



29th June 2021

Agenda Item: 4

REPORT OF CORPORATE DIRECTOR – PLACE

BASSETLAW DISTRICT REF. NO.: 1/18/01611/CDM

PROPOSAL: IMPORTATION OF 3.6 MILLION CUBIC METRES OF RESTORATION MATERIALS TO COMPLETE THE RESTORATION OF HARWORTH COLLIERY NO 2 SPOIL HEAP.

LOCATION: HARWORTH COLLIERY NO 2 SPOIL HEAP, BLYTH ROAD, HARWORTH,

APPLICANT: HARWORTH ESTATES

Purpose of Report

1. To consider a planning application for the importation of 3.6 million cubic metres (Mm³) of inert waste over a 14-year period to the former Harworth Colliery Spoil Heap to provide for the restoration of the site.
2. The key issues set out within the report relate to the need to restore the existing colliery tip and the quantity of waste importation onto the site required to achieve this, the availability of waste to undertake these works, the need to improve existing environmental conditions on the colliery tip, particularly in the context of site stability and drainage in terms of reducing the level of contaminated run-off to surface and groundwaters surrounding the site.
3. The environmental assessment of the development gives detailed consideration of the drainage/hydrological effects of the development, traffic impacts, visual and landscape effects, effects on the heritage asset of the area, noise and dust.
4. It is concluded that the revised 3.6Mm³ scheme, which supersedes the original scheme which sought to import 6.2Mm³ onto the site, provides for the appropriate restoration and aftercare of the unrestored former colliery tip within acceptable environment limits. The recommendation therefore is to grant planning permission for the development subject to the developer entering into a Section 106 agreement to regulate lorry routeing on the local highway network and the planning conditions set out in Appendix 1.

The Site and Surroundings

5. The application site incorporates the former Harworth Colliery Spoil Tip which is located approximately 1.2km to the south of Harworth town, 2km to the north of

Blyth and 0.6km south east of Styrrup village (see Plan 1). The colliery tip has a site area of 109 hectares (see Plan 2). The colliery tip historically provided the main disposal facility for colliery wastes originating from the former Harworth colliery deep mine located on the edge of Harworth town to the north east with the two sites being formerly connected by conveyor. The conveyor was dismantled and removed in 2015 following the permanent closure of Harworth Colliery.

6. The colliery tip site is bordered on its western boundary by the A1(M) motorway, by Blyth Road on its eastern boundary, Serlby Road to the northern boundary and farmland on the southern boundary. The immediate surroundings of the site include mainly farmland and woodland.
7. Although the colliery tip site is comparatively remote from built up residential areas there are a number of isolated residential properties in closer proximity. These include Kirk View on Blyth Road, directly opposite the site to its east, and a small group of properties further south on Blyth Road and on Harworth Avenue close to the south-east corner of the site, the closest being approximately 50 metres from the site boundary. Residential properties within Styrrup village are located approximately 100 metres from the site boundary to the west (600m from the proposed tipping area). (See Plan 2)
8. The topography of the colliery tip is elevated in relation to the surrounding areas having a maximum height of around 77m AOD, in comparison to the surrounding land which has a level between 15m-35m AOD. The north part of the Colliery Tip has the highest ground levels originally engineered from the disposal of coarse colliery waste fed by a conveyor. The ground levels reduce to the south of the site into an area which incorporates a series of former colliery tailing lagoons at an elevation of around 35m AOD.
9. The outer slopes of the spoil tip including the highest outer edges of the coarse colliery waste tip have predominantly been restored and incorporate established mixed woodland areas with some areas of grass. The central section of the site incorporates the southern elevation of the colliery waste tip and the former lagoon area to its south which have not been restored and are more despoiled in character. This unrestored part of the site extends to approximately 43 hectares.
10. Vehicular access to the former colliery tip site is obtained from Blyth Road using an existing entrance approximately halfway along the eastern side of the spoil tip. Blyth Road joins the A614 to the south, just north of a junction with the A1 (see Plan 3). To the north Blyth Road passes through the western side of the village of Harworth.
11. The Laurels Wood is approximately 910m to the east of the site. Immediately to the south of the Laurels woodland is a lake and surrounding habitat which is designated as Serlby Park Wetlands Local Wildlife Site (LWS). Serlby Park Golf Course LWS and Brecks Wood and Hodkinson's Holt LWS and further east and south. The River Ryton flows approximately 750m to the east of the site.
12. Two groups of Ancient Woodland are located to the south-east of the site adjoining Blyth Wood, the closest of which being approximately 800m from the

site. Part of Blyth Wood is also designated within the Bassetlaw District Council Core Strategy as a Local Wildlife Site.

13. Following its closure the former Harworth Colliery pit head area is currently undergoing redevelopment with a major mixed use scheme incorporating over 1,000 houses known as Simpson Park. The land between the former colliery tip and Simpson Park incorporates industrial and business uses including Brunel Park Industrial Estate, Bulbs Industrial Estate and Harworth Enterprise Park.

Background

14. The Harworth Colliery spoil tip planning permission (1/66/96/16) provided consent for the disposal of colliery spoil arising from the coal mining operations from the late 1990s. The approved scheme permitted the deposit of colliery waste within the tip area and resulted in the raising of ground levels across the tipping area, re-engineering the landscape to create an elongated mounded landform with a central ridge sloping in a north to south direction with a gradient of approximately 1:40 and side slopes running from the ridge constructed to a maximum slope gradient of 1:4.
15. The planning permission for the spoil tip was time limited, expiring on the 30th June 2013. At the time the colliery ceased production in 2006 the spoil tip had been partially constructed with the northern part of the site built up to its approved level at 77m AOD but other parts of the site were substantially lower at closer to 30m AOD. The approved scheme for the colliery tip provided consent for the importation of a further 8.4 million cubic metres of colliery waste to complete the development and construct the approved landform. The colliery tip has not been restored following its closure.
16. The planning permission for tipping operations at Harworth Colliery tip incorporates a series of regulatory controls imposed through the planning conditions covering the following matters:
 - Condition 5 of Planning Permission 1/66/96/16 required the deposition of colliery spoil on site to cease on or before 30th June 2013 unless otherwise agreed in writing beforehand by the Minerals Planning Authority (MPA). A Planning Application to extend colliery spoil tipping operations for a further period of 25 years (Planning Application ref: ES/2845) was validated by the Council on 26th June 2013 but this application was withdrawn in early 2015 following confirmation by UK Coal of the permanent closure of Harworth Colliery.
 - Condition 6 of Planning Permission 1/66/96/16 sets out the restoration requirements in respect of the tip site. The condition requires the entire site to be restored to agriculture, nature conservation and amenity uses following the completion of colliery waste tipping to the approved levels in accordance with the approved plans.
 - Condition 39 of Planning Permission 1/66/96/16 requires the submission of an alternative restoration scheme should Harworth Colliery close or the tipping of the colliery spoil cease on the site for a period in excess of 6 months.

17. In October 2016 Nottinghamshire County Council acting in its capacity as Minerals Planning Authority (MPA) served a Planning Contravention Notice and subsequently a Breach of Condition Enforcement Notice on Harworth Estates concerning the non-compliance of Condition 39 relating to the failure to restore Harworth Colliery Tip.
18. After the Breach of Condition Enforcement Notice had been served by the MPA a number of meetings took place during 2017 and 2018 with Harworth Estates to discuss a number of restoration options for the Colliery Tip.
19. Following the receipt of this advice Harworth Estates has submitted this planning application with a view to securing the restoration of Harworth Colliery Tip and to satisfy the obligations imposed under Condition 39 of Planning Permission 1/66/96/16.

Proposed Development

20. Harworth Colliery has now permanently closed leaving no potential for any further waste colliery spoil importation to complete the restoration of the colliery tip in compliance with the approved contours. The existing partially constructed landform of the spoil tip does not provide for the satisfactory restoration of the site. Colliery waste has not been capped and this is resulting in contaminated surface water flows from the site. The topography of the site, which incorporates a central bowl of lower lying land, holds water rather than dispersing it off site resulting in water infiltrating through the site and contaminating groundwaters and potentially affecting the stability of the site.
21. This planning application seeks full planning permission to import waste materials which would be used to re-engineer the topography of the site, cap over the colliery spoil and build up site levels to restore the former colliery tip.
22. The consented colliery waste tipping scheme for the site has been partially completed but the early closure of the colliery has resulted in an 8.4 million cubic metres shortfall in waste material to complete the construction of the landform in accordance with the approved restoration plan. The completed scheme would have resulted in substantial changes to the landform of the site, raising existing ground levels and creating a high point at the north of the site in the location of former conveyor discharge point, and a north south ridge along the length of the site with drainage falling from this ridge in an east west direction.
23. The 6.2 million cubic metre scheme originally sought planning permission within this planning application sought to replicate the approved design of the colliery waste tipping landform albeit at a lower level to reflect the reduced quantity of material proposed to be imported onto the site. However, during the course of processing the planning application the scheme has been substantially modified and further technical information has been submitted through three submissions under Regulation 25 of the Environmental Impact Assessment (EIA) Regulations which have resulted in a reduction in the volume of waste proposed to be imported onto the site to 3.6 million cubic metres and a modified restored landform. The three Reg. 25 submissions are summarised below:

24. First Reg. 25 Submission: This submission made significant modifications and amendments to the colliery restoration/tipping scheme with the objective of minimising the quantity of waste materials imported to the site but maintaining an acceptable landform to address the geotechnical and drainage issues which the site currently experiences. The revised scheme now sought planning permission utilises a reduced quantity of 3.6 million cubic metres of inert waste imported to the site over a period of 14 years to re-engineer and restore the colliery spoil tip. This represents a 40% reduction from the scheme originally submitted for planning permission which proposed the utilisation of 6.2 million cubic metres of imported waste. The Reg. 25 submission has also modified the composition of materials proposed to be imported to the site to facilitate the restoration works, seeking to strictly limit waste imports to clean inert waste materials and thus address pollution concerns that had been raised relating to the use of non-hazardous materials including wood, glass, plastics, metallic wastes, packaging and mixed material as originally proposed. The submission also incorporates technical information relating to the mining legacy of the site and the geotechnical constraints which the presence of the tailing lagoons has on the ability to remodel and restore the colliery tip, a re-assessment of the traffic data resulting from the lower level of waste importation to the site, further details regarding the site access, supplementary ecological information, and clarifications regarding the landscape assessment.
25. Second Reg. 25 Submission: This submission did not amend the scheme but provided further technical responses in relation to the scope and age of ecological surveys which support the planning application, further information to address issues raised by the Environment Agency in relation to potential alternative restoration schemes for the site and their effect on water quality. The submission also incorporates an assessment of the effects that the placement of additional waste material over the lagoons and how this additional weight would result in compaction of the lagoons with potential to squeeze contaminated waters into the underlying groundwater with potential for an increase in pollution.
26. Third Reg. 25 Submission: This technical submission incorporates a revised calculation of the level of water infiltration to correct a numeric error which was identified in the data submitted in the second Reg. 25 response and the submission of two ecological technical appendices which were omitted in error from the previous Reg. 25 submission.
27. The Reg. 25 submissions are examined in greater detail within the planning considerations section of the report.
28. The 6.2Mm³ scheme originally sought planning permission sought to closely resemble the design of the approved colliery waste tipping scheme incorporating a north-south ridge line across the site tied into the northern highpoint on the site, albeit constructed to approximately 5m lower in height.
29. The restoration scheme submitted under the Reg. 25 submission and now sought planning permission has been provided in direct response to the MPA's request to minimise the amount of waste imported into the site but to enable the former colliery tip to be restored to a satisfactory condition. The design of the landform has moved away from the original restoration design for the site. The

modified scheme retains the high spot where the conveyor feed into the quarry was formerly sited on the basis that geotechnical and stability constraints make it difficult to remove this feature, but this high point is no longer used as the reference point for the restoration contours across the wider site.

30. The revised scheme utilises 3.6Mm³ of imported inert waste to build up levels over the former lagoons, recontouring this part of the site to provide shallow gradients in an east and west direction across the site to engineer slopes and enable surface water to naturally drain off the colliery tip and replacing the existing low lying ground in this area. The key change with the 3.6Mm³ scheme is that the scheme would tip waste to a lower height on the site and no longer extends the tipping up to the former conveyor feed highpoint on the site. This modification makes a significant reduction in the level of waste importation required to re-engineer the site, reducing the quantity of waste by over 40% from the originally proposed 6.2Mm³ scheme.
31. The modified 3.6Mm³ scheme seeks to place waste materials predominantly within the central area of the colliery tip to build up levels and cap over the unrestored lagoons within an area extending to 43ha (see Plan 4) and remove the current 'bowl' area which currently does not naturally drain surface water off the colliery tip. Works would also be undertaken over a further 5ha of the site to make improvements to the surface water attenuation and treatment lagoons, interconnecting ditches and the site access. A limited amount of material has been utilised round the high point to modify the gradients in this area and enable it to be appropriately restored. The remaining parts of the site including the mature planting around the perimeters of the site would remain undisturbed and would be managed for biodiversity enhancement over the entire life of the site and aftercare period, a total of 20 years.
32. The revised scheme has modified the composition of waste materials proposed to be imported to the site to facilitate the restoration works. The scheme originally sought to utilise inert waste together with non-hazardous wastes to restore the site. The revised scheme now sought planning permission seeks to strictly limit this imported waste to clean inert waste materials and thus address concerns that had been raised that the use of non-hazardous materials including wood, glass, plastics, metallic wastes, packaging and mixed material as originally proposed would raise potential pollution risks.
33. Vehicle access to the site for delivery vehicles would utilise the existing site entrance off Blyth Road which is approximately 1.2 kilometres to the north of the Blyth junction of the A1. The reduction in the level of waste inputs required to secure the restoration of the site from 6.2 to 3.6Mm³ has reduced the anticipated level of transport movements associated with the development. The Reg. 25 submission incorporates traffic calculations of predicted average and peak traffic flows associated with the development. The average traffic flow data assumes waste is delivered at a consistent rate each day throughout the 14-year duration of the project, whilst the peak traffic flow assumes that waste deliveries would fluctuate over the duration of the project and aims to represent a busy or peak flow day.
 - The average traffic data assumes waste is delivered at a consistent rate throughout the 14-year operational life of the site, equating to 257,143

- Phase 1: Phase 1 operations would commence in the south east area of the site, progressing northwards and then in a clockwise direction around to the north east and site access ramp.
 - Phase 2: Phase 2 infilling would continue in a northerly direction meeting up with the existing contours in the north west part of the site. Additional bunds would be progressively created on the outer flanks of the active phases to assist with screening of earth moving machinery as the filling progresses up to final proposed restoration levels. Restoration and aftercare planting would be completed in Phase 1.
 - Phase 3: Phase 3 infilling would continue in both a northerly and southerly direction meeting up with the existing and restored contours on the site. Restoration and aftercare planting would be progressed within Phase 2.
39. In all phases the proposed tipping levels would be lower than the levels approved in the original planning permission for colliery spoil disposal with the 3.6Mm³ scheme resulting in levels over the main central lagoons being around 17m lower than previously consented. In comparison, the 6.3Mm³ scheme would have reduced ground levels by 5m in this area in comparison to the approved colliery tipping scheme.
40. In order to minimise the infiltration of water into the colliery spoil and therefore reduce the risk of ground water being impacted, a 1m thick low permeability covering layer would be installed over the surface of the inert fill in all phases, over which a 1.5m thick restoration profile would be provided to support plant growth in the restoration scheme. See Plan 5

Restoration and Aftercare

41. Following completion of tipping in Phase 3, final restoration operations would be completed over a 12-month period.
42. The working scheme protects most areas of existing woodland and tree cover and provides management for these areas throughout the tipping phase.
43. The proposed vegetation cover for the site would remain broadly the same as the approved scheme in terms of a mixture of woodland, shrub edge and grassland, but there would be some changes to the species used as a result of the additional soil resources on the site which means that species no longer need to be restricted to those only suitable for establishment on colliery spoil.
44. The restoration scheme also improves and formalises the drainage system at the site, including the retro-fitting of passive water treatment measures that would treat the acidic and metalliferous Mining Influenced Water (MIW) currently being generated at the site, improving the quality of water discharged from site. It is not proposed to change the consented or licensed discharge point from the site which will continue to be made from the ponds on the south-western corner of the site.

