land, both these policies only permitting such development in cases which meet a recognised need for additional disposal capacity. WLP Policy W10.3 states that waste disposal on greenfield sites will not be permitted except where incidental areas of greenfield land are required to be included so as to achieve an

optimum reclamation scheme of adjoining voids or derelict land. Since the development is a wholly greenfield disposal scheme which does not satisfy the criteria of this policy, the development is deemed to fail to comply with WLP Policy W10.3.

66. With regard to whether there is a need for new disposal facilities at a county-wide level, this question is most appropriately considered within the context of WCS Policy WCS4. The policy permits new waste disposal facilities where it can be demonstrated that they are necessary to address shortfalls in supply, particularly around Nottingham and Mansfield/Ashfield. Where a need is identified, the policy incorporates a sequential approach to assist with the identification of new sites with preference given to the extension of existing sites, restoration and/or re-working of old colliery tips and the reclamation of mineral workings, other man-made voids and derelict land where this would have associated environmental benefits, with disposal on greenfield sites only considered when there are no other more sustainable alternatives. In addition, disposal sites within the Green Belt, which are assessed as inappropriate development, would need to demonstrate 'very special circumstances' in line with national guidance to be permitted. The policy is listed below:

Policy WCS 4: Disposal sites for hazardous, non-hazardous and inert waste

Where it is shown that additional non-hazardous or inert landfill capacity is necessary, priority will be given to sites within the main shortfall areas around Nottingham, and Mansfield/Ashfield. Development outside this area will be supported where it can be shown that there is no reasonable, closer, alternative.

Proposals for hazardous waste will need to demonstrate that the geological circumstances are suitable and that there are no more suitable alternative locations in, or beyond, the Plan area.

In addition to the above preference will be given to the development of disposal sites for hazardous, non-hazardous and inert waste in the following order:

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

Where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national guidance.

75. PPS 10 paragraph 18 requires planning authorities to *'be able to demonstrate how capacity equivalent to at least ten years of annual rates set out in the regional spatial strategy could be provided'*. Since the regional spatial strategy has been revoked the requirement to identify waste management capacity has been transposed to waste development plan documents, which in the case of Nottinghamshire is the WCS.
76. Chapter 4 of the WCS incorporates an assessment of the levels of existing and future levels of waste management capacity within Nottinghamshire and Nottingham to assist with identifying the level of need. WCS Table 2 references Environment Agency data from 2010 to identify that Nottinghamshire has an existing inert waste void capacity of 2.1 million cubic metres.
77. WCS Table 3 identifies that the estimated construction/demolition waste arisings between 2015-2030 equates to approximately 2.7 million tonnes a year. The WCS targets a disposal rate after recycling and recovery of 10% across all waste types and therefore estimates an annual disposal rate of 273,000 tonnes per year for construction/demolition waste. The facility at Shenton Lodge would provide a disposal capacity of 210,000 tonnes, equating to a year or so additional disposal space at the above rates
78. Paragraph 4.30 of the WCS acknowledges that the exact amount of additional capacity required may vary depending on actual circumstances and therefore identifies a need to keep under regular review disposal trends as part of regular monitoring of the plan so as to take account of more up to date waste statistics. In this respect, since the WCS Submission Document was prepared, Environment Agency data for 2011 has been published. The 2011 data, which is more up to date than the 2010 data contained in the WCS identifies inert waste disposal capacity within Nottinghamshire as standing at 1,951,000 cubic metres. Furthermore it identifies a reduced disposal rate of 217,000 tonnes per year. Table 1 below incorporates an assessment of the void capacity remaining utilising the two sets of data that have been identified. Since the size of void capacity is measured in cubic metres and waste inputs are measured by weight (tonnes) it is necessary to convert the inputs into a volume. The WCS utilises a conversion factor that the density of 1 tonne of inert waste would occupying 1 cubic metre of disposal space. The data assumes no additional capacity is brought on stream:

Table 1: Calculation of inert landfill capacity remaining within Nottinghamshire using a 1cu.m : 1 tonne conversion factor.

	Landfill void Cubic metres	Disposal rate Tonnes/year	Number of years capacity	Estimated date of depletion assuming no additional capacity.
Assumptions incorporated in WCS utilising 2010 EA waste data and 10% disposal rate.	2,100,000	273,000	7.69 years from 2010	2018. 4 years 9 months
Projection using latest 2011 landfill capacity and input data	1,951,000	217,000	8.99 years from 2011	2020 7 years

79. The WCS 1t:1cu.m conversion factor is taken from 2009 Environment Agency advice. Since the publication of the WCS Submission Document the HMRC has published (July 2013) a standard conversion factor for inert waste loose tipped in HGVs which identifies a weight to volume ratio for inert waste of 1.5 tonnes occupying 1 cubic metre of space. Arguably compacted waste within an inert landfill site would have a higher density still. Clearly if a higher conversion factor was used it would affect the projections for the estimated remaining capacity of landfill sites as identified in Table 2 below which again assumes no additional waste disposal capacity is brought on stream.