45. Footpaths, access tracks and fencing would broadly be in accordance with the scheme approved in the earlier restoration scheme in 1996 and would provide a series of footpath links around the boundary of the site connecting with paths through the middle of the site which meet up at a proposed viewing point on the highest point of the landform. There will be three entrance points onto the site for public rights of way, firstly at the existing site entrance, secondly at the crossroads between Blyth Road and Styrrup Lane and thirdly off Styrrup Lane.
46. The site would receive ten years aftercare management.

Consultations

47. The planning application has been subject to four rounds of planning consultation. The first consultation was undertaken to coincide with the original submission of the planning application and the subsequent consultations were undertaken in connection with the submission of the three separate supplementary Regulation 25 submissions.
48. This section of the report is formatted to identify the overall position of the consultee to the amended scheme which has been modified by the three separate Reg. 25 submission. Where consultees have changed their response following modifications made through the Reg. 25 submissions these are referenced in the consultation summary.
49. **Bassetlaw District Council:** *Raise no objection subject to there being appropriate controls to ensure HGVs do not travel through Blyth.*
50. **Doncaster MBC:** *Do not object, subject to lorry routeing controls being regulated in the planning decision to ensure HGVs access from the A1(M) Junction 34. Doncaster Metropolitan Borough Council ward members are keen to ensure these vehicles do not travel through Bawtry, Austerfield, Tickhill, Bawtry and other small towns and villages.*
51. **Harworth and Bircotes Town Council:** *No objections*
52. *In response to the first Reg: 25 consultation the Parish state that they are pleased to note the reduction of imported fill material and the resultant benefit of less HGVs on the roads. The Parish request noise is monitored during the development.*
53. **Bawtry Town Council:** *The Town Council request that the routeing of the delivery vehicles from the A1 and Blyth Road is regulated by planning condition.*
54. **Blyth Parish Council:** *No objections.*
55. **Styrrup with Oldcotes Parish Council:** *raise the following comments:*
 - *The Parish welcomes the revised planning proposals in particular the number of tons of inert material to be imported.*
 - *The Parish Council is opposed to any opening of the restored site to the public or any paths walks etc.*

- A section 106 agreement should be entered into that restricts access to the A1 or A614 and therefore prohibits HGVs using roads passing through Styrrup village, Oldcotes Village, Blyth Village or Harworth and Bircotes Towns.

56. **Environment Agency:** Do not object to the planning application.
57. The Environment Agency have responded to all four planning consultations, initially raising objections to the 6.3Mm³ scheme with key concerns about the non-hazardous composition of waste proposed to be imported to the site and potential risks to groundwater quality.
58. The supplementary Reg. 25 submissions have enabled the Agency to remove its original objections to the planning application, but the Agency state that further assessments would be required at the Environmental Permit stage to confirm that the scheme represents the best overall restoration option for the site requiring the least amount of waste to enable it to be defined as a recovery activity rather than a disposal operation. The Environment Agency's observations are set out below:
59. Groundwater Protection: The 3.6Mm³ scheme can be granted planning permission and will result in improvements to surface and groundwater discharges from the site. The site in its existing form (ie partially restored) is having a notable impact on groundwater quality. Several down-gradient boreholes situated within both the weathered Chester Sandstone (formally Sherwood Sandstone) and the more intact Chester Sandstone bedrock exhibit elevated levels of Chloride, Sulphate, Iron, Manganese, Aluminium and other metals. These are undoubtedly related to Acid Mine Drainage as infiltration passes down through the emplaced colliery spoil. A more minor impact is identified in the adjacent surface water feature (Whitewater Drain) which is showing an adverse impact from existing site surface water drainage management practices.
60. Given the above, the "do-nothing" scenario would not be acceptable, and the revised restoration scheme provides a better solution in the longer term for minimising impact to both Groundwater and Surface Water moving forward. Various mitigation measures have been identified within the applicant's submission which appear wholly reasonable and the Groundwater and Contaminated Land Team would encourage these to be implemented. The tailing lagoons incorporate a variable thickness of colliery spoil topping and the lagoons exhibit large differences in sheer strength. A more detailed analysis therefore will be required to ensure placement of restoration material over the areas of former Tailing lagoons to ensure these works are undertaken in a controlled manner and an agreed specification, with a controlled "rate" of placement being paramount to ensure stability is not compromised. The Agency acknowledge that these matters will be determined during the detailed design phase, which will be provided as supporting information to the application to the Agency for an Environmental Permit.
61. On this basis, as the concerns raised by the Groundwater and Contaminated Land Team appear to have been both recognised and accepted by the Applicant and that they will be addressed as part of mitigation measures in the

Detailed Design Phase, the Agency is satisfied to assess these matters at the Environmental Permit Application stage.

62. *Waste Management Control: The Environment Agency's principle question in relation to waste management control is whether the operation of the site represents a recovery or disposal operation in the context of the waste hierarchy.*
63. *The Agency note that the design of the scheme approved at the planning stage will influence the amount of waste required to achieve it and the approved design will be put forward as supporting evidence in a Waste Recovery Plan to support a submission that the operation of the site represents a recovery rather than disposal operation in the context of the waste hierarchy. The Agency therefore would like to establish at the planning stage that only the minimum amount of waste necessary to achieve the desired/required environmental outcomes is used and to use more than is required to achieve the environmental outcomes would, from a waste regulation point of view, amount to disposal rather than recovery. This planning permission is therefore an important, though not the only factor in the application for a Waste Recovery Permit.*
64. *The planning application submission has given detailed consideration to measures to reduce the requirement for waste importation by remodelling the design for the restoration of the site including a consideration of the need for retention of the conveyor high point, and consideration of cut and fill options. The Environment Agency believe that provision of this information would assist the planning authority and consultees in understanding the appraisal process and assist in demonstrating that the approved scheme is the best overall scheme requiring the least amount of waste (consistent with the requirements of a Waste Recovery Plan as alluded to above).*
65. *Whilst the Planning Application may be granted for the scheme involving 3.6Mm³ of imported restoration material, there is no guarantee the Agency will view the activity as a waste recovery operation, nor that it will issue an Environmental Permit for this scheme unless more robust justification is provided by the Applicant that this scheme represents the best environmental option in terms of groundwater quality over the long term and that the minimum amount of waste to achieve the best overall environmental option is used. Given that the Applicant has not provided such information at the planning application stage the Environment Agency consider the case for classifying the proposed 3.6Mm³ scheme as a recovery operation has not been made and that any planning permission for such a scheme would not be evidence of such.*
66. *The Environment Agency will require a fully justified Options Appraisal Report to look at various restoration options (some already discussed) and may include composite systems utilising both natural and geosynthetic elements. This level of detailed analysis has only been undertaken for the 3.6Mm³ restoration option. At the Environmental Permitting Application Stage the Environment Agency will be looking to see the same level of analysis undertaken for a scheme which requires a reduced volume of material, for comparison purposes to confirm the restoration scheme utilises the minimum amount of waste necessary to achieve the desired / required environmental outcomes and therefore be classed as a*

recovery activity. The Environment Agency consider it is not possible for the Planning Authority or consultees to see that the scheme favoured by the applicant (the 3.6Mm³ option) utilises the minimum amount of waste to achieve the best environmental outcome from a groundwater and surface water protection view point, and thus be classed as a recovery option, but acknowledge that this assessment would be made at the permitting stage.

67. The Environment Agency request that if the Planning Authority are to grant planning permission conditions are imposed:
- to specify and restrict the materials which can be used as part of the scheme to uncontaminated, non-hazardous soils, subsoils, concrete, bricks, tiles and ceramics.
 - regulate the rate at which restoration material is placed, with layer thickness and compaction requirements.
 - ensure the provision of wheel wash facilities.
 - require the sheeting of all delivery vehicles.
68. **Via (Reclamation):** Raise no objections to the revised 3.6Mm³ restoration submission.
69. The revised scheme has been developed with the objective of minimising the quantity of material imported to the site whilst still enabling an acceptable landform to be engineered which minimises rates of infiltration to the underlying colliery spoil. The revised scheme allows for falls of between 1:2.5 and 1:25, with east-west drainage from a central ridge, the key change is that the scheme no longer ties in to the high point of the site and reduces the amount of imported waste from 6.2Mm³ to 3.6Mm³. The scheme has also modified the composition of waste imports to restrict it to strictly inert only and therefore resolve concerns in respect of odour, vermin, leachate and landfill gas emissions from waste inputs.
70. The indicative water balance calculations show that the alternative reduced volume restoration scheme could achieve similar benefits in terms of reducing infiltration compared with the previous restoration scheme for the importation of approximately 6.2Mm³ of restoration materials, whilst reducing sufficiently the amount of restoration material required to be imported to the site. The applicant has addressed previous concerns over the overall height of the tipping scheme.
71. The revised scheme will lead to a significant reduction in infiltration of rainwater into the existing spoil materials and the improved drainage and water management system proposed for the site would appear to significantly improve and protect both ground and surfaced waters at the site. The significant reduction in material being imported to the site will also significantly reduce the number of daily lorry movements to and from the site, thereby reducing air quality impacts.
72. Based on the revised proposals for the site restoration, including amendments to address issues previously raised, no objection to the proposed revised development is raised.

73. **The Coal Authority:** *Raise no objections. The Coal Authority request their standing advice is incorporated as an informative note to the applicant as part of the decision notice.*
74. **Peel Airports (Finningley) Limited:** *Raise no objection on the basis that the airport is satisfied the development would not affect aircraft safety.*
75. **Highways England:** *Raise no objections.*
76. *Highways England is satisfied that the likely trip generation and distribution would have a minimal impact on the strategic road network. Planning conditions are requested to require the submission of surface water drainage and boundary treatments adjacent to the A1(M) motorway to ensure there are no adverse effects to this road.*
77. *In response to the Reg. 25 consultations, Highways England acknowledge the reduction in waste input to 3.6Mm³ will reduce the traffic impact at the site and on the adjacent highway network (including the strategic road network) and therefore maintain their no objection to the development.*
78. **NCC (Highways):** *Do not object to the planning application.*
79. *The Highway Authority is content that the hourly lorry movements would not give rise to junction capacity issues on the designated lorry route. It is recommended that the lorry route is made subject to a legal agreement. The views of Highways England should be considered with respect the use of the A1. The site access will require improvement and modification to make it capable of accommodating two-way lorry movements, subject to this being demonstrated undertaking the access improvement prior to waste importation should be regulated by planning condition. Planning conditions should also be imposed to ensure all HGVs accessing the site area sheeted, wheel washing facilities are provided and used by delivery vehicles, signage is erected on site to advise delivery drivers to turn right onto Blyth Road upon exiting the site, and off-street parking/manoeuvring is provided. The maximum number of HGVs entering and leaving the site should be regulated by planning condition to a maximum 220 movements per day.*
80. *In response to the second Reg. 25 consultation the highways authority confirm that the previous response remains relevant to the development.*
81. **NCC (Built Heritage):** *Do not object to the planning application.*
82. *The scheme has been modified during the course of processing the planning application, most notably by reducing the amount of waste imported to the site to 3.6Mm³ of materials resulting in a reduction in levels on the site of around 17m than previously consented. In comparison, the original 6.3Mm³ scheme would have reduced these ground levels by 5m in this area in comparison to the approved colliery tipping scheme.*
83. *The pit tip is visible from the historic parkland at Serlby Hall in long views and within the setting of the Grade I hall. Views out of Serlby Parkland are characterised by the noticeable lack of intrusive C20th elements and this*

creates a scenario that is highly sensitive to intrusions that are industrial, urban or non-rural in character.

84. *The reduction in height of tipping activities means that the impact of the pit tip restoration on the wider views from Serlby Hall and associated historic parkland will be considerably reduced. There will be some intervisibility but this will be of a relatively low level and should not cause any substantial harm to these heritage assets either during or after restoration. It is not anticipated that any other heritage assets would be impacted by the proposals and as such no objections are raised from the built heritage conservation perspective to the granting of permission.*
85. **Historic England:** *Do not wish to offer any comments and suggest views are sought from the Council's specialist conservation and archaeological advisers.*
86. **NCC Archaeology:** *Raise no objections.*
87. **NCC (Lead Local Flood Authority):** *Raise no objections.*
88. **NCC (Planning Policy):** *Support the proposal as it ultimately secures the restoration of an old colliery working, subject to the applicant providing evidence that the volume of waste is available within the timeframe proposed, there is a need for this volume to restore the site and the environment and amenity impacts of this development are acceptable.*
89. *In the context of minerals policy, the Minerals Local Plan (MLP) encourages the restoration of former mineral extraction sites at the earliest opportunity. Policy SP2: Biodiversity led restoration includes a requirement for restoration schemes to achieve a net gain in biodiversity, which is in line with National Policy and the draft Environmental Bill and this is reaffirmed in Policy SP3: Biodiversity led restoration and Policy DM12: Restoration, after-use and aftercare which discusses how restoration schemes should enable a long-term enhancement of the environment and that where proposals rely on importing waste, there must be satisfactory evidence that waste will be available over an appropriate timescale in the types and quantities assumed to provide the optimum restoration solution and provide evidence that it is not practical to re-use or recycle the waste.*
90. *In terms of Waste Policy, the Nottinghamshire and Nottingham Waste Core Strategy (2013) should be considered when determining this application. Policy WCS7 identifies unrestored colliery land as an appropriate location for waste disposal facilities subject to there being no unacceptable environment impacts. Policy WCS5 relates to the development of new waste disposal sites, stating that where it is shown that additional capacity is required priority will be given to sites within the main shortfall areas around Nottingham and Mansfield/Ashfield. Development outside these areas will be supported where it can be shown that there are no reasonable closer alternatives with preference given to the extension of existing sites and schemes which restore old colliery tips over disposal on greenfield sites. Since this application site is outside the area of Nottingham and Mansfield/Ashfield, the applicant would need to demonstrate there is no reasonable, closer alternative. Also, since the applicant proposes to import the waste from neighbouring authorities of Rotherham and Doncaster, as*

per policy WCS12 the applicant will need to demonstrate that there are no facilities or potential sites in a more sustainable location in relation to the anticipated source of the identified waste stream, that it will contribute the movement of waste up the waste hierarchy and that there are wider sustainability benefits that support the proposal. It should also be considered whether the amount of waste proposed is required to achieve restoration and whether there is any other viable alternative for restoration.

91. *In respect to the amendments made through the Reg. 25. Submission, the reduction in waste imports to 3.6Mm³ and the applicant's assessment of alternative restoration options for the site including the effects these have in terms of reducing infiltration rates to the previously deposited colliery spoil are noted. As part of the decision the Council should satisfy itself that the 3.6Mm³ scheme provides the benefits identified. It is also noted that the revised scheme now seeks to import only clean inert waste reducing the potential environmental effects of the development.*
92. *Overall, considering the further information submitted, the application would still be supported by Minerals and Waste Policy as it ultimately ensures restoration of an old colliery working, provided the Council is satisfied that the volume is available within the timeframe proposed and the restoration scheme proposed is the most appropriate for this site and so the volume of waste is justified and the environment and amenity impacts of this development are not unacceptable.*
93. **NCC (Nature Conservation):** *A series of observations regarding the ecological effects of the development which have been updated by the supplementary information provided through the Reg. 25 submissions have been provided. For ease of reference this summary of NCC Nature Conservation's observations has been compiled from the responses received across all four consultation responses received and references the most up to date ecological response on each specific ecological matter.*
 - a. *It is questioned whether the importation of 6.2Mm³ (amended to 3.6Mm³) of imported waste over 14 years is realistic. Any shortfalls would lead to a delay in the delivery of the proposed restoration. Could the site be restored utilising less material?*
 - b. *The application is supported by a range of survey work, carried out during 2015, 2017 and 2018 and subsequently supplemented by a 2020 walkover survey. These surveys are of appropriate scope and appear to have been carried out following appropriate methodologies. Although some of the surveys are from 2015 and are therefore approaching four years a rationale has been provided setting out why updated surveys are not considered necessary.*
 - c. *The views of Natural England should be sought in terms of impacts to the River Idle Washlands SSSI which is located nearby.*
 - d. *No local wildlife sites would be directly affected by the development.*
 - e. *The existing habitat within the site predominantly incorporates species poor semi-improved grassland and mixed plantation woodland, which are currently of low ecological value, but the overall ecological value of the site benefits from its large extent and proximity to other areas of semi-*

natural habitat. The main species related issues from carrying out the development are potential direct impacts to common toads and ground nesting birds.

- f. *Wintering bird surveys coinciding with the start of the Woodlark breeding season in 2019 indicate that no Woodlarks were recorded during the surveys confirming the results of surveys in 2015 which also recorded negative results.*
- g. *An analysis has been provided, highlighting that no particularly noise sensitive species were recorded on the site. Whilst there is potential for increased noise levels associated with working areas to have a minor impact on the recorded assemblage within adjacent habitats, these impacts will be localised and short-term and mitigated by the phased nature of the works and the close proximity of the site to both the A1(M) and Blyth Road which means that the site is already subject to elevated noise levels.*
- h. *An analysis of vehicles emissions and potential effect to sensitive ecological habitats has been conducted with reference to both the design manual for roads and bridges (DMRB) and Local Air Quality Management Technical Guidance. This satisfactorily demonstrates that adverse ecological impacts would not result and no specific mitigation is required.*
- i. *A wintering bird survey report has been provided, covering February and March 2019. Whilst this doesn't cover the whole winter period, it does highlight that the site has value for wintering birds, with Jack Snipe and Short-eared Owl recorded (both scarce wintering species in Nottinghamshire), along with double-figure counts of Common Snipe. Other notable species recorded included Grey Partridge, Skylark, Meadow Pipit, Lesser Redpoll and Siskin. The latter two are associated with the woodland fringes around the site, but the other species mentioned are all associated with open grassland habitats, which are to be directly affected by the proposals. The survey report concludes that the proposed infill works are likely to result in short-term impacts to those wintering birds using the grassland habitats and birds within adjoining areas of woodland/scrub and unabated the post-restoration could result in disturbance to birds (such as dog walkers). Provided the mitigation listed within the ES is adhered to, impacts should be minimised. Phase 1 of the now proposed 3.6Mm³ will receive 2.2Mm³ of material and therefore it is assumed this phase will last for a relatively long period (~9 years). It is therefore essential that site enhancements on other parts of the site are brought forward as soon as possible. The restoration scheme is likely to provide long term enhancements to wintering bird assemblage including to jack snipe and short-eared owl.*
- j. *A condition should be imposed requiring that no work to the drainage ponds is carried out until a method statement to mitigate against impacts on amphibians has been submitted and agreed.*
- k. *Further surveys are requested to ensure that there is a continued absence of breeding woodlark on the site.*

- l. There is potential for some indirect ecological impacts as a result of artificial lighting, noise from tipping and emissions from vehicles which have not been assessed from an ecological point of view.*
 - m. The potential ecological impacts of noise and vehicle emissions need to be considered.*
 - n. Planning conditions should seek to cover matters including pre-commencement badger surveys in each phase, protection of retained vegetation and controls relating to nesting birds.*
- 94. *The restoration plan should incorporate a native-species hedgerow to be planted on at least one side of the agricultural access track that crosses the northern part of the site and the creation of a cluster of small off-line ponds at the southern end of the site to compensate for the loss of ponds identified as P10 and P11. It should also incorporate a detailed restoration scheme to regulate the soil chemistry of imported soils so as to ensure the successful establishment of species rich grassland on the site, species mixes, establishment methods and maintenance regimes, utilising native species of tree and shrub appropriate to the locality, whilst wildflower grasslands should comprise a range of common and widespread grassland species. In addition, tree guards used to protect new trees and shrubs should be biodegradable, rather than plastic. The overall effect of the restoration scheme is welcomed. Aftercare requirements should be 10 years for newly created habitats, and 25 years for retained habitats (i.e. the 15 year lifetime of the scheme, plus the 10 years of aftercare).*
- 95. **Natural England:** *Raise no objections*
- 96. *Natural England is satisfied the proposed development would not have significant adverse impacts on designated sites, specifically confirming that the development will not damage or destroy the ecological features of interest within the River Idle Washlands Site of Special Scientific Interest. Natural England recommend planning conditions are imposed to protect soil resources within the site.*
- 97. **Nottinghamshire Wildlife Trust:** *Object to a planning application, but also identify some ecological matters which can be regulated through planning condition.*
 - a. NWT note that an updated habitat plan is missing from the 2nd Reg. 25 submission (now provided as part of 4th Reg. 25 submission) making it difficult to interpret the applicant's ecological appraisals.*
 - b. NWT are concerned that the development would result in a loss of both breeding and overwintering skylark habitat on a large scale (more than 40ha) for several years. These impacts cannot be offset against future habitats that may not be available for over a decade and the habitat loss should be mitigated at the time it occurs. The consultants' assertion that the skylarks would be able to move to habitat on nearby intensive arable farmland dominated by autumn sowing is considered erroneous and the statement in the Reg 25 submission which indicates that the loss of habitat would be mitigated or compensated elsewhere on the site is not clear how it would be achieved particularly since skylark already use the northern part of*

the site and are presumably at capacity there. Although the latest Reg. 25 submission advises that the loss of skylark breeding habitat will be phased, there is no clear plan of where any claimed compensatory habitat would be located and how its management would be secured. Even on a phased basis, there would still be a substantive loss of grassland suitable for skylarks.

- c. The wintering birds report asserts that the loss of habitat would be minor, and states that compensatory habitat would be found elsewhere, but provides no detail of how the loss, for example, of a wetland sustaining overwintering snipe, teal and jack snipe would be mitigated.*
 - d. Noise: There is no proper assessment of the impacts of the increased noise levels on birds breeding within the retained habitat. Adequate mitigation and compensation for these impacts has therefore not been addressed in either the original EclA or subsequent Reg 25 submissions. Noise impacts to foraging bats has also not been assessed.*
 - e. The ecological assessment confirms the site provides potential habitat for amphibians and reptiles and therefore surveys for these species should be undertaken prior to entering any new phase of working and any impacts appropriately mitigated.*
 - f. Orchids: The surface material around the colony of orchids should be translocated prior to works commencing in this area.*
 - g. Hedgerows: The hedgerows around the perimeter of the site should be ecologically managed to mitigate for the loss of a section of hedgerow as a result of the development.*
 - h. The proposed conservation management of the existing habitats for the duration of the scheme is welcomed, but a detailed management plan is required to demonstrate how enhancement of the habitats would be achieved.*
98. *The restoration scheme is welcomed but there is a lack of certainty over the final habitats as this may depend on the material available for capping. In order to provide reassurance that the habitats would be of a high standard to develop as BAP priority habitats, NWT expect to see target habitats and species mixes submitted prior to determination. This could be achieved by providing two alternatives: for a neutral-acid final substrate and a neutral-calcareous substrate. The use of plants of UK origin in the restoration scheme should be conditioned. A cluster of small ponds should be provided as part of the sites restoration to compensate for the loss of pond habitats within the development. NWT request the aftercare period is extended to ten years following the restoration of the site. Finally, an assessment of the value of the current and proposed biodiversity on this site should be undertaken using a recognised biodiversity calculator, in order to demonstrate whether net gain can be achieved.*
99. **Via (Countryside Access):** *Raise no objections, noting that there are no public rights of way currently recorded within or adjacent to the application site.*
100. **Via (Landscape):** *Support the proposals, providing the following comments:*

101. *The landscape and visual impact assessment (LVIA) of the proposed development has been carried out to the appropriate methodology and guidance.*
102. *The overall significance of landscape effects during the restoration phase is assessed as slight adverse. The overall significance of landscape effects 15 years post restoration is assessed as beneficial (degree not stated).*
103. *The overall significance of visual effects during the restoration phase is assessed as moderate adverse for viewpoint 2 (located on Blyth Road, at the entrance to Kirk View Kennels and Cattery, on the south eastern edge of the Application Site at a distance of 0.3km).. Increased vehicle movements will be visible from this point. The overall significance of visual effects during the restoration phase is assessed as negligible to minor adverse for all other viewpoints. The overall significance of visual effects 15 years post restoration is assessed as beneficial (degree not stated).*
104. *None of the landscape and visual impacts identified are significant in terms of the EIA Legislation, which is agreed although there is a discrepancy between the degree of landscape impact stated in the LVIA and the Non-technical summary which should be amended.*
105. *Should planning permission be granted it is recommended that planning conditions be imposed to require the following information to be submitted:*
 - *Details should be provided of how existing site vegetation to be retained is to be protected.*
 - *Detailed landscape proposals drawing should be provided, which includes schedules that show species, size and density planting. The landscape restoration of the site should utilise species listed for the Idle Lowlands LCA.*
 - *A long-term maintenance and management plan for the ecological habitats created.*
106. *First Regulation 25 Submission: The VIA Landscape Team note that the Reg. 25 submission has rectified the small discrepancy between the Landscape and Visual Amenity document and the Non-technical summary report and has no additional comments to make regarding the submission.*
107. **Via (Noise Engineer):** *Raise no objection subject to planning conditions being imposed setting maximum noise limits at surrounding properties, ongoing noise monitoring during the life of the development to ensure noise limits are being complied with, the use of broadband reversing alarms on mobile plant and controls over operating hours.*
108. *A detailed assessment has been undertaken using a noise model to determine the predicted noise impacts at the nearest residential receptors. To support the assessment a series of noise measurements have been conducted to determine the background noise levels. PPG for minerals suggests a noise limit of the background noise level (L90) + 10dB subject to an absolute upper limit of 55dB. Due to the high background noise levels in the area primarily related to*

transportation noise due to the close proximity of the A1, the applicable noise limit at all but 1 of 8 Noise Sensitive Receptors is 55dB with a limit of 52dB at the other receptor.

109. *The noise assessment has modelled a range of plant that will operate on the site with mobile plant consisting of a 360-excavator and loading shovel operating at the receiving (primary sorting) area and a further 360-excavator and dozer working at the active restoration area with dump trucks running between the two along internal roads.*
110. *The noise modelling predicts that the proposed limits will be complied with at all receptors. An assessment has also been undertaken of predicted changes in traffic noise levels on the highway network associated with the proposed development. This predicts a maximum increase in noise of +2.1dB on Blyth Road – South. When assessed in accordance with the classification of impacts criteria in DMRB a change in noise level of +2.1dB is considered ‘Minor’ and may just be perceptible by residents.*
111. **National Planning Casework Unit:** *Raise no comments regarding the environmental statement.*
112. **Harworth and Bircotes Tenants and Residents Association, Tickhill Parish Council, Scrooby Parish Council, the National Planning Casework Unit, Severn Trent Water Limited, Cadent Gas Limited, Western Power Distribution:** No representations received. Any responses received shall be orally reported.

Publicity

113. The application has been publicised by posting of site notices, the publication of a press notice in the Worksop Guardian and neighbour notification letters to 80 properties in the area surrounding the application site sent in accordance with the County Council’s adopted Statement of Community Involvement. The planning application has been publicised on three further occasions through the posting of site notices and publication of press notices in the Worksop Guardian coinciding with each of the Regulation 25 submissions.
114. Six letters of representation/objection have been received in response to the Council’s publicity of the planning application which raise the following matters:
 - a. The works to complete this development would involve unacceptable extensive hours on site working.
 - b. The noise generated by site traffic including heavy vehicles reversing warning apparatus would travel too far and inconvenience too many residences.
 - c. The dust from works would be totally unacceptable and the development would result in excessive air pollution with toxic emissions.
 - d. The traffic required to ship in the proposed waste would generate problems to the surrounding area. Styrrup village is already showing an increase in HGV movements through the village. With possible

new, existing and planned developments striking up, the traffic would become intolerable and is unreasonable.

- e. Is it not possible to use the materials on site to carry out the works as required without importing 3.6 million cubic metres of material?
- f. Concern is expressed that the restoration of the site is not happening quick enough. The pit top and all its surrounding land needs protecting and planting with more trees etc and the area should be opened for the local community rather than more housing.

115. Councillor Sheila Place has been notified of the application.

Observations

Need for the Development

116. The New Nottinghamshire Minerals Local Plan (MLP) was adopted on 25th March 2021. The plan does not incorporate a specific policy relating to the assessment of alternative restoration schemes for partially constructed colliery tips, but 'Policy DM12: Restoration, aftercare and after-use' sets out more generic policies relating to minerals restoration schemes. MLP Policy DM12 requires that proposals for minerals development must include an appropriate scheme for the restoration, aftercare and long term after-use to enable the long-term enhancement of the environment. The policy requires that restoration schemes should be in keeping with the character and setting of the local area and should contribute to the delivery of local objectives for habitats, biodiversity, landscape, historic environment or community use where appropriate. Specifically where mineral extraction proposals rely on the importation of waste for restoration, the development must:
- a. Include satisfactory evidence that the waste will be available over an appropriate timescale in the types and quantities assumed;
 - b. Provide the optimum restoration solution; and
 - c. Provide evidence that it is not practical to re-use or recycle the waste.
117. The approved colliery waste disposal scheme for Harworth was reliant on the continued availability of colliery waste originating from mining activities to supply 8.4 million cubic metres of material to re-engineer the site contours and topography of the colliery tip.
118. The early cessation of mining operations at Harworth Colliery has removed the availability of colliery waste to complete the restoration of the site in compliance with the contours of the approved restoration scheme consented under the extant planning permission.
119. Since the closure of Harworth Colliery the spoil tip has been retained with minimal restoration works undertaken. Although the outer flanks of the site have been extensively restored and trees planted the central area remains in a despoiled condition and has not been subject to any restoration works.