Table 2: Calculation of inert landfill capacity remaining within Nottinghamshire using a 1cu.m : 1.5tonne conversion factor.

	Landfill void Cubic metres	Disposal rate Tonnes/year	Number of years capacity.	Estimated date of depletion assuming no additional capacity.
Assumptions incorporated in WCS utilising 2010 EA waste data and 10% disposal rate.	2,100,000	273,000	11.54 years from 2010	2022. 8 years 6 months
Projection using latest 2011 landfill capacity and input data	1,951,000	217,000	13.55 years from 2011	2025 11 years 6 months

80. The projections outlined in Tables 1 and 2 do not factor in any additional new waste management capacity from levels recorded in 2010/11. However, since this time notable additional inert waste disposal capacity has been permitted/brought on stream including facilities at the former Welbeck Colliery and the former Bentinck Colliery Tip. These schemes provide respective totals of 1,900,000 cubic metres and 495,000 cubic metres of additional void capacity. Table 3 (below) identifies how this additional permitted capacity affects the anticipated depletion rate using best and worst case scenarios.

Table 3: Calculation of inert landfill capacity remaining within Nottinghamshire incorporating recently permitted additional capacity consented

	Existing void capacity Cubic metres	Existing + additional permitted capacity.	Number of Years Capacity.	Estimated date of depletion
<u>Best Case Scenario</u> (2011 waste data and 1.5t:1cu.m.	1,951,000	4,346,000	29.77 years from 2011	2041 27 years 9

conversion factor.				months
<u>Worst Case Scenario</u> (2010 waste data and 1:1 conversion factor)	2,100,000	4,495,000	16.47 years from 2010	2027 13 years 6 months

81. In addition to the above, the County Council has recently been notified that the owners of the Vale Road, Mansfield Woodhouse inert waste landfill disposal facility will shortly be seeking planning permission to extend the capacity of the operational landfill site to create an additional 1,000,000 cubic metres of disposal void which, if permitted would provide further void capacity within Nottinghamshire within the identified Mansfield/Ashfield shortfall area.
82. It is therefore concluded that the planning authority is able to demonstrate how capacity equivalent to at least ten years of annual rates has been shown in accordance with the requirements of PPS 10 paragraph 18 and therefore the development is considered to fail to satisfy the requirements set out within WCS Policy WCS 4 relating to need. There is a ready supply of inert waste processing, recycling and disposal facilities within Nottinghamshire and the need for new facilities is not 'critical'.
83. An over-supply of disposal capacity could encourage waste operators to dispose of waste rather than recycle or recover the material in accordance with the objectives of the waste hierarchy. Notably, PPS10 paragraph 18 does not require planning authorities to demonstrate a ten year landbank of disposal capacity, the emphasis in the policy being an ability to demonstrate how ten years capacity could be provided. With new sites coming on stream there is not a need for the disposal capacity at Shenton Lodge and such a facility would actually be harmful to sustainable waste management.
84. Notably, even if there was a need for new waste disposal facilities, which there is not, WCS Policy WCS 4 also requires consideration to be given to the appropriateness of the site against a sequential test which favours waste disposal by the extension of existing sites, followed by the restoration and/or re-working of colliery tips and mineral workings including man-made voids and derelict land where this would have environmental benefits. Disposal on greenfield sites, particularly those within the Green Belt should only be considered where there are no other more sustainable options.
85. WCS paragraph 7.24 acknowledges that there is a wider choice of possible locations for inert waste disposal since such sites pose lower risk to groundwater and do not require the same level of site preparation and engineering as non-hazardous waste disposal sites. The paragraph

anticipates that inert disposal needs will be met from extensions and existing/future mineral voids, the WCS therefore does not envisage a role for greenfield waste disposal.