120. The existing condition of the site is not satisfactory and raises the following concerns:
- The site incorporates a series of historic tailing lagoons which in general terms cover the central and southern extents of the site. The northern area of the site is covered by a tip which rises to a maximum of 77.5m AOD, which is approximately 50m higher than the central and southern areas of the site.
 - The lagoons have been informally capped through the placement of colliery spoil over the wet tailings deposits, however the ground in these areas regularly becomes fully saturated creating soft ground conditions and associated health and safety risks. The former tailings lagoons at the site are understood to be very deep, likely in the order of 20m.
 - Due to the depths of the lagoons at the site, coupled with the very soft nature of the tailings which have been placed in the lagoons it is not considered safe or practical for them to be excavated and re-engineered.
 - The tip at the north of the site has previously experienced minor slope failures which have needed to be stabilised through the placement of additional fill to buttress the slopes in some areas. It is considered likely that if attempts were made to excavate the tip it would reactivate the historic failures and potentially cause larger scale failures.
 - The topography of the site restricts its ability to discharge surface water resulting in water penetrating the underlying lagoons. Poor water quality has been recorded both within boreholes installed within the colliery waste and within perimeter wells. Surface and ground water flows which come off the colliery tip are acidic in character and are having an adverse effect to the surrounding environment.
121. The retention of the site in its current condition is not environmentally acceptable and changes to the topography are required to make it sustainable in the long term.
122. The extant planning permission incorporates a requirement under condition 39 to obtain approval for and thereafter implement a revised restoration scheme to secure the restoration of the Harworth Colliery spoil tip in the event that colliery spoil disposal ceases for a period in excess of 6 months.
123. Since these restoration controls have not been complied the MPA has served a breach of condition enforcement notice on the landowner to secure compliance with the planning condition and ensure the site is restored in compliance with a satisfactory alternative scheme. The submission of this planning application is as a direct result of this enforcement action to secure compliance with this planning condition.
124. Dealing specifically with stability issues, the colliery tip construction incorporates a series of tailing lagoons held in place by engineered lagoon bank edges. These lagoons can become re-saturated if surface water flows are not satisfactory controlled resulting in increased stability risks. Industry practice for restoring colliery tips incorporating lagoons normally aims to retain the engineered lagoon bank since these bank edges provide the structural support

for the tailings which otherwise have very low structural strength. Colliery Tip restoration schemes also prioritise surface water management and establish a system that ensures water discharges off the colliery tips rather than being allowed to accumulate on site with potential to penetrate the tip. With appropriate water management the tailing lagoons dry out over time and become increasingly stable enabling them to be safely incorporated into the restoration of the colliery tip. Conversely, if surface water flows are not satisfactorily controlled this would increase the risk for the tailings to become re-saturated, potentially putting the colliery tip at increased risk of de-stabilising.

125. The existing gradients within the central bowl area of the colliery tip do not allow surface water to discharge from this area of the site primarily because the surrounding banks/tip sides are at a higher level. In this instance there is little opportunity to safely remove/lower the tip sides because they form part of the engineered structure of the tip which support the lagoons. There is therefore no real opportunity to undertake a 'cut and fill' operation to re-engineer the topography of the site using material within the site to address the underlying drainage issues and therefore any re-contouring of the site would require fill materials to be imported to the site.
126. The use of imported waste would allow the lagoon area to be re-engineered to provide the drainage falls that are required whilst retaining the engineered banks of the lagoons which provide structural support for the colliery tip enabling the tip to be safely restored and ensuring the environmental legacies resulting from the premature closure of Harworth Colliery are addressed.
127. The Environment Agency confirm in their planning response that the site in its existing form (ie partially restored) is having a notable impact on groundwater quality as evidenced in several down-gradient boreholes situated within both the weathered Chester Sandstone (formally Sherwood Sandstone) and the more intact Chester Sandstone bedrock where there are elevated levels of Chloride, Sulphate, Iron, Manganese, Aluminium and other metals which are undoubtedly related to Acid Mine Drainage as infiltration passes down through the emplaced colliery spoil. The site is also having a more minor impact on surface water quality as evidenced in the adjacent Whitewater Drain where water quality is being adversely impacted from contaminated flows originating from the unrestored colliery spoil tip. The Environment Agency's water quality team therefore confirm that it would not be acceptable to leave the site in its current condition and the revised restoration scheme provides a better solution in the longer term for minimising impact to both Groundwater and Surface Water. Whilst identifying that further quantitative assessments of water quality would be required to support the Environmental Permit application, the Environment Agency confirm the scheme is wholly reasonable and the Groundwater and Contaminated Land Team would encourage it to be implemented.
128. The planning consultation response from VIA's Reclamation Officer acknowledges that the restoration scheme utilising 3.6Mm³ of inert waste would re-engineer the site leading to a significant reduction in infiltration of rainwater into the existing spoil materials and the improved drainage and water management to significantly improve and protect both ground and surface

waters at the site and therefore supports the revised restoration proposals for the site.

129. It is therefore concluded that the current condition of the site is having an unacceptable impact on groundwater quality and the revised restoration proposals appropriately provide for restoration and aftercare of the site and enable long term enhancement of the former colliery spoil tip in general accordance with MLP Policy DM12. However, full compliance with Policy DM12 would only be demonstrated if satisfactory evidence is provided to show that sufficient waste will be available over an appropriate timescale and the restoration of site is in keeping with the character and setting of the local area and contributes to the delivery of local objectives for habitats, biodiversity, landscape, historic environment and community use where appropriate

Assessment of alternatives relating to the quantity of waste imported to the site

130. As part of the Environmental Statement and Reg. 25 supplementary information the applicant was requested to investigate various designs for the restoration of the site with the objective of minimising the amount of waste importation whilst ensuring the scheme delivers a sustainable restoration of the site. The EIA has considered a variety of restoration options for the site in various levels of detail, as set out below:
- a. The do-nothing scenario.
 - b. The lining of the site with an impermeable membrane capped over by a layer of soils without significant change to the existing site contours.
 - c. The importation of 1.7Mm³ of imported waste to build up levels within the central bowl area sufficient to create a flat level site and remove the existing 'bowl' area within the central lagoon area.
 - d. The scheme sought planning permission which seeks consent for the importation of 3.6Mm³ of imported waste to build up levels over the central lagoon area sufficient to create gradients to allow water to drain off the central lagoon area.
 - e. The importation of 4.3Mm³ of imported waste to build up levels and cap over the colliery lagoon area.
 - f. The importation of 5.3Mm³ of imported waste to build up levels and cap over the colliery lagoon area.
 - g. The importation of 6.2Mm³ of imported waste to build up levels and cap over the colliery lagoon area. This restoration scheme was submitted as part of the original planning submission and closely reflected the design of the approved colliery tipping scheme with waste tipping extending up to the northern high point of the site and creating a north-south ridge line from which drainage falls would flow. The average height of tipping across the site would have been approximately 5m lower than the scheme approved for colliery waste tipping and consequently reduced the level of waste importation required to complete the restoration of the site to 6.2Mm³ of imported waste, a reduction from the 8.4Mm³ of colliery waste which would have been required to engineer the original colliery tip.

- h. The importation of 8.4Mm³ of imported waste to build up levels and cap the colliery spoil. This scheme replicated the approved colliery tipping scheme in ground profile, albeit imported waste would have been used to build up levels instead of colliery waste.
131. In preparing the original 6.2Mm³ restoration scheme, the applicant stated that they referenced DEFRA's publication 'Guidance for Successful Reclamation of Mineral and Waste Sites' Annex RN3 to develop an appropriate restoration landform which encourages the use of gradients no flatter than 1:25 to ensure adequate drainage and minimise surface water ponding in the event of localised differential settlement. Four restoration scenarios were analysed to consider the effect of importing different volumes of waste to increasingly lift the levels of the restored site and the effect this has on achieving drainage gradients on the restored site based around the concept of the original design of the colliery tip which sought to tie the tipping levels to the existing northern high-spot of the site. The results are set out in the table below.

Quantity of waste imported to site	Area of land which does not have a gradient exceeding 1:25
Retention of existing topography	248,919 sqm
4.3million cubic metres importation	200,286 sqm
5.3 million cubic metres importation	152,265 sqm
6.2 million cubic metres importation	61,199 sqm

132. This sequence of alternative quantities of waste importation demonstrates that the higher levels of waste importation to the site enable steeper gradients to be achieved and consequently better drainage and lower risk of ponding and potential infiltration into the colliery spoil and former lagoons. The 6.2Mm³ of imported materials proposed in the original alternative restoration scheme was selected on the basis that it would provide appropriate drainage for the site with minimal areas flatter than 1:25.
133. As part of the Reg. 25 process the Council raised a series of questions regarding the design principles of the colliery tip and the amount of waste required to carry out the scheme. The following matters were questioned:
- The appropriateness of using DEFRA's design guidance for putrescible landfill sites - Annex RN3 was questioned because this guidance relates to the engineering of sites where putrescible waste is imported with associated potential for differential settlement from waste degradation. The precautionary minimum 1:25 gradient is identified to ensure adequate drainage and minimal surface water ponding occurs in the event of any potential localised differential settlement. Since the

Harworth Colliery restoration scheme would not utilise putrescible/ biodegradable waste it was considered unlikely to experience any significant levels of differential settlement following its construction and therefore there is scope to create a shallower landform whilst ensuring satisfactory drainage is maintained at the site.

- The design of the restoration scheme incorporating a single dome mound across the entirety of the colliery tip targeting a gradient of 1:25 and tied to the highest part of the site at the former conveyor discharge point required a large quantity of material to be imported to achieve the proposed restoration contours. The applicant was requested to investigate alternative restoration options including a reduction in tipping around the northern highpoint of the site, the use of greater cut and fill and the use of shallower gradients.

134. The modifications made to the restoration scheme as part of the Reg. 25 submission (the 3.6Mm³ scheme) have been carried out in direct response to the Council's request to review the design of the colliery tip and reduce the amount of waste imported into the site to provide for the satisfactory restoration of the former colliery tip.

135. The Reg. 25 restoration scheme retains the northern high point of the colliery tip. This part of the site cannot be lowered because of stability issues. However, the tipping across the wider site is no longer tied into this high point and this has resulted in a large reduction in the amount of waste required to be imported to the site and still achieve satisfactory drainage gradients.

136. The Reg. 25 submission has given consideration to the level of infiltration benefits that would be derived from four differing restoration options for the site, to compare how each scheme would discharge water from the colliery tip and from this predict the level of water infiltration into the underlying tip (water infiltration is not desirable because it has potential to destabilise the colliery tip and pollute the underlying aquifer) with ground slope being the key determinant to the runoff rate. The schemes that were assessed within the Reg. 25 submission and the level of infiltration are set out below:

- The existing unrestored landform is calculated to result in an average infiltration rate of approximately 114mm/year which equates to 51,200m³/year.
- The restoration scheme submitted as part of the original planning application utilising 6.2Mm³ of restoration materials is calculated to result in an average infiltration rate of approximately 42mm/year which equates to 18,700m³/year.
- The Reg. 25 restoration scheme utilising 3.6Mm³ of restoration materials is calculated to result in an average infiltration rate of approximately 46mm/year which is equivalent to approximately 20,800m³/year
- A reduced scheme utilising 1.7Mm³ of restoration materials is calculated to result in an average infiltration rate of approximately 73mm/year which is equivalent to approximately 32,700m³/year.

- Consideration has also been given to the use of a capping membrane to seal the site and control groundwater flows instead of the use of waste materials imported to the site. However the use of waste materials to re-engineer the contours of the site to provide natural drainage is preferred by the applicant on the basis that it would control water flows in perpetuity whereas a membrane could degenerate or fail over time and thus introduces potential ongoing maintenance costs.
137. The indicative water balance calculations show that the Reg. 25 restoration scheme utilising 3.6Mm³ could achieve similar benefits in terms of reducing infiltration to the underlying ground and groundwater pollution to the scheme originally sought planning permission which would have utilised 6.2Mm³ of imported waste. The calculations also indicate that if the waste importation was further reduced to 1.7Mm³ there would be a noticeably greater increased level of infiltration into the colliery tip and potentially greater levels of groundwater pollution.
138. The Environment Agency have examined the information submitted by the applicant and have confirmed that the 3.6Mm³ scheme would result in improvements to water quality from surface and groundwater discharges from the site. The Environment Agency note that they will examine the levels of waste imported into the site as part of the Environmental Permitting process and this will require further quantitative calculations to enable the Agency to formally conclude the preferred 3.6Mm³ scheme utilises the minimum amount of waste to achieve the best environmental solution and therefore do not want to pre-judge this formal process in the planning consultation response. However, the Environment Agency's consultation response confirms that they are satisfied that the 3.6Mm³ scheme can be granted planning permission.
139. Overall, it is concluded that the Reg. 25 scheme based on the importation of 3.6Mm³ of inert waste into the site is considered to provide an acceptable balance between reducing the level of waste importation into the site whilst ensuring that the resultant restored site sustainably manages potentially contaminated surface and ground water drainage flows. The 3.6Mm³ scheme proposed in the Reg. 25 submission provides for a 40% reduction in the amount of waste materials imported to the site in comparison with the 6.2Mm³ scheme originally submitted for planning permission and a 55% reduction from the 8.4 million cubic metres to implement the consented colliery tipping scheme.

Planning policy concerning the disposal of inert waste and its use in connection with the restoration of former mineral workings

140. The Nottinghamshire and Nottingham Waste Core Strategy (WCS) 'Policy WCS5: Disposal sites for hazardous, non-hazardous and inert waste' acknowledges that where there is a need to provide additional waste disposal capacity for inert waste the policy is supportive of disposal schemes on former colliery tips where the waste assists with the restoration of despoiled land and provides environmental benefits.
141. Harworth Colliery spoil tip is the last remaining colliery tip within Nottinghamshire which has either not been restored or is undergoing restoration

in accordance with an approved planning permission. The use of inert waste to support the restoration of the colliery tip as proposed within this planning application is therefore supported by WCS Policy WCS5, subject to it being shown there is a need for the additional disposal capacity.

142. The proposed scheme would utilise substantial quantities of waste material over a long duration and this raises questions in terms of whether there is sufficient waste available in the local area to carry out the restoration scheme in the timeframe proposed.
143. Saved Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) states:

Policy W4.2: Availability and Timescales

Proposals for waste disposal will only be permitted where satisfactory evidence has been provided to show that sufficient waste material is likely to be acceptable to achieve reclamation of the site within an acceptable timescale.

144. WLP Policy W4.2 is consistent with MLP Policy DM12: Restoration, aftercare and after-use insofar that the policy requires it to be demonstrated that there is satisfactory evidence that the waste will be available over an appropriate timescale in the types and quantities assumed.
145. The successful completion of the proposed restoration scheme necessitates the use of 3.6Mm³ of waste which equates to the delivery of 257,143 cubic metres (388,285 tonnes) of waste each year over the 14-year programme of works. Clearly this is a significant reduction from the scheme originally sought planning permission which proposed the use of 6.2Mm³ of waste over a similar period. The target waste stream is construction and demolition waste for its inert characteristics.
146. The applicant states that the facility would primarily source these waste materials from both Nottinghamshire and South Yorkshire as well as waste originating from the developer's landholdings that would become available as a result of ongoing regeneration projects.
147. In the context of managing Nottinghamshire Waste, WCS Policy WCS3 (Future Waste Management Provision) aims to provide sufficient waste management capacity to meet the needs of Nottinghamshire by ensuring the County has waste management capacity which is broadly equivalent to the amount of waste which is produced in the area.
148. The 257,143 cubic metres (388,285 tonnes) planned annual throughput of the site is a large quantity of waste when considered in the context of the levels of waste generated within Nottinghamshire and set out within paragraph 4.6 of the WCS. This estimates that Nottinghamshire's total production of construction and demolition waste is around 1 million tonnes per year. The WCS identifies that the vast majority of this waste is recycled or re-used (between 80-90%) and

therefore the plan estimates the amount of Nottinghamshire's inert waste which is disposed is around 230,000 tonnes per year, significantly lower than the proposed annual level of waste input to Harworth Colliery.

149. Data published by the Environment Agency sets out the actual quantity of inert waste disposal within Nottinghamshire for the years 2013 – 2016 and is set out in the table below:

Year	Volume of inert waste disposed in Nottinghamshire (cubic metres)	Weight of inert waste disposed in Nottinghamshire (tonnes)
2013	376,000 m ³	564,000t
2014	367,000 m ³	550.500t
2015	198,000 m ³	297,000t
2016	208,000 m ³	312,000t

150. The Environment Agency's data indicates that the WCS target of 230,000 tonnes per year (153,000 cubic metre) does not reflect the actual level of inert waste disposal in the County, potentially underestimating the level of inert waste disposal by up to around 220,000 cubic metres per year. Nevertheless, even taking a 'worst case scenario' in which it is assumed that 2013 inert waste disposal figures are repeated throughout the operational life of the Harworth restoration project, and 100% of all the waste arisings from Nottinghamshire are deposited at Harworth, the facility would manage 68% of all inert waste requiring disposal in Nottinghamshire. However, if 2015 data was used the annual capacity of the proposed Harworth facility would exceed the annual level of inert waste disposed in Nottinghamshire by nearly 60,000 cubic metres.
151. The WCS identifies that there is likely to be a 3.2 million cubic metre shortfall of inert waste disposal capacity throughout the life-time of the plan (2031). This projection is based on a disposal rate of 158,000 cubic metres and would be bigger if a consistently higher disposal rate was to occur. A number of new inert waste disposal facilities have come on stream since the WCS was adopted which assist in reducing the capacity shortfall. These include new tipping capacity provided within restoration projects at Bentinck and Welbeck Collieries and golf course enhancement schemes at Springwater (Calverton) and Sherwood Forest (Mansfield).
152. WCS Policy WCS5: (Disposal sites for hazardous, non-hazardous and inert waste) and its supporting text identify that a significant amount of the inert waste generated within Nottinghamshire originates from the main population centres of Nottingham and Mansfield/Ashfield. The plan identifies that there is a shortfall of available inert waste disposal facilities in this area to manage this waste and

therefore Policy WCS5 gives priority to the development of new sites in close proximity to this shortfall area in the south of the county. The Harworth Colliery Tip restoration project is not geographically well located within North Nottinghamshire to manage the capacity shortfalls which exist in the Nottingham and Mansfield/Ashfield area. Policy WCS5 states that the development of new facilities outside the Nottingham, Mansfield/Ashfield capacity shortfall area will only be supported where it can be shown that there is no reasonable closer alternative. Evidence has not been provided by the developer to argue that Harworth should be granted planning permission because there are no closer facilities to the shortfall area. It is concluded that the distance of Harworth from the main waste producing areas within the County would act as a constraint on the site's ability to manage these shortfalls, and only a limited quantity of waste from these areas would find its way to the restoration of Harworth Colliery Tip. WCS Policy WCS5 therefore does not provide any strong level of support for additional inert waste disposal capacity being provided at the former Harworth Colliery Tip.

153. It is therefore concluded that the amount of waste that would be required to carry out the proposed Harworth Colliery Tip restoration project is likely to exceed the amount of waste which would originate within Nottinghamshire and could reasonably be expected to be transported to the facility for disposal.
154. The applicant has identified that the close proximity of the site to the northern boundary of the County means that it would be readily accessible to waste originating from outside Nottinghamshire, in particular South Yorkshire. The nearest authorities to the north are Barnsley, Doncaster and Rotherham. These authorities have an adopted joint Waste Local Plan which forecast the combined area is likely to dispose of between 130-140,000 tonnes per year of construction, demolition and excavation wastes. However, the area is already served by three landfill sites within 20 miles of the Harworth colliery, and a recently consented scheme for the restoration of Maltby Colliery which utilises imported waste materials. There does not therefore appear to be any significant latent demand for additional waste management capacity at Harworth to manage shortfalls in waste management capacity within the Barnsley, Doncaster and Rotherham areas.
155. The applicant has also identified that between 1 and 2 million cubic metres (1.5-3.0 million tonnes) of suitable materials are available or anticipated to be available from across the Harworth Estates land portfolio over the 14 years of the proposed restoration period.
156. It is also acknowledged that there are likely to be many major new developments planned over the next 10/15 years that would produce a significant volume of material, such as major house building programmes, the construction of the HS2 railway, development of new roads and the redevelopment of derelict areas which may result in significant spikes in demand for inert disposal capacity which Harworth Colliery could satisfy.
157. The remoteness of the Harworth site in relation to waste origins together with the availability of other local waste management options indicates that there is some level of uncertainty that the facility would source its required 3.6 million

cubic metres of restoration material from the local area in the requested 14-year period and therefore the policy test set out within WLP Policy W4.2 and MLP Policy DM12 which require developers to provide satisfactory evidence to show that sufficient waste material is likely to be available to achieve reclamation of the site within an acceptable timescale has not been fully satisfied in this instance.

158. If the application was refused planning permission on this basis, this would prejudice the restoration of the former colliery tip leading to the unsatisfactory retention of an unrestored colliery tip. It would also mean that the landowner could not comply with the Breach of Condition Enforcement Notice requiring the site to be restored which was served on the site by the MPA. A balanced judgement needs to be reached on these two potentially competing policy positions.
159. Whilst acknowledging the potential level of risk that sufficient waste may not be available to carry out the proposed restoration scheme during the programmed 14-year period, the only real way of testing this out is to grant the development planning permission and monitor the progress on waste imports. The level of waste imports will ultimately be decided by the prevailing economic and market conditions over the operational period for which there is no certainty in predicting. Nevertheless, the applicant is confident that they can source the satisfactory quantities of waste to ensure the site is restored in the timeframe proposed and have identified that a significant proportion of the anticipated input would originate from the applicant's own landholding. It is also noted that the restoration scheme has been significantly revised to reduce the levels of waste inputs required to carry out the works.
160. If sufficient quantities of waste were not received the risk is that there would be a delay to the completion of the tip restoration project and pressure to allow the waste imports to continue over an extended duration (subject to planning permission being granted). Overall these risks are considered to be less significant than the environmental effects of not allowing the restoration works to progress.
161. On balance it is concluded that the need to restore the site in order to address potential contaminated surface and ground water drainage flows and achieve compliance with MLP Policy DM12 outweigh any concerns that sufficient waste would not be available to the developer to carry out the restoration works in the proposed timescale and the conflict this may raise in terms of compliance with WLP Policy W4.2.

Management of non-local waste

162. It is clear from the previous section that the Harworth restoration is likely to receive a significant proportion of its waste from outside Nottinghamshire. WCS Policy WCS12 (Managing non-local waste) acknowledges that waste will often cross local authority administrative boundaries and this can often make environmental and economic sense, particularly if the facility is closer or enables waste to be managed at a higher level in the waste hierarchy. The WCS therefore takes a pragmatic approach encouraging the provision of capacity

equivalent to NCC's own waste arisings, whilst allowing for the possibility of a reasonable exchange of waste movements where it is demonstrated that:

- a. the envisaged facility makes a significant contribution to the movement of waste up the waste hierarchy, or
 - b. there are no facilities or potential sites in more sustainable locations in relation to the anticipated source of the identified waste stream, or
 - c. there are wider social, economic or environmental sustainability benefits that clearly support the proposal.
163. The Harworth restoration project provides potential for inert waste to be utilised within the restoration of a derelict colliery spoil tip and therefore divert it from disposal thus assisting with the movement of waste up the waste hierarchy satisfying criteria A, subject to the caveats set out in the following section. Also, the restoration of the colliery tip has potential to provide wider social, economic and environmental sustainability benefits satisfying criteria C. However, having regard to the availability of inert sites within Nottinghamshire and the surrounding area it is difficult to see how the Harworth facility could result in a reduction that waste is transported (criteria B).
164. It is therefore concluded the development is compliant with WCS Policy WCS12, noting that the policy does not require all three criteria to be satisfied.

Waste Hierarchy

165. National Planning Policy for Waste (NPPW) sets out the Government's planning policy in connection with waste management. Paragraph 1 confirms the Government's ambition to work towards a more sustainable waste management system by using waste as a resource and in so doing driving waste up the waste hierarchy. The policy is consistent with Nottinghamshire and Nottingham Waste Core Strategy Policy WCS3 – Future Waste Management Provision.
166. In the context of the waste hierarchy the permanent deposit of waste materials on land could either be classed as a recovery or disposal activity and therefore at different levels in the waste hierarchy.
167. The decision whether the Harworth Colliery spoil tip restoration scheme would be classed as recovery or disposal is taken by the Environment Agency at the permitting stage. At the present time a permit application has not been made and therefore a definitive decision has not been made.
168. The Environment Agency's decision would be informed by caselaw known as the Methley case. This case confirmed that quarry restoration schemes which utilise waste materials as a substitute for the use of non-waste material are generally considered as recovery schemes consistent with the definition in Article 3(15) of the Waste Framework Directive (2008/98/EC). In the case of Harworth Colliery spoil tip there is a clear obligation on the landowners to carry out restoration works. This is evidenced by the initiation of enforcement action to ensure the works are carried out. The applicant has provided evidence that

the restoration works could not be satisfactorily undertaken without the importation of materials to the site and therefore if waste was not used it would be necessary for the applicant to import non-waste materials to carry out the work. The use of waste materials would therefore directly replace non-waste materials (if such materials were available).

169. The Environment Agency has confirmed in their planning consultation response that they will make a decision on whether they view the activity as a waste recovery operation at the time an Environmental Permit is sought, confirming they will require further justification at this time to confirm the 3.6Mm³ scheme utilises the minimum amount of waste to deliver the best environmental option in terms of groundwater quality over the long term and enable the facility to be formally classified as recovery. Demonstrating waste recovery status is beneficial for the applicant because there is no landfill tax burden associated with recovery and thus enhances the commercial viability of the scheme allowing the operator to charge lower gate receipts for the receipt of waste materials. If the Environment Agency did not accept the activity as a waste recovery operation the operator would be required to apply for a waste disposal permit instead.
170. It is not appropriate for NCC to prejudge the formal assessment as to whether this development constitutes a recovery or disposal operation on the basis that this decision will be taken by the appropriate authority (the Environment Agency) at the permitting stage. An application for an Environment Permit has not been submitted and therefore the Environment Agency will not make this decision in advance of the determination of the planning application. Whilst not pre-judging the decision made at the permitting stage by the Environment Agency, the status of the site as either recovery or disposal is important in assessing the planning merits of this planning application and thus the Council need to have a view on this issue to inform the assessment of this planning application.
171. The importation of inert waste materials to the former Harworth Colliery Spoil Tip would enhance the environmental quality of the restored site and address the site's mining legacy therefore ensuring these materials are being used beneficially. On this basis it is considered the facility on balance should be assessed as a recovery operation rather than disposal in the context of the waste hierarchy and the application of planning policy, but without prejudice to the decision of the Environment Agency which will be made at the permitting stage. Based on the facility being a recovery facility, it is concluded that the waste materials are being beneficially used in the context of the waste hierarchy in accordance with the NPPW and WCS Policy WCS3.

Composition of waste to be imported to Harworth Colliery

172. WCS Policy WCS13: Protecting and Enhancing our Environment requires that new 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.

173. The scheme originally sought planning permission sought to utilise inert waste together with non-hazardous materials including wood, glass, plastics, metallic wastes not containing hazardous substances, packaging and mixed clean material etc. The Environment Agency raised concerns that the use of non-inert materials was inappropriate due to the risk that they pose to the environment in terms of potential gas generation, contaminated leachate, odour and vermin issues and not consistent with the protection of the water environment.
174. The composition of the waste materials proposed to be used for the restoration of the colliery tip has therefore been modified through the Reg. 25 process at the request of the County Council and a revised schedule of materials is now proposed to be used for the restoration of the colliery tip. Non-inert materials would no longer be used, and the site would only accept clean inert waste. These modifications to the composition of the waste inputs address the concerns raised in respect of contaminated discharges of leachate from the waste imports and issues relating to odour, vermin and landfill gas and is supported by WCS Policy WCS13.

Assessment of Environmental Effects

175. MLP Policy DM1: Protecting Local Amenity seeks to avoid and minimise any adverse environmental impacts from minerals developments. The policy is set out below:

Policy DM1: Protecting Local Amenity

Proposals for minerals development will be supported where it can be demonstrated that any adverse impacts on amenity are avoided or adequately mitigated to an acceptable level. The types of impacts that need to be considered include but are not restricted to:

- Landscape and Visual impacts;
- Noise;
- Blast vibration;
- Dust;
- Mud
- Air emissions;
- Lighting;
- Transport;
- Stability of the land at and around the site, both above and below ground level.
- Loss of designated open/green space

176. WCS Policy WCS13: Protecting and Enhancing our Environment supports the development of a network of waste management facilities which maintain and where possible enhance environmental quality. The policy is set out below:

Policy WCS13 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.

177. Supporting paragraph 7.61 acknowledges that the detailed impacts will be controlled through the saved policies of the WLP and relevant policies from the District Councils' Local Development Frameworks and local plans.
178. Appendix B of the NPPW incorporates further guidance on the potential environmental issues associated with waste development, advising that particular consideration should be given to protection of groundwater, instability, landscape and visual impacts, nature conservation, conserving the historic environment, traffic and access, air emissions including dust, odours, vermin and birds, noise, light and potential land use conflict. These matters are considered within the following sections of the report.