86. The applicant has asserted in the supporting documentation that the valley in which the disposal operation is proposed is a 'derelict sandstone cutting' and therefore the site should be considered either on the basis that it provides for the restoration of a mineral void under WCS Policy WCS4. The applicant has submitted no evidence to support the claim that the site is a derelict former mineral working.
87. The valley landform of the application site can clearly be discerned on Sanderson's Map of 1835 and is quite possibly a natural feature. The landform is in keeping with the surrounding Robin Hood Hills which feature deep, narrow valleys that are likely to have arisen as a result of erosion by running water rather than quarrying. The site is not degraded or derelict in character and in fact is a well vegetated and ecologically important habitat that is not in need of any restoration or remediation works. The National Planning Policy Framework (NPPF) incorporates a glossary of terms which defines previously developed (or brownfield) land and the site could not be considered as previously developed land under the definition. It is therefore considered most appropriate to consider the application on the basis that it is a landfill operation being undertaken on a greenfield site.
88. As a greenfield disposal scheme the development represents the least favoured option for providing new landfill capacity in the context of WCS Policy WCS4. The applicant has not demonstrated they have considered any other alternative sites as part of the planning process to show that Shenton Lodge represents the most sustainable option. It is evident that new disposal sites are coming forward which are more sustainable and thus are favoured by the hierarchy test in Policy WCS 4, including sites at Bentinck, Welbeck, and potentially Vale Road. There are also a number of currently operational quarries which could provide additional disposal capacity, one such example being Bestwood II Quarry where the operators have not pursued a disposal scheme citing as one of their reasons a lack of sufficient waste materials to merit such a scheme.
89. Granting planning permission for a waste disposal facility at Shenton Lodge would divert an increasingly reducing amount of residual inert waste to a site that is not derelict or in need of reclamation, denying the use of this material within sites where it would result assist restoration resulting in clear environmental benefits.
90. The County Council is currently undertaking a 'call for sites' as part of the Site Allocations Development Management Document. This document will identify appropriate locations for future waste management proposals. To grant planning permission for Shenton Lodge when there is no apparent need for waste disposal at the site could potentially deny other more appropriate sustainable sites coming forward.

Compliance with Green Belt Policies.

91. Green Belt policy relating to waste disposal facilities is set out within Policy W3.17 of the WLP. This policy states that planning permission will only be granted for waste disposal in the Green Belt where it represents the best option for reclaiming mineral voids or other derelict voids. Since the development is not associated with the reclamation of a mineral or other derelict void, the development fails to comply with WLP Policy W3.17.
92. WCS Policy WCS4 states that *'where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national guidance'*. WCS Policy WCS6: General Site Criteria also emphasises the requirement for landfill facilities in Green Belt locations to demonstrate very special circumstances, identifying that very special circumstances may exist for restoration projects which utilise waste materials, however land raise schemes would not normally be appropriate.
93. The National Planning Policy Framework (NPPF) incorporates national Green Belt policy. Paragraph 79 identifies that *'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence'*. Paragraph 80 identifies that the Green Belt serves five purposes including *'assisting in safeguarding the countryside from encroachment'*. The development would result in encroachment within the Green Belt, negatively affecting its openness particularly during the operational phase of the landfill site. The development therefore would encroach into the Green Belt and be contrary to the objectives of Green Belt policy.
94. NPPF paragraph 87 states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*.
95. NPPF paragraphs 89 to 92 define the types of development that can be considered *'appropriate'* within the Green Belt. Paragraph 89 relates to buildings and therefore is not of relevance, paragraph 90 relates to other forms of development, but does not include landfill facilities as appropriate development, paragraphs 91 and 92 relate to renewable energy projects and community forest development which are not relevant. The WCS therefore is consistent with the NPPF in defining the development as inappropriate development.
96. NPPF paragraph 88 states that *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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'*.
97. Green Belt policy at a local level is incorporated within Policy EV1 of the Ashfield Local Plan Review (ALPR). This policy is generally consistent

with the NPPF and states that planning permission will not be granted within the Green Belt for inappropriate development except in very special circumstances. The policy definition of appropriate development includes *‘engineering, mining or other operations and uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it’*. The development is not an engineering or mining operation. In terms of whether the development could be defined as an ‘other operation’ the key issue is whether the development impacts upon the openness and conflicts with the purposes of including land within the Green Belt. Since the development encroaches within the Green Belt, negatively affecting its openness, it cannot be considered as an appropriate ‘other operation’ within the Green Belt under the terms of this Policy. In accordance with NPPF policy, ALPR Policy EV1 makes reference to ‘very special circumstances’ which may allow development in the Green Belt.