Ground and Surface Water

179. MLP Policy DM2: Water Resources and Flood Risk supports minerals development where it can be demonstrated that there are no unacceptable impacts on surface water quality and flows or groundwater quality, and opportunities should be taken to improve overall water quality. WLP Policies W3.5 and W3.6 seek to ensure that waste developments do not cause an unacceptable adverse impact in terms of the water environment. The policies seek to ensure the protection of sensitive receptors and the use of planning conditions where necessary.
180. The existing site conditions within the colliery tip result in contaminated acid mine drainage discharges to groundwater by infiltration through the tip and surface water flows through the perimeter drains. Water monitoring has identified elevated concentrations of chloride, copper, iron, manganese and zinc above their respective annual average environmental quality standard values, while other determinants including sulphate, magnesium and electrical conductivity are elevated in comparison to what would be expected in clean surface water. Chemical analysis shows that the site has a strongly acidic pH of 3.0.
181. To provide a temporary solution to neutralise the high pH levels within the surface water flows, planning permission was granted in 2015 to import and spread 32,000 tonnes of alkaline material on the colliery tip, but this scheme was never planned as a permanent solution to the issues associated with contaminated run-off from the site.
182. The proposed restoration scheme would provide a permanent solution to mitigate the adverse water quality discharges from the site resulting in an improvement in surface and groundwater flows from the site. The scheme

incorporates low permeability restoration materials to cap the colliery spoil, sealing groundwater flows and the placement of fill material to recontour the site to ensure that surface water would drain off the land into re-engineered drainage channels and balancing lagoons prior to discharge off the site. The system would ensure that drainage flows from the site are not contaminated.

183. The management of surface water on colliery tips is key to securing their safe restoration in terms of stability and drainage. The consideration of alternatives section of the report sets out that the applicant has given consideration to a number of options for the restoration of the site including schemes which utilise less waste materials consisting of the do nothing scenario, the importation of 1.7Mm³ of waste and the capping of the site with an impermeable membrane but these do not provide appropriate gradients to discharge surface water and resolve topographical issues which result in ponding and infiltration of water. Unless these matters are addressed there is likely to be a need for ongoing regular management to remove standing water. There is also the issue of the vulnerability of membrane capping systems to physical disturbance and degradation over time as well as physical damage that might occur through movement of the underlying soft ground. A substantial tear or defects in such a system would create a preferential pathway through which ponded surface water would rapidly enter the spoil heap potentially giving rise to further instability as well as water quality problems. The raising of ground levels using imported fill would deal with this issue sustainably.
184. The Environment Agency have provided a detailed response to the drainage design and supporting calculations supplied by the applicant in which they review the potential for groundwater pollution from surface water infiltration through the colliery tip, concluding that the capping of the colliery tip would reduce the level of water infiltration through the tip and thus reduce the level of pollution from the site. A second more technical assessment has given consideration to the effect that the additional weight from the placement of waste over the existing colliery waste would result in compaction and squeezing of contaminated waters currently stored within the ground into the surrounding groundwater, wherein it is concluded that there would be a short term increase of polluted discharges to the underlying groundwater, but these negative effects are outweighed in the longer term by the reduction in surface water infiltration. The Environment Agency have also had regard to the level of benefit from the 3.6Mm³ scheme against alternative restoration options for the site including the 'do-nothing' scenario to determine the "best environmental option" with regard to groundwater quality for the site. Whilst the Environment Agency acknowledge that further quantitative justification would be expected at the Environmental Permit Application stage to show that the 3.6Mm³ scheme uses the minimum amount of waste to deliver the best environmental option in terms of groundwater quality over the long term, they confirm that the 3.6Mm³ scheme can be granted planning permission and will result in improvements to surface and groundwater discharges from the site.
185. The proposed development would therefore provide improvements to current baseline conditions in relation to both surface water and groundwater quality and therefore is supported by MLP Policy DM2 and WLP Policies W3.5 and W3.6.

Landscape Assessment

186. MLP Policy DM5: Landscape Character supports minerals development where it can be demonstrated that it will not adversely impact on the character and distinctiveness of the landscape. In cases where there are impacts to the landscape, development will be permitted where there is a need for the development which outweighs the level of harm. The policy encourages the use of planting within restoration schemes which is appropriate to the landscape character of the area. The thrust of the policy reflects the guidance within Chapter 15 of the NPPF which seek to conserve and enhance the natural environment.
187. The ES incorporates a Landscape and Visual Impact Assessment which defines the existing or baseline landscape character and visual context of the site and the wider study area and then identifies the likely effects of the scheme on landscape character and visual amenity.
188. In terms of the impact of the development on the existing physical landscape features of the site, the existing elevated colliery spoil tip dominates the planning application site, the highest point being 77m AOD. This contrasts with the flatter farmland and industrial development in the surrounding areas. The site is well vegetated on its boundary peripheries with existing roadside trees/woodland belts as well as larger blocks of mixed plantation woodlands. These landscape features are not impacted by the tipping scheme and will be retained and managed throughout the life of the site.
189. The tipping works are not dissimilar in character to the works previously approved at the site for colliery waste disposal. They would be undertaken within the central area of the site which is despoiled in character. There would be a minimal loss of mature vegetation as a result of the proposed works or loss of key landscape components. Landscape impacts are limited to localised disturbance of mainly grassland areas. The effect of the development to the site's existing landscape features is assessed as negligible and neutral during the operational phase, becoming minor beneficial following the final restoration.
190. In terms of impact on the landscape character of the wider area, a study area of 3km from the application site boundary has been adopted for this assessment and impacts have been considered against published national and local level landscape character assessments. The site is located in National Character Area 39 – The Humberhead Levels. At a regional level, the site is located in 3b Sandland Farmlands of Group 3 River Valley Floodplains of the East Midlands Regional Landscape Character Assessment and at a local level the application site is within the Idle Lowlands Landscape Character Area, and Policy Zone 11 Harworth, of the Nottinghamshire Landscape Character Assessment which identifies the landscape condition in the policy zone as very poor, and the landscape sensitivity as low. The policy zone action is to create. Due to the low sensitivity of the surrounding landscape to change, the landscape assessment concludes that the magnitude of effect to the wider landscape character is slight adverse during the restoration stage and negligible/neutral following the final restoration.

191. The development would result in increased HGV movements along Blyth Road in order to import materials to the site and these additional HGVs would have a minor landscape and visual impact.
192. The restoration and aftercare of the site incorporates tree planting, protection of existing trees, creation of grassland habitats, pond establishment, footpaths, tracks and fencing with the aim of developing a mosaic of habitats which reflect the character of semi natural habitats in the vicinity and to enable public access.
193. The applicant has therefore satisfactorily demonstrated that landscape character and local distinctiveness have been taken into account in developing the restoration proposals for the site and there would not be any significant impacts upon the local landscape character. The development therefore is considered to be compliant with MLP Policy DM5 insofar that it would not adversely impact on the character and distinctiveness of the landscape character of the area, and appropriate planting in accordance with the local landscape character will be incorporated in the restoration of the site.

Visual Impact Assessment

194. MLP Policy DM1: Protecting Local Amenity and WLP Policy W3.4: Screening seek to minimise the visual impact of minerals and waste developments and encourage measures to screen and landscape sites to reduce their visual effect.
195. The ES incorporates a visual impact assessment which has been carried out in accordance with industry practice. The assessment considers the magnitude of visual effects during the operational phase of the restoration works and 15 years following the completion of works. Seven representative viewpoints have been utilised to analyse the visual effects of the development.
196. The height of the existing colliery tip in relation to the relatively flat surrounding landscape means that it is a visually prominent feature in the local landscape. However, since the tipping works are undertaken within the centre of the site, this allows the retention of the perimeter landscape planting which provides an effective visual screen of the restoration works and minimises the visual effect of the development on surrounding settlements and properties. The levels proposed within the revised restoration scheme would be lower than those that were previously consented for the tipping of colliery waste. The magnitude of visual impact from the revised restoration scheme therefore would be less than the previously consented colliery tipping scheme for the site.
197. The overall significance of visual effects during the restoration phase has been assessed as being negligible to minor adverse for all viewpoints, with the exception of Viewpoint 2 (Blyth Road adjacent to Kirk View Kennels and Cattery) where the increased vehicle movements would be visible and result in a moderate adverse visual impact. The overall significance of visual effects 15 years post restoration has been assessed as beneficial.
198. Planning conditions are recommended to ensure the identified mitigation measures which minimise the visual impact of the development, by ensuring the existing screen landscaping around the perimeter is protected and managed

and the restored site receives appropriate landscape management in accordance with MLP Policy DM1 and WLP Policy W3.4.

Ecological Assessment

199. MLP Strategic Objective 6 and Policy SP2: Biodiversity-Led Restoration seek to ensure mineral sites are reclaimed in a way that maintains and enhances Nottinghamshire's biodiversity with the objective of providing a net gain in biodiversity. MLP Policy DM4: Protection and Enhancement of Biodiversity and Geodiversity seeks to protect designated ecological sites, habitats and species from adverse impact by retaining, protecting, restoring and enhancing features of ecological interest within minerals development schemes. Policies which seek to protect ecological features are also incorporated within WLP Policy W3.19: Trees and Woodland, Policy W3.22: Biodiversity, Policy W3.23: Nature Conservation Sites and Bassetlaw Core Strategy and Development Management Policies Development Plan Document (BCS&DMP) Policy DM9: Green Infrastructure; Biodiversity & Geodiversity; Landscape. The thrust of these policies is consistent with the advice in the NPPF to protect, maintain and enhance nature conservation and biodiversity and, through the restoration of sites, provide replacement and enhanced habitats.
200. In terms of designated sites, the application site lies within the Impact Risk Zone for the River Idle Washlands SSSI. Natural England has reviewed the planning submission and is satisfied the development will not damage the ecological features of this SSSI. The scheme will enhance drainage discharges from the site by capping over the colliery waste and reducing discharges of contaminated acid mine water into surface and groundwater flows resulting in improvements to water quality in the wider area. The development will not directly impact any nearby Local Wildlife Sites.
201. The planning application is supported by a range of survey work carried out during 2015, 2017, 2018 and 2020. The most recent ecological survey undertaken in November 2020, although carried out outside the optimal season for vegetative surveys, provides very up to date data to show that there has not been any significant changes to the habitats on site from the previous surveys and thus it is considered that these surveys provide an accurate assessment of the current ecological conditions of the site and a reasonable understanding of the existing ecological value of the site.
202. The ecological surveys indicate that the existing habitats within the site are dominated by species-poor semi-improved grassland and mixed plantation woodland. These have a relatively low ecological value, with no habitats on site being valued at greater than a local level. The site's overall value is increased by its relatively large extent and proximity to other areas of semi-natural habitat.
203. The working areas are generally limited to the improved and species-poor semi-improved grassland within the centre of the site and the drainage features leading from this area. The works do not extend into the areas of plantation woodland around the perimeters of the site which provide both habitat value and an important visual screen of the site.

204. The ecological appraisal incorporates a scheme of ecological mitigation, the main element of which is the implementation of an ecological management scheme to bring the areas of retained woodland/trees and shrubs into conservation management for the 15 year period of waste importation/restoration and thereafter manage them for a ten year period as part of the wider restoration arrangements for the site. The ecological management scheme would protect the retained planting from damage by the erection of fencing and the carrying out of enhancement works to address direct and indirect ecological impacts resulting from the restoration works, including 18-20ha of additional tree planting within the woodland blocks using native species, selective thinning of non-native species from the existing planting, enhanced protection and management of existing boundary hedges, and supplementary wildflower planting.
205. Specific mitigation for potential species-specific impacts would be provided including pre-commencement habitat surveys for amphibians, badgers, bats, breeding birds and reptiles, the translocation of a colony of orchids from the working area, and the provision of compensatory habitat for potential losses as part of the wider ecological mitigation scheme. These ecological mitigation and management arrangements would be regulated by planning condition.
206. The wintering bird survey report highlights that the site has value for wintering birds, with Jack Snipe and Short-eared Owl recorded (both scarce wintering species in Nottinghamshire), along with double-figure counts of Common Snipe. Other notable species recorded included Grey Partridge, Skylark, Meadow Pipit, Lesser Redpoll and Siskin. The latter two are associated with the woodland fringes around the site, but the other species are all associated with open grassland habitats, which are to be directly affected by the proposals. The proposed infill works are likely to result in short-term impacts to the wintering birds using the grassland habitats and birds within adjoining areas of woodland/scrub. The scheme for the conservation management of the undisturbed parts of the site would assist in mitigating these adverse impacts associated with the tipping operations at the site and it is acknowledged that the restoration scheme is likely to provide long term enhancements to the wintering bird assemblage including to jack snipe and short-eared owl.
207. No significant potential indirect ecological impacts to habitats and protected species from artificial lighting, noise from tipping activities and emissions from vehicles (particularly NOx) are anticipated. In terms of lighting impacts, these can be controlled by planning condition, including restrictions on hours of use and shielding to avoid/minimise adverse impact. Whilst acknowledging the reclamation works will generate noise emissions, the site is in close proximity to both the A1(M) and Blyth Road and hence already subject to elevated noise levels and the habitat surveys show that there are no particularly noise sensitive species occupying the site. With regard to emissions from vehicles, impacts have been analysed with reference to both DMRB and Local Air Quality Management where it has been demonstrated that no significant adverse impacts would result.
208. In terms of the restoration of the site, the overall ecological effect of the restoration of the site following the completion of the development is considered

to be positive. Planning conditions are recommended to ensure that the chemical composition of soils used within the restoration of the site are appropriate for the development of a species rich grassland habitat and to require a detailed planting and seeding scheme of establishment incorporating species mixes and maintenance regimes. Native species would be used within the tree and shrub planting and seeding mixes for the wildflower grasslands.

209. Following the restoration of the site and subsequent seeding/planting the newly created habitats would be managed for a ten year period which is welcomed and considered appropriate given the habitats involved and would complement the 15 year management which would be provided for the retained habitats from the commencement of development.
210. It is acknowledged that the representation from Nottinghamshire Wildlife Trust identifies some concerns in respect of the loss of skylark habitat and the adequacy of winter bird and bat surveys, including mitigation for these species. In terms of effects to skylark, it is acknowledged that there would be some adverse effects during the operational life of the quarry, but these impacts are temporary and have been minimised as far as practicable by carrying out the development in phases. This impact would be partially off-set by new grassland planting as part of the ecological management scheme carried out in the retained areas of habitat and the longer-term restoration of the site will provide habitat benefit to these species. The Wildlife Trust have raised concerns that the most recent winter bird surveys undertaken in 2019 do not provide a full suite of surveys. However, when these surveys are read alongside previous surveys carried out in 2015 and 2018, the survey data is considered to satisfactorily assess the context of the bird assemblage on the site. In terms of bats, it is considered that an accurate representation of bat activity across the site has been provided and further survey work is not necessary to consider the likely effects of the development.
211. Overall, it is considered the site currently supports a variety of habitats that are considered to be of low conservation value. The proposed development would result in some minor impacts to habitats present within the site, most notably the loss of habitats within the central plateau. These impacts are however limited by the large extents of retained habitat that will be able to continue to support species present at the site.
212. Future management of the site would be for conservation and would aim to enhance the site for a range of wildlife. This will include good practice checks where required and monitoring of the site's condition over the restoration period. In addition to this mitigation, enhancement in the form of new ponds and scrub/woodland planting managed appropriately under aftercare management will be instigated. These arrangements would ensure that the restoration of the site would result in a net gain to the ecological value of the site, although the level of this gain has not been formally quantified using Natural England's 'Biodiversity Metric 2.0.
213. Subject to the implementation of the proposed scheme of ecological mitigation, it is concluded that the ecological policy tests set out within the MLP, the WCS and the BCS&DMP have been satisfied and the restoration scheme will

appropriately protect, maintain and enhance nature conservation and biodiversity.