98. The applicant argues within their supporting statement that there is an overriding need for the development to address claimed shortfalls and assist in reducing the need to travel greater distances to dispose of waste and that these factors represent very special circumstances to justify inappropriate development within the Green Belt.
99. The need for the development is not acknowledged for the reasons previously stated and there is little evidence to suggest the development would result in any noticeable reduction in travel distances having regard to the close proximity of disposal facilities at Vale Road, Mansfield Woodhouse and Bentinck. Since there is not a shortfall in waste disposal capacity it is concluded that ‘very special circumstances’ do not exist to justify a departure from Green Belt policy and accordingly the development is contrary to policies contained in the NPPF, WCS Policies WCS 4 and WCS 6 and ALPR Policy EV1.
100. The Government has recently undertaken a consultation on an updated national waste strategy to replace PPS10, setting out the Government’s draft future waste management policy. The document maintains the Government’s drive for increased levels of waste recycling and the use of waste as a resource. Specifically in the context of waste developments in the Green Belt the document takes away references made in PPS10 which identify that particular locational needs together with wider environmental and economic benefits of sustainable waste management may assist in outweighing impacts to the Green Belt. The draft replacement policy makes it clear that waste development in the Green Belt in most cases is inappropriate development and should be assessed on this basis.

Assessment of Environmental Impacts

101. Maintaining and enhancing the quality of the environment is at the heart of the WCS notably Policy WCS12 which states:

Policy WCS12 Protecting and enhancing our environment

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

102. WCS Paragraph 7.50 identifies that until such time that a separate Development Management Policies Document is prepared the saved policies of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and relevant policies within the District Local Plan will be used to assess the significance of the environmental impact.
103. The planning application is supported by a series of topic based environmental reports to assist with assessing the significance of the environmental impacts of the development. These issues are considered within the following sections of the report.

Ecological Assessment

104. The majority of the site is locally designated as a Site of Importance for Nature Conservation, or SINC (also known as a Local Wildlife Site, or LWS) – Robin Hood Hills SINC 5/38 which is noted as “*a large area of acidic woodland, extensive bracken and notable heath communities on South facing slope*”. As such, the site is identified as being of at least county-level importance for its wildlife. The nearest statutorily designated site, Kirkby Grives SSSI, is approximately 1km to the west.
105. The site makes up part of an important cluster of large and connected nature conservation sites in the Newstead area, which include Hollinwell Golf Course, Annesley Forest, Newstead and Annesley Country Park, Newstead Park, and Linby Quarries SSSI. As such it is a key component of the local ecological network.
106. The site also lies immediately adjacent to an area of land that has been identified as part of both the ‘Indicative Core Area’ and ‘Important Bird Area’, in relation to the prospective Sherwood Special Protection Area (SPA).
107. The key policies of the WLP to assess the ecological impacts against are WLP Policies W3:20: Heathlands, W3.22: Biodiversity and W3.23 Nature Conservation (including geological) sites.

108. WLP Policy W3.20 states:

Policy W3:20: Heathlands

Planning permission for a waste management facility which would destroy or degrade areas defined as heathlands will not be granted unless their value is outweighed by the need for the facility. Where permission is granted, proper provision will be made to survey and record the site in order to:

- a. Minimise the effect on the habitat and species;
- b. Consider the accommodation of species within the site or to provide alternative habitats for their use;
- c. Provide appropriate ameliorative measures.

109. The site consists predominantly of continuous bracken, with areas of scrub and trees, and patches of acid grassland and is therefore heathland in character. The site is assessed in the applicants' own Ecological Assessment as being of 'County Value'. The development would result in the loss of this heathland habitat. There is not a critical need for additional landfill capacity at the present time and therefore the development is assessed as being contrary to WLP Policy W3.20.

110. WLP Policy W3.22 states:

Policy W3:22: Biodiversity

Planning permission for a waste management facility which would harm or destroy a species or habitat of County importance will only be granted where the need for the development outweighs the local conservation interest of the site. Where planning permission is granted for such development, conditions will be imposed or planning obligations sought, to secure accommodation on-site or the provision of suitable alternative habitats.

111. Furthermore WLP Policy W3.23 states:

Policy W3:23: Nature Conservation (Including Geological) sites

Waste management proposals which either individually or in combination with other proposals, are likely to affect sites or candidate sites of nature conservation or geological interest will be assessed as follows:

.....

- c. Proposals which are likely to significantly adversely affect sites of regional or local importance will only be permitted where the importance of the development outweighs the local value of the site.

The assessment of any adverse impact will take account of the scope for mitigation and/or compensatory measures to replace the loss.