Heritage

214. The BCS, WCS, WLP and the MLP incorporate policy and text concerning the protection of the historic environment with the following policies being relevant:
- Nottinghamshire Minerals Local Plan Policy DM6: The Historic Environment;
 - Nottinghamshire and Nottingham Waste Local Plan saved policies W3.27: Archaeology and W3.28: Listed Buildings and Conservation Areas;
 - Bassetlaw Core Strategy Policy DM8: The Historic Environment.
215. The general steer of these policies follows the guidance contained within the NPPF in recognising that historic assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. Both direct and indirect effects on significance of heritage assets and their settings should be considered.
216. In terms of archaeological effects, the potential for direct effects on buried archaeology is considered to be nil due to the historic tipping that has taken place.
217. The heritage impact assessment which supports the ES gives consideration to potential effects on built heritage assets. The assessment utilises a 2km study area within which there are 66 listed buildings, three scheduled monuments and two conservation areas. At most of these heritage assets, the development is assessed as having little or no impact due to a lack of inter-visibility.
218. A more detailed assessment has been provided regarding Serlby Hall, a Grade I listed building and its parkland which incorporates a Grade II* ornamental arch and 15 Grade II buildings. The parkland is characterised by the noticeable lack of intrusive 20th century elements and therefore is highly sensitive to intrusions that are industrial, urban or non-rural in character. The existing pit tip is visible on the horizon in long views from its parkland. Although the proposals would not increase the northern most highpoint of the existing pit tip, ground levels would be raised within the central lagoon area increasing the visual presence of this part of the site on the horizon. The impact would be harmful to the setting of Selby Hall and its parkland, but not substantial. Some mitigation of the impacts could be achieved through tree planting on the eastern slopes of the tip, stopping short of the top, and it is recommended that this be regulated by planning condition.
219. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the planning authority to have special regard to any heritage impacts. Paragraph 196 of the NPPF provides scope to balance impacts to the historic environment stating that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where*

appropriate, securing its optimum viable use'. Consideration of this balance is provided within the conclusions section of the report.

Traffic, Access and Parking

220. MLP Policy DM9: Highways Safety and Vehicle Movements/Routeing is supportive of minerals development where it can be demonstrated that:
- (a) The highway network including any necessary improvements can satisfactorily and safely accommodate the vehicle movements including peaks in vehicle movements likely to be generated;
 - (b) The vehicle movements likely to be generated would not cause an unacceptable impact on the environment and/or disturbance to local amenity;
 - (c) Where appropriate, adequate vehicle routeing schemes have been put in place to minimise the impact of traffic on local communities; and
 - (d) Measures have been put in place to prevent material such as mud contaminating public highways.
221. Policies concerning transportation and highway planning are incorporated in the BCS Policy DM13: Sustainable Transport which seeks to minimise the need to travel by private cars. The WLP also incorporates highway policies including Policy W3.11: Mud, which seeks to prevent mud and other detritus entering the public highway, Policy W3.14: Road Traffic which does not support the grant of planning permission for minerals developments where the vehicle movements cannot be accommodated on the local highway network, Policy W3.15: Road Traffic which encourages lorry routeing controls being imposed on minerals developments and Policy W3.16: Bulk Movement which promotes the use of alternatives to road transport where they provide environmental benefits.
222. The ES incorporates a transport assessment which gives consideration to the anticipated traffic flows associated with the development and the capacity of the local highway network to accommodate the traffic.
223. Transport movements would coincide with the proposed operational hours which are Monday to Friday: 0700-1900 and Saturdays: 0700-1300. All vehicles associated with the development would access from the A1/A1 (M) roundabout and the Blyth Road/A614 Bawtry Road junction from the south with the exception of local deliveries.
224. The level of HGVs generated by the development was originally calculated on the basis that the site would receive 6.2Mm³ over a 14-year period but this was re-calculated as part of the Reg. 25 submission to assess the transport movements associated with the delivery of 3.6Mm³ of waste materials over a 14-year period. This data shows that the 3.6Mm³ scheme would generate a predicted average of 64 HGV deliveries (128 movements) a day over the 14-year restoration period based on each delivery vehicle carrying 14m³, and the site working 5.5 days per week. However in practice there would be some

busier and quieter days in terms of delivery flows and therefore the applicant considers the original 6.2Mm³ assessment continues to be relevant to demonstrate a worse-case scenario of a busy day involving 110 daily deliveries with a maximum hourly flow of 9 HGV deliveries (18 two way movements) and 20 light vehicle movements.

225. The traffic assessment considers the effect that the predicted traffic movements would have on the local highway network, including consideration of traffic growth in the area as a result of planned development and growth in the area. The existing weekday traffic flow on Blyth Road (Monday – Friday, 07:00 – 19:00) is 4,330, of which 219 (5%) are HGVs. The percentage increase in vehicle movements as a result of the development would be a 6% increase during peak hours. However, in the context of HGV movements the development would increase the number of HGVs on this road by 50%. Although this percentage level of increase is high, it is readily capable of being accommodated on the surrounding highway network including the junctions leading from the A1 which have recently been improved to increase their capacity and accommodate growth in the area.
226. A review of the accident data for the study area has also been undertaken which concludes there is no evidence to indicate that there are deficiencies in the layout or condition of the highway network and the recorded accidents were considered to be as a result of driver error rather than highway design.
227. The traffic assessment has been reviewed by both NCC Highways and Highways England who are in agreement with the conclusions reached in the traffic assessment insofar that the development would not give rise to unacceptable levels of congestion or capacity issues on the proposed lorry route.
228. MLP Policy DM9 and WLP Policy W3.15 (Vehicular Routeing) encourage controls are imposed on vehicle routeing to ensure that appropriate routes are used by HGV delivery traffic and sensitive locations are avoided. The proposed access route would direct all vehicles (excluding local deliveries) to access the site from the south towards the signal-controlled junction of Blyth Road and the A614 Bawtry Road. The proposed route would ensure that delivery vehicles do not travel through Harworth and Bircotes town centre to the north and Styrrup and Oldcotes villages to the west and thus minimise disturbance to these communities from HGV traffic passing through them. Whilst it is acknowledged that Bawtry Town Council has requested lorry routeing controls are imposed to prohibit delivery vehicles turning right at the Blyth road A614 junction and travelling north along the A614 and in turn the A638 towards Bawtry town centre, these roads form part of the strategic highway network and are appropriately engineered and maintained for this function and therefore it is not considered appropriate to restrict HGV traffic use along these roads as part of this planning decision. The applicant is agreeable to entering into a Section 106 lorry routeing legal agreement to ensure these lorry routeing controls are regulated for the duration of the restoration project.
229. The existing junction into the site from Blyth Road would be improved to provide adequate width and visibility to facilitate two-way access and exit for delivery

vehicles. The access road would be hard surfacing and wheel cleaning facilities would be provided. These arrangements, which could be regulated by the planning conditions, would ensure that delivery vehicles can safely access the site and would not drag mud and other detritus onto the public highway, in accordance with MLP Policy DM9 and WLP Policy W3.11.

230. MLP Policy DM9 and WLP Policy W3.14 require consideration of the level of disturbance to local communities resulting from noise associated with delivery vehicles. To inform this assessment a calculation has been carried out using methodology incorporated within the Design Manual for Roads and Bridges (DMRB). The DMRB assessment for off-site traffic movements has shown that the impact would be minor – whereby the maximum predicted change in noise level is between 1.0 and 2.9dB, which is considered as a minor effect. The methodology used within the DMRB calculation averages out the level of traffic noise over an 18-hour period and therefore does not reflect the actual level of noise which would be experienced when a HGV passes an individual location, whilst acknowledging that the short-term level of noise would be a much higher level than the 1.0 to 2.9dB predicted through the DMRB calculation. However, residents living along the transport corridor already experience traffic and HGV noise as part of the existing noise environment and in practice would observe the passage of additional HGVs associated with this development in the context of this existing baseline flow rather than an isolated incident.
231. WLP Policy W3.16 (Bulk Transport of Materials) and BCS Policy DM13: Sustainable Transport encourages the use of alternatives to road haulage for the movement of waste materials where this would provide an overall environmental benefit. The applicant has investigated the potential to transport the restoration materials by non-road transport but has concluded that the alternatives are limited given the site's distance to both the existing rail network and the navigable waterway network. The applicant also identifies that the dispersed nature and variety of destinations that make up the market for restoration materials means that neither the canal network nor the rail network are themselves appropriate to facilitate the importation of restoration materials from such a diverse market area. It is therefore concluded that there would be no significant environmental benefits derived by imposing a requirement to transport mineral by non-road haulage in this instance and such a control would be economically disadvantageous to the operator as well as potentially prejudicing the successful restoration of the former colliery tip. It is therefore concluded that the applicant has satisfactorily investigated and discounted non-road transport options in accordance with the policy requirements.

Public Rights of Way and Permissive Paths

232. MLP Policy DM7: Public Access and WLP Policy W3.26: Public Access seek to maintain and enhance the public right of way network.
233. The application site does not incorporate any public rights of way, therefore the restoration of the site would not result in any detriment effects to the public right of way network.

234. As part of the development the applicant proposes to open up a permissive path allowing public access to the site by creating access from Blyth Road along the woodland edge up to the highest point of the colliery tip and connect to an existing informal track leading down to Styrrup Lane. These paths would provide a circular route and be available from the commencement of site works, through the duration of restoration works and following the restoration of the site, benefitting public access in accordance with the above policies. It is recommended that the provision and maintenance of these permissive paths is regulated through planning condition.
235. It is further acknowledged that following the restoration of the site, the operator proposes to open up further permissive paths on the site with potential for a series of permissive paths around the boundary of the site and connecting with paths through the middle of the site to meet up at a proposed viewing point on the highest point of the landform.
236. Whilst it is acknowledged that the consultation response from Styrrup and Oldcotes Parish Council specifically requests public access is not provided on the site, this response is not consistent with the policy approach set out in MLP Policy DM7 which encourages the provision of new rights of way and permissive paths within mineral restoration schemes and the more common response from local communities encouraging the opening up of public access on restored mineral sites. In this instance it is concluded there is public benefit in facilitating public access on the site and planning conditions are recommended to regulate these matters.

Noise

237. MLP Policy DM1: Protecting Local Amenity and WLP Policy W3.9 seek to ensure that minerals and waste developments do not cause unacceptable adverse noise impacts by ensuring the protection of sensitive receptors and the use of planning conditions where necessary to control noise emissions.
238. An assessment has been undertaken to consider the magnitude of noise emissions from both the on-site operations associated with the infilling/build-up of existing levels and off-site traffic movements. The noise assessment references criteria set out within the Government's Minerals Planning Practice Guidance Document (PPG). This recommends minerals operations should not exceed a daytime noise limit of 10dB above the measured background noise level up to a maximum of 55dB LAeq,1hr. Daytime is defined as 07.00 to 19.00 hours within the guidance and correlates with the proposed weekday working hours for onsite restoration operations. Working on Saturdays would be limited to between the hours 07.00 and 13.00. No working would be undertaken on Sundays or on public/bank holidays.
239. Seven locations around the site have been assessed and existing background noise readings were recorded. Noise predictions were then made based upon the methodology set out in BS 5228-1:2009 + A1:2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites Part 1: Noise. Noise modelling has been undertaken for each of the three phases of working. The results of the noise assessment are set out in the table below. The data

identifies the worse-case scenario where site workings are being undertaken in the closest phase to the property. Actual noise levels are therefore likely to be lower for much of the tip restoration working.

Assessment Location	Predicted Noise Level, dB LAeq,1hr	PPG Noise Limit, dB LAeq,1hr	Difference, dB
01 – Pagdin Drive	49 (Phase 2)	55	-6
02 – Steer Bank Farm	52 (Phase 1)	55	-3
03 – Steerbank	48 (Phase 1 & 3)	55	-7
04 – Elm Cottage	50 (Phase 1)	55	-5
05 – Kirk View	52 (Phase 1)	55	-3
06 – Harworth Avenue	55 (Phase 1)	55	0
07 – Blyth Road	49 (Phase 1)	55	-6
08 – Harworth House	43 (Phase 3)	52	-9

240. The noise assessment demonstrates that noise emissions from the restoration of the site would have a negligible impact on the surrounding properties and would not exceed PPG levels. Based on these results, specific mitigation measures to reduce noise impacts at the closest receptors, other than those included within the design of the site, are considered unnecessary. For temporary operations, an upper noise limit is permitted to allow up to 70db LAeq, 1hr for up to 8 weeks each year, in accordance with PPG levels.
241. In accordance with MLP Policy DM1 and WLP Policy W3.9 planning conditions are proposed to regulate noise emissions from the site including a limit on the level of noise emissions at nearby properties to ensure compliance with PPG noise limits, a scheme for ongoing noise monitoring, the use of broadband reversing alarms and the restriction of operating hours to 07:00-19:00 Monday to Friday and 07:00-13:00hrs Saturdays with no working on Sundays or public/bank holidays.

Air Quality/Dust

242. MLP Policy DM1 and WLP Policy W3.10 seek to ensure that minerals and waste developments do not cause unacceptable adverse dust impacts. This is achieved by siting potential dust generating activities remote from dust sensitive receptors and implementing dust mitigation strategies to minimise the production of dust.
243. An assessment of the dust impact from the development has been undertaken to identify the change in dust deposition levels within a 1km radius of the site to consider the anticipated level of dust emissions. The assessment concludes that there is potential for a small increase in atmospheric dust (not exceeding $5\mu\text{g}/\text{m}^3$) at surrounding property, increasing the predicted environmental dust concentration to $22.8\mu\text{g}/\text{m}^3$, a level well below the air quality objective threshold of $40\mu\text{g}/\text{m}^3$. Therefore, the unmitigated dust impact of the development is predicted to be negligible at surrounding receptors.

244. An assessment of the air quality impacts resulting from vehicle emissions associated with the importation of material has also been carried out. The assessment demonstrates that the traffic emissions would not result in any exceedances of the annual mean NO₂ concentrations or any exceedances of the annual mean PM₁₀ air quality objective at any identified receptor or relevant exposure. The overall effect on air quality from delivery traffic is therefore considered to be not significant.
245. Notwithstanding the absence of any significant air quality impacts, the ES identifies potential to minimise dust emissions by implementing industry good practice guidelines for mineral sites to prevent, avoid and reduce the level of dust generation within the site. These measures include the minimisation of drop heights, dampening of surfaces during dry periods, speed controls on site, and the use of wheelwash facilities.
246. Significant impacts to air quality or dust emissions are therefore not anticipated, subject to the dust controls identified above being regulated by planning condition. The development therefore is compliant with MLP Policy DM1 and WLP Policy W3.10.

Odour

247. Adopted WLP Policy W3.7 seeks to minimise odour emissions associated with waste developments encouraging the use of planning conditions to reduce the level of impact.
248. Modifications made to the planning application through the Reg. 25 submission have revised the waste materials proposed to be imported into the site which would be strictly limited to clean inert fill materials with no non-hazardous waste materials as proposed in the original submission. The modification to the waste materials imported to the site ensures that the waste streams would not be odorous and their deposit within the site would not result in odour releases associated with the decomposition of waste. It is therefore concluded that the operation of the site would not result in odour releases.
249. To ensure appropriate regulation, a planning condition is recommended to control the character/composition of waste imported to the site to clean inert waste materials only and thus control the level of odour emission from the operation of the site in accordance with WLP Policy W3.7.