112. The ecological surveys have identified that notable numbers of Grass Snakes and Common Lizards occupy the site, confirming the habitat is of 'high (County) value' for reptiles. The Ecological Assessment concludes that the main potential impacts arising from the proposed development are loss of part of the SINC, loss of reptile habitat, and potential harm to reptiles and birds during the works.
113. A range of mitigation measures are proposed to avoid the killing of reptiles, focussing on a trapping and translocation programme and enhancements to adjacent habitat. The methodologies for trapping and translocation appear generally appropriate however concerns are raised regarding the suitability of the translocation receptor site which is smaller in area than the habitat to be lost and even though habitat enhancement works are proposed within the receptor there is no certainty that it will successfully establish as suitable habitat to give confidence that harm would not result to these protected species.
114. The NPPF provides national planning policy in terms of conserving and enhancing the natural environment. Paragraph 118 sets out the government policy that planning authorities should adopt when determining planning applications, including a 'mitigation hierarchy' which states that significant ecological impacts should where possible be avoided by undertaking the development in an alternative location which would not have ecological impacts, only where it is not possible to avoid an impact then ecological features should be adequately mitigated, or as a last resort, compensated for. The development would give rise to significant ecological impacts including loss of part of a SINC, loss of reptile habitat and potential harm to reptiles during the work. Whilst the application incorporates a range of compensation and mitigation measures there is considerable uncertainty that these measures will successfully ensure that harm does not occur to the ecological features of interest. In such circumstances the clear approach set out within the NPPF is, given that there is no urgent need for additional inert landfill disposal facilities in Nottinghamshire, the ecological interests of the site would be best managed by not undertaking the development at Shenton Lodge and instead utilising an alternative site. Alternative facilities are available to receive the waste inputs.
115. The facility would destroy a heathland habitat and since the need for the development does not outweigh its county level value the development is considered contrary to WLP Policy W3.20: Heathlands. Furthermore the facility would harm species of county importance as well as destroy a habitat of county importance. The need for the development does not outweigh the site's conservation interest and therefore the development would also fail to satisfy WLP Policy W3.22: Biodiversity. Equally the development fails to satisfy the requirements of WLP Policy W3.23C: Nature Conservation due to the significance of impact and lack of need.

116. The ecological assessment report identifies that the habitat does not provide the vegetation structure required to support woodlark. Whilst no nightjars were encountered during the survey period, the site is considered to provide suitable foraging and potential breeding habitat for these species. The development would result in the destruction of this potential nightjar habitat and has potential to generate additional noise, dust and visual disturbance to the surrounding land including the Robin Hood Hills SINC.
117. The site is located within the 5km buffer zone for the prospective Sherwood Special Protection Area (SPA). The applicants' ecological appraisal incorporates a brief assessment of potential impacts on Woodlark and Nightjar within the context of the prospective Sherwood SPA. However, Nottinghamshire Wildlife Trust and Nottinghamshire County Councils Ecology Officer consider the submitted assessment is not sufficiently robust to allow the planning authority to adopt a 'risk based approach' of the impact as advocated by Natural England. Notably the ecological appraisal does not incorporate a full and reasoned consideration of indirect impacts arising from the processing, screening/crushing and disposal operation.
118. These ecological concerns have been raised with the applicant. Whilst it is acknowledged that the applicant may be able to demonstrate through additional surveys and assessments that adverse impact to the prospective Sherwood SPA may not occur, preparing this evidence would require a significant amount of additional work resulting in additional costs. Even if the applicant could satisfy the 'risk-based approach' test, significant policy objections would remain meaning that the development would not secure a favourable recommendation to Planning Committee. In this instance, the applicant has not been formally requested to undertake the additional survey and investigation work required and consequently the applicant has failed to demonstrate through a risk based approach that adverse impact would not occur to the prospective Sherwood SPA. Planning permission therefore should be refused on these grounds.

Visual and Landscape Assessment.

119. WLP Policies W3.3 and W3.4 seek to minimise the visual impact of waste management facilities by careful site design and through the use of natural features to screen the development including topography.
120. The planning application is supported by a visual and landscape appraisal which identifies that the development would result in the re-shaping of an existing valley to provide a less steeply sided feature. The works would predominantly be undertaken within the valley feature which would screen operations from surrounding land. During the operational phase the landscape impact is identified to be 'slight/moderate adverse' due to the total removal of the existing vegetation/soils and temporary operations including soil storage, temporary buildings and the use of plant and machinery on the site. Upon completion the site would be reseeded/planted and would quickly establish a ground cover and with

appropriate management it is concluded the restored site could provide a slight improvement in landscape character.

121. The landscape and visual assessment report has been reviewed by NCC's Landscape Team who generally accept the conclusions reached. It is therefore concluded that the development is capable of being undertaken without resulting in significantly harmful landscape and visual impacts.

Highway Considerations

122. The development site would be served by an existing field access providing direct access onto the A611. The field access is to be re-engineered to a standard suitable to accommodate HGV traffic associated with this development. The development would generate comparatively low vehicle movements which, using a worst case scenario would equate to an average of one lorry movement every ten minutes.
123. These access arrangements have been reviewed by NCC Highways (Development Control) Team who are satisfied that this level of traffic would not cause any highway concern relating to road capacity and the proposed site entrance could cope with a HGV waiting to leave at the same time as another is entering the site whilst the geometry allows HGVs to enter and leave without crossing to the opposite traffic lane. Adequate visibility is provided at the new junction which is considered appropriate in the context of the average speed of vehicles on the A611. The development therefore raises no highway objections and thus complies with WLP Policy W3.14 (Road Traffic).

Archaeology and Conservation/Built Heritage

124. The site does not contain any features of archaeological interest.
125. The development site does not incorporate any features of conservation/built heritage interest. The site is visible from Annesley Conservation Area to the south and Winshaw Well nearby, a building of local heritage interest. Impacts to these heritage assets have been assessed as slight harmful during the operation stage and negligible following restoration and therefore acceptable in their magnitude.

Rights of Way

126. The development would not result in any direct impacts to any designated public footpaths in the area. Operational practices to control noise and dust should ensure that any indirect impacts to users of Kirkby Footpath No.44 which passes over the land to the south of the site are avoided.
127. The applicant has indicated that there is potential to extend the network of public footpaths within the local area by providing a link between Kirkby Footpath No. 44 to Derby Road across the application site following landfill operations and restoration works. Such a footpath would be a welcome addition to the local network and warrants consideration within the overall balance of planning considerations.

Pollution Control

128. The operation of the site would require an Environmental Permit issued by the Environment Agency under the requirements of the Environmental Permitting (England and Wales) Regulations 2010. These regulations should ensure that measures are put into place to prohibit or limit the release of substances to the environment to the lowest practicable level and ensuring that ambient air and water quality standards are met.
129. Notwithstanding this fact, PPS10 paragraph 29 acknowledges that potential impacts on the local environment arising from the operation of waste management facilities are material planning considerations which require assessment within the planning process. To enable this assessment to be made the planning application is supported by a series of environmental assessments which have been reviewed through the planning consultation responses and are assessed within the following sections of the report.

Water Resources

130. WLP Policy W3.5 states that planning permission will not be granted for waste management facilities where there is an unacceptable risk of pollution to groundwater or surface water or where it affects the integrity/function of a floodplain. WLP Policy W3.6 encourages the use of planning conditions to ensure that water resources are protected.
131. The operation of the landfill site has potential to affect water resources. The consultation responses from the EA and NCC's Reclamation Officer however acknowledge that these impacts are capable of being controlled to an appropriate level through the controls imposed under the Environmental Permit issued by the Environment Agency under the requirements of the Environmental Permitting (England and Wales) Regulations 2010 (henceforth referred to as 'the waste permit'), and through the imposition of planning conditions restricting the types of waste imported to inert in character; use of impermeable linings for the construction of the landfill; satisfactory surface water drainage facilities with appropriate balancing to control storm water flows.
132. Subject to the imposition of appropriate planning conditions, the site is capable of operating without generating significant harm to water resources, thus ensuring compliance with WLP Policies W3.5 & W3.6.

Odour & Landfill Gas Emissions

133. WLP Policy W3.7 seeks to ensure that waste management facilities do not generate odour emissions which result in adverse impacts to the amenity of surrounding land. The disposal of inert waste has a comparatively low potential odour risk and, subject to a planning condition restricting the types of waste received, potential odour releases should be limited to an acceptable level, thus ensuring that the requirements of WLP Policy W3.7 are capable of being complied with.

134. The restriction of waste types to inert materials would also ensure that materials deposited within the landfill do not decompose and generate methane gas, an issue identified by Network Rail in their consultation response. Network Rail request a planning condition be imposed restricting the waste types to inert spoil so as to ensure the safety of railway property (Annesley tunnel) is not compromised.

Litter

135. WLP Policy W3.8 seeks to prevent litter emissions from waste management facilities. The main litter control with the proposed development would be provided by the inert character of the waste received at the site which is generally not vulnerable to wind blow. Nuisance from litter therefore is not anticipated.