Management of Flood Risk

250. MLP Policy DM2: Water Resources and Flood Risk, WLP Policy W3.13 and BCS&DMPDPD Policy DM12: Flood Risk, Sewerage and Drainage seek to ensure that new developments do not cause an unacceptable adverse impact in terms of flood risk.
251. Water flows from the site discharge via the Whitewater Drain into the River Ryton. There are several properties located downstream of the site along the Whitewater Drain which would be susceptible to flooding should the rate and

quantity of runoff increase in this drain. Increased flows within the River Ryton have the potential to have a much wider impact.

252. The works have potential to change the rate of run-off from the site with potential for increased risk of floods occurring down-stream both during the operational and restoration phases of the site, without appropriate mitigation.
253. Mitigation is proposed through the development of a drainage scheme which would utilise and develop the existing surface water drainage system and incorporate a series of balancing ponds to ensure the level of flow from the site is limited to pre-development levels and thus avoiding an increase in downstream flood risk from the development
254. The applicant states that a surface water management plan for the operational phase would be developed prior to any restoration works being undertaken and a restoration scheme for the restored site would also be provided at the appropriate time. A planning condition is suggested to regulate the submission of these details and satisfy the policy requirements.

Contamination

255. WLP Policy W3.6 seeks to ensure that when planning permission is granted for a waste management facility, conditions will be imposed to protect surface and groundwater resources.
256. Planning permission was originally sought to utilise inert fill such as concrete, bricks, tiles, and ceramics, and non-hazardous materials which do not meet the inert criteria including wood, glass, plastics, metallic wastes not containing hazardous substances, packaging and mixed clean material etc. to undertake the restoration works. However, the Environment Agency raised an objection to the use of these non-hazardous materials due to the risk that they pose to the environment in terms of potential gas generation and degradation which could result in the production of contaminated leachate, impact groundwater and release harmful chemicals.
257. The specification of materials was therefore revised as part of the Reg.25 submission and it is now proposed to restrict the materials imported to the site for restoration purposes to clean inert materials only including uncontaminated, non-hazardous soils, subsoils, concrete, bricks, tiles and ceramics. The Environment Agency have reviewed these revised material specifications and no longer objects to the specification of materials now proposed to be imported into the site on the basis that their use would not result in harmful discharges to the surrounding area. It is recommended that controls are imposed through the planning conditions to restrict the types of waste imported to the site in accordance with the approach set out within WLP Policy W3.6.

Socio Economic Effects

258. The development would provide some beneficial socio-economic effects including employment opportunities for local people and businesses during the

restoration period, with the potential for ten jobs to be created and recreational benefits following the completion of restoration.

After use and Long Term Management

259. The aftercare and long-term management of the site would broadly follow the outline scheme approved in 1996 with a proposed 10-year aftercare period proposed. The aim is to maintain the mosaic of woodland, scrub, grassland and wetland to reflect the character of semi-natural habitats in the vicinity and to enable public access which is not in conflict with the other uses of the site for grazing and nature conservation.
260. The recommended planning conditions would also ensure that the undisturbed area of the site which includes the existing tree plantation, scrub and grassland would be subject to long term management over the entire operational life of the site and the subsequent 10-year period of aftercare.

Legal Agreement

261. Any grant of planning permission for the proposed development would be subject to the prior completion of a legal agreement to regulate the routing of HGV servicing the site and ensure that all HGV vehicles (with the exception of local waste deliveries originating within a 5km radius of the site obtain access from the south via the A1/A1(M) dumbbell roundabout and the Blyth Road/A614-Bawtry Road junction. The applicant would be expected to cover all reasonable costs incurred by the County Council in the drafting and execution of this agreement.

Other Options Considered

262. The report relates to the determination of a planning application which is supported by an Environmental Impact Assessment. Schedule 4 (Part II) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 provides that the information for inclusion in Environmental Statements should include “a description of reasonable alternatives studied by the developer “and an indication of the main reasons for selecting the chosen option, including a comparison of environmental effects.
263. The Environmental Statement sets out that the main alternatives considered by the developer relate to the ‘Do Nothing’ approach, alternative quantities of fill, alternative composition of waste imports, alternative designs for the restoration of the former colliery tip and alternative means of transport. The alternatives are discussed within the planning observations of the report.

Statutory and Policy Implications

264. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the

public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

265. The colliery tip restoration scheme incorporates a site management area which accommodates all the administrative and welfare buildings, vehicle and plant parking/storage, weighbridge facilities and site security to provide protection for these assets.

Data Protection and Information Governance

266. Any member of the public who has made representations on this application has been informed that a copy of their representation, including their name and address, is publicly available and is retained for the period of the application and for a relevant period thereafter.

Financial Implications

267. As detailed above, the applicant would be expected to cover all reasonable legal costs incurred by the County Council during the drafting and execution of the required legal agreement.

Human Resources Implications

268. None arising.

Human Rights Implications

269. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered. The proposals have the potential to introduce impacts such as construction and haulage noise and activity upon residents living near the site. However, these potential impacts are limited in their magnitude and need to be balanced against the wider benefits the proposals would provide by enabling the restoration of a disused colliery spoil tip. in terms of restoring the former colliery spoil tip. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Public Sector Equality Duty Implications

270. The development would not discriminate against public sector equality duty implications.

Safeguarding of Children and Adults at Risk Implications

271. No issues arising.

Implications for Service Users

272. The restoration scheme incorporates a permissive path/viewing point whilst the restoration works are on-going and facilitates informal public access upon the final restoration of the site.

Implications for Sustainability and the Environment

273. These have been considered in the Observations section above wherein it is demonstrated that the development enables a disused former colliery tip to be restored to a beneficial and safe after-use.

Conclusion

274. The approved colliery waste disposal scheme for Harworth Colliery was reliant on the continued availability of colliery waste originating from mining activities to supply 8.4 million cubic metres of material to re-engineer the site contours and topography of the colliery tip.
275. The early cessation of mining operations at Harworth Colliery has removed the availability of colliery waste to complete the restoration of the site in compliance with the contours of the approved restoration scheme consented under the extant planning permission.
276. Since the closure of Harworth Colliery the spoil tip has been retained with minimal restoration works undertaken. Although the outer flanks of the site are extensively tree planted the central area remains in a despoiled condition and has not been subject to any restoration works.
277. The existing condition of the site is not satisfactory. The tip has previously experienced minor slope failures which have needed to be stabilised through the placement of additional fill to buttress the slopes. The topography of the site restricts its ability to discharge surface water resulting in water penetrating the groundwater. Poor water quality has been recorded both within boreholes installed within the colliery waste and within perimeter wells. Surface and ground water flows which come off the colliery tip are acidic in character and are having an adverse effect on the surrounding water environment. Water penetration into the colliery tip also has potential to impact its long-term stability. The retention of the site in its current condition therefore is not environmentally acceptable and changes to the topography of the site are required to make it sustainable in the long term.

278. The use of imported waste would allow the lagoon area to be re-engineered to provide the drainage falls that are required to enable the tip to be safely restored and ensure the legacies resulting from the premature closure of Harworth Colliery are addressed. The revised restoration proposals appropriately provide for restoration and aftercare of the site and enable long term enhancement of the former colliery spoil tip in general accordance with MLP Policy DM12.
279. The Reg. 25 scheme based on the importation of 3.6Mm³ of inert waste into the site is considered to provide an acceptable balance between reducing the level of waste importation into the site whilst ensuring that the resultant restored site sustainably manages potentially contaminated surface and ground water drainage flows.
280. The 3.6Mm³ scheme provides for a 40% reduction in the amount of waste materials imported to the site in comparison with the 6.2Mm³ scheme originally submitted for planning permission and a 55% reduction from the 8.4 million cubic metres to implement the consented colliery tipping scheme.
281. WCS Policy WCS5: Disposal sites for hazardous, non-hazardous and inert waste acknowledges that where there is a need to provide additional waste disposal capacity for inert waste the policy is supportive of disposal schemes on former colliery tips where the waste assists with the restoration of despoiled land and provides environmental benefits.
282. The proposed scheme would utilise substantial quantities of waste material over a long duration and this raises questions in terms of whether there is sufficient waste available in the local area to carry out the restoration scheme in the timeframe proposed.
283. The remoteness of the Harworth site in relation to waste origins together with the availability of other local waste management options indicates that there is some level of uncertainty that the facility would source its required 3.6 million cubic metres of restoration material from the local area in the requested 14-year period and therefore the policy test set out within WLP Policy W4.2 and MLP Policy DM12 which require developers to provide satisfactory evidence to show that sufficient waste material is likely to be available to achieve reclamation of the site within an acceptable timescale has not been fully satisfied in this instance.
284. If the application was refused planning permission on this basis, this would prejudice the restoration of the former colliery tip leading to the unsatisfactory retention of an unrestored colliery tip. It would also mean that the landowner could not comply with the Breach of Condition Enforcement Notice requiring the site to be restored which was served on the site by the MPA. A balanced judgement needs to be reached on these two potentially competing policy positions.
285. On balance it is concluded that the need to restore the site and achieve compliance with MLP Policy DM12 outweigh any concerns that sufficient waste would not be available to the developer to carry out the restoration works in the proposed timescale and the conflict this may raise in terms of compliance with WLP Policy W4.2.

286. It is acknowledged that the final decision on whether the operation of the site represents a recovery or disposal activity in the context of the waste hierarchy will be made as part of the Environmental Permit decision taken by the Environment Agency. But a view on the status of the site as either recovery or disposal is important in assessing the planning merits of this development. The planning assessment shows that the importation of inert waste materials to the former Harworth Colliery Spoil Tip would enhance the environmental quality of the restored site and address the site's mining legacy therefore ensuring these materials are being used beneficially. The applicant has also shown that alternative schemes which utilise less waste do not provide the same level of environment benefit. It is therefore concluded that the facility can be assessed as a recovery operation rather than disposal in the context of the waste hierarchy for the application of planning policy, but that this decision is made without prejudice to the final decision of the Environment Agency which will be made at the permitting stage. Based on the facility being a recovery facility it is concluded that the waste materials are being beneficially used in the context of the waste hierarchy in accordance with the NPPW and WCS Policy WCS3.
287. Modifications have been made to the composition of the waste materials proposed to be used for the restoration of the colliery tip, restricting waste imports to clean inert waste materials and thus addressing previously stated concerns in respect of contaminated discharges of leachate from the waste imports and issues relating to odour, vermin and landfill gas.
288. MLP Policy DM1: and WCS Policy WCS13 are supportive of the development where environmental impacts from the development are considered acceptable.
289. The proposed restoration scheme would provide a permanent solution to mitigate the adverse water quality discharges from the site resulting in an improvement in surface and groundwater flows from the site. and will result in improvements to surface and groundwater discharges from the site and therefore is supported by MLP Policy DM2 and WLP Policies W3.5 and W3.6.
290. Landscape impacts are limited to localised disturbance of mainly grassland areas. The tipping works are not dissimilar in character to the works previously approved at the site for colliery waste disposal. The effect from the development to the site's existing landscape features is assessed as negligible and neutral during the operational phase, becoming minor beneficial following the final restoration and thus is compliant with MLP Policy DM5.
291. The tipping works would be undertaken within the centre of the site enabling the retention of the perimeter landscape planting which provides an effective visual screen of the restoration works and minimises the visual effect of the development on surrounding settlements and properties. Thereafter the site would receive appropriate landscape management in accordance with MLP Policy DM1 and WLP Policy W3.4 to visually reintegrate it back into the environment.
292. The site currently supports a variety of habitats which are generally assessed as being of low conservation value. The ecological mitigation scheme which supports the planning application ensures that impacts to habitats and species are appropriately mitigated and enhancement to the ecological condition of the

site would be made through the site's restoration which will deliver a net biodiversity gain across the site in accordance the policy tests set out within MLP Strategic Objective 6 and Policies SP2 and DM4, WLP Policies W3.19, W3.22 and W3.23 and BCS&DMP Policy DM9:

293. The proposals would increase the height of the central lagoon area and consequently the visual presence of this part of the site on the horizon resulting in a small harmful but not substantial impact to the heritage assets of the area including Serlby Hall, a Grade 1 listed building and its parkland. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the planning authority to have special regard to any heritage impacts. Paragraph 196 of the NPPF provides scope to balance impacts to the historic environment stating that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. In this instance, the level of harm to the heritage asset is considered minor and outweighed by the benefits derived from the development, notably that the scheme secures the restoration of an unrestored colliery tip.
294. The highway effects of the development have been fully assessed as part of a traffic assessment and demonstrates that the development would not give rise to unacceptable levels of congestion or capacity issues on the proposed lorry route. Controls in respect of lorry routeing would ensure that delivery vehicles access the site from the A1(M) to the south and therefore do not travel through Harworth and Bircotes town centre and surrounding villages, thus minimising disturbance to these communities from HGV traffic passing through them.
295. The noise emissions associated with undertaking the restoration works have been calculated in accordance with industry methodology and this demonstrates that the works would be undertaken within the limits set out within national planning practice guidance and no significant detrimental noise impacts are therefore anticipated. The scheme also provides for the satisfactory management of dust.
296. It is therefore concluded that the revised 3.6Mm³ scheme would appropriately provide for the restoration and aftercare of the unrestored former colliery tip within acceptable environment limits. The restoration of the site would create a mosaic of woodland, scrub, grassland and wetland habitats to reflect the character of semi-natural habitats in the vicinity and to enable public access which is not in conflict with the other uses of the site for grazing and nature conservation.

Statement of Positive and Proactive Engagement

297. In determining this application the County Council, acting in its capacity as Minerals and Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; encouraging pre-application community engagement which the applicant acceded to by holding pre-application exhibitions; and the scoping of the application. The proposals and the content of the Environmental Statement have been assessed against

relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Planning Authority has identified all material considerations; forwarded consultation responses that may have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been raised with the applicant including concerns regarding the quantity and composition of waste used for the restoration of the site, the scale of the development, matters relating to traffic and access, and ecological issues. These have been addressed through negotiation and acceptable amendments to the proposals requested through a total of three Regulation 25 submissions. The applicant has been given advance sight of the draft planning conditions and the Planning Authority has also engaged positively in the preparation of the draft S106 Agreement. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

298. It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 to regulate the routeing of HGVs accessing the site to require all HGV traffic (excluding local deliveries) to access and egress the site access from the south and the signal-controlled junction of Blyth Road/A614 Bawtry Road..
299. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before the 29th September 2021 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed before the 29th September 2021, or within any subsequent extension of decision time agreed with the Minerals/Waste Planning Authority, it is RECOMMENDED that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference [RHC 15/6/2021].

Comments of the Service Director - Finance [RWK 02/06/2021]

As set out in the report, the applicant would be expected to cover all reasonable legal costs incurred by the County Council during the drafting and execution of the required legal agreement. Therefore, there are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Blyth & Harworth

Councillor Sheila Place

Report Author/Case Officer

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