Noise

136. WLP Policy W3.9 seeks to ensure that when planning permission is granted for waste management facilities conditions should be imposed to reduce potential noise impacts. Such conditions may include the enclosure of noise generating facilities; stand-off distances between operations and noise sensitive locations; restrictions over operating hours; using alternatives to reversing beepers and setting maximum operational noise levels.
137. The site is located within a rural location, however the proximity of the A611 and associated traffic movements has a significant impact on the local noise environment. The nearest residential property is the applicants' house, which adjoins the site boundary. Other residential properties include Winshaw Well Farmhouse approximately 200m to the north and Warren Hill Stables approximately 270m to the south east.
138. The application is supported by a noise assessment which incorporates a survey of the existing noise environment surrounding the proposed development and references appropriate national noise standards (set out within the NPPF supporting technical guidance & BS5228-1:2009: Code of practice for noise and vibration control on construction and open sites – Part 1: Noise). The noise assessment considers the impact from site operations and associated transportation of materials during the proposed operating hours of 08:00 to 18:00 Monday – Friday and 08:00 – 13:00 on Saturdays.
139. The noise assessment has demonstrated that noise emissions at nearby residential properties (excluding the applicants' property) are unlikely to generate justifiable complaints. The development is therefore capable of complying with the requirements of WLP Policy W3.9 subject to the imposition of planning conditions to control the operating hours of the site, a 105,000tpa restriction on the maximum amount of material processed at the site; a maximum of three vehicles per hour accessing the site or 30 HGVs/day; a limit to the level of noise output at residential properties; the use of silencers on mobile plant and controls over reverse warning devices.

Dust

140. WLP Policy W3.10 identifies that dust emissions from waste processing facilities can be managed and reduced by implementing appropriate dust management techniques. To inform the consideration of the significance of potential dust emissions the application is supported by a dust impact assessment. The report identifies that with the exception of the applicants' own property, the facility is not located directly adjacent to residential property or other sensitive receptors.
141. Dust management is recommended to be undertaken at source through a series of site management control practices to ensure that off-site dust emissions are minimised. These practices include the use of wheel wash facilities, hard surfacing of haul roads; use of misting sprays on crushing/screening equipment; limiting vehicle speeds; minimising the storage of materials in stockpiles; sheeting of lorries transporting materials and the damping of dust generating activities.
142. The imposition of planning conditions in accordance with WLP Policy W3.10 to impose a duty to undertake the recommended control practices would ensure that the site is capable of operating without generating significant dust emissions beyond the site boundary.

Mud

143. WLP Policy W3.11 identifies that vehicle movements associated with the operation of waste sites have potential to spread mud onto the public highway. To mitigate against such impacts the applicant proposes a series of measures as part of their dust appraisal report, including the use of a wheelwash facility, the hard surfacing of haul roads and the sheeting of lorries. The imposition of planning conditions in accordance with WLP Policy W3.11 to impose a duty to undertake the recommended control practices would ensure that the site is capable of operating whilst ensuring appropriate controls over mud entering the public highway.

Electricity Services within the site

144. Whilst Western Power Distribution (Electricity) have not provided a consultation response in connection with this planning application, their response to the previous submission identified that the site is crossed by overhead power cables. The alteration to the ground levels from the importation and deposit of waste materials has potential to affect these cables. Whilst not objecting, Western Power Distributions' previously stated position was to request the operator to discuss the need for diversion works or for proximity advice during construction and on-going operations at the site. This request to consult with Western Power Distribution could be covered through an informative note attached to the planning decision notice.

Other Options Considered

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

Statutory and Policy Implications

146. 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

147. No implications.

Financial Implications

148. No implications to the Council.

Equalities Implications

149. No implications.

Crime and Disorder Implications

150. The development would be located within an open countryside location and is potentially vulnerable from a security perspective. Access to the public highway would be secured by a gated access when the site is not operational. With the exception of mobile plant and machinery the site facilities are not particularly valuable.

Human Rights Implications

151. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered in this case. The development has potential to generate additional noise, dust and traffic movements which could have some minor impacts on the amenity of surrounding residential property, these impacts however are considered to be comparatively low in magnitude and substance on individuals and therefore do not result in interference with rights safeguarded under these articles.

Safeguarding of Children Implications

152. No implications.

Human Resources Implications

153. No implications.

Implications for Sustainability and the Environment

154. The development would provide a waste management facility at the lowest level of the waste hierarchy. Waste disposed at the facility would not provide any benefits to the environment. The development therefore by PPS10 definition represents the least sustainable route for the management of waste arisings and the use of the facility has potential to bypass other waste management facilities where it could be recovered, recycled or disposed within a facility which uses the waste as a resource to restore derelict or degraded land.

Conclusions

155. The development would provide a waste management facility at the lowest level of the waste hierarchy. As a disposal facility any waste deposited at the site would not be used as a resource contrary to the objectives of PPS10. It is therefore considered that the development represents the least sustainable route for management of waste arisings.
156. PPS10 emphasises that disposal should be treated as the last option for managing waste but acknowledges that there is a need to make provision for disposal facilities, requiring planning authorities to be able to demonstrate how capacity equivalent to at least ten years of annual rates could be provided.
157. WCS Policy WCS4 incorporates policy relating to the development of new inert waste disposal facilities in Nottinghamshire. The policy only permits new disposal sites where they address shortfalls in supply, and when such sites pass a sequential site selection test. Whilst the Waste Core Strategy identifies a strategic need for additional inert disposal capacity, new disposal sites have been granted planning permission since the evidence base for the WCS was prepared which combined with lowering demand for landfill addresses the projected shortfalls and thus there is no strategic or critical need to develop new landfill capacity within Nottinghamshire. The development is also not favoured by the sequential site selection test set out within Policy WCS4 which views greenfield disposal schemes as the least favoured option. The development is therefore not supported by WCS Policy WCS4 and has potential to divert waste from areas of greater environmental need.

158. The development is not supported by WLP Policy W10.3 which states that proposals for waste disposal on greenfield sites will not be permitted in the circumstances proposed.
159. Landfill of greenfield sites is not an appropriate use of Green Belt land and there are no 'very special circumstances' to justify inappropriate development within the Green Belt. The development therefore fails to satisfy Green Belt policy incorporated within the NPPF, WLP Policy W3.17, WCS Policies WSC4 and WCS6 and ALPR Policy EV1.
160. The development would also fail to satisfy the objectives of WCS Policy WCS12 which seeks to ensure that disposal facilities are directed to areas where they result in the least environmental impact and the maximum opportunity to gain environmental benefits. Most notably the application site is designated as a SINC, the heathland habitat within which would be lost as a result of the development contrary to the requirements of WLP Policies W3.20, W3.22 and W3.23. Since the need for the development does not outweigh the ecological impact, the development also fails to comply with the 'mitigation hierarchy' set out within the NPPF which promotes the avoidance of impact through the development of an alternative site. Furthermore, the applicant has failed to demonstrate that the development would not have adverse impacts to the prospective Sherwood SPA, and thus satisfy the requirements advocated by Natural England which require a 'risk based approach' to be taken by the planning authority when considering the significance of impacts within the prospective Sherwood SPA.
161. Whilst the scheme could potentially provide a new footpath link this does not outweigh the concerns identified above.

Statement of Positive and Proactive Engagement

162. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion, assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received; identifying issues of concern and entering into discussion with the applicant to explore the possibility of suitably resolving such matters. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the recommended reasons for refusal.

RECOMMENDATIONS

163. It is RECOMMENDED that planning permission be refused for the reason(s) set out below. Members need to consider the issues, including the Human Rights Act issues, set out in the report, and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

Text to be entered here

[Initials and date here in square brackets]

Comments of the Service Director - Finance

Text to be entered here

[Initials and date here in square brackets]

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

Kirkby-in-Ashfield South Division Cllr Rachel Madden

Report Author/Case Officer

Mike Hankin

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

W001153.doc – DLGS REFERENCE

EP5380.Docx – COMMITTEE REPORT FOLDER REFERENCE

31 October 2013 – Date Report Completed by WP Operators

RECOMMENDED REASONS FOR REFUSAL

1. Landfill on greenfield sites is inappropriate development in the context of Green Belt Policy and therefore contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W3.17 (Green Belt), Nottinghamshire and Nottingham Waste Core Strategy Policies WCS4 (Disposal sites for hazardous, non hazardous and inert waste) & WCS6 (General Site Criteria) and Ashfield Local Plan Review Policy EV1 (Green Belt).
2. The disposal of waste on a greenfield site is contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W10.3 (Greenfield Sites). There is not a critical need for additional inert waste disposal capacity within Nottinghamshire and the development represents the least sustainable method of waste disposal under the sequential site selection criteria contained within the Nottinghamshire and Nottingham Waste Core Strategy Policy WCS4 (Disposal sites for non-hazardous and inert waste).
3. The development would result in the loss of part of a Site of Importance for Nature Conservation (SINC) of heathland character. Whilst ecological off-setting and mitigation is proposed, there is no assurance that the measures would be successful. Since there is no over-riding need for the development the ecological interests of the habitat and protected species would be best served by avoidance of impact in accordance with the 'mitigation hierarchy' as outlined in the National Planning Policy Framework. The development would result in the destruction of the existing habitat and is contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W3.20 (Heathlands), Policy W3.22 (Biodiversity) and Policy W3.23 (Nature Conservation (including geological) Sites). Due to these environmental impacts the development is contrary to Nottinghamshire and Nottingham Waste Core Strategy Policy WCS12 (Protecting our Environment).
4. The planning application does not incorporate sufficient information to enable the Waste Planning Authority to undertake a comprehensive 'risk based approach' assessment (as advocated by Natural England) to consider the magnitude of any environmental impacts to the prospective Sherwood SPA.