



4 June 2019

Agenda Item: 8

REPORT OF CORPORATE DIRECTOR – PLACE

BASSETLAW DISTRICT REF. NO.: 1/17/01035/CDM

PROPOSAL: VARIATION OF CONDITION 3 OF PLANNING PERMISSION 1/66/04/00004 TO EXTEND THE TIMESCALE FOR INERT WASTE DISPOSAL TO CEASE BY 22 AUGUST 2027, WITH ENHANCED RESTORATION FOR A BIODIVERSE NATURE CONSERVATION AFTERUSE

LOCATION: SERLBY QUARRY, SNAPE LANE, SERLBY, DN10 6BB

APPLICANT: SERLBY QUARRY LIMITED

Purpose of Report

1. To consider a section 73 (variation of conditions) application seeking to extend the timescales for inert waste disposal as part of a revised restoration scheme for the former Serlby Quarry. The application was originally submitted in July 2017 and is subject to unresolved ecological objections and a request for further information, including that required to demonstrate whether there is a need for the inert waste disposal capacity and whether a viable and beneficial restoration can be achieved. As the applicant has not provided the additional information requested, the recommendation is to refuse permission for the proposed variation on the following grounds:
 - (a) insufficient information has been provided relating to the sources of suitable waste material needed to achieve the restoration contours;
 - (b) it has not been demonstrated that the need for the full and complete infilling of the quarry void outweighs the existing ecological interests on the site;
 - (c) the impact of HGV traffic on the local highway network has not been adequately assessed; and
 - (d) the noise impacts from tipping and haulage operations have not been adequately assessed.
2. Furthermore, the report seeks Member endorsement for officers to undertake suitable enforcement action to secure an alternative site restoration.

The Site and Surroundings

3. Serlby quarry is a partially restored former Sherwood Sandstone quarry situated to the south of Harworth/Bircotes between the expanding commercial area to the south of the former colliery and the A614 Bawtry Road. It can be accessed off the A614 crossroads via Snape Lane just to the south-east. The A614 goes on to connect to the A1(M) at Blyth services 2km to the south and to the A638 Great North Road 3km to the north outside Bawtry. Snape Lane continues west into the industrial estates around Blyth Road, which provides a second route south to the A1(M) and a further route to the north. The site and surroundings are shown on accompanying plans 1 and 2.
4. Serlby Hall (Grade I Listed) and its parkland lie to the east of the A614. Two former lodges are beside the A614, the nearest, Harworth Lodge, being situated at the crossroads 130m distant. Bawtry Lodge is further to the north and lies circa 450m from the quarry site. The lodges are Grade II listed buildings.
5. The quarry is situated atop a rising landform of arable farmland interspersed with some woodland blocks including Lords Wood adjacent to the north, with the land generally falling away to the south and to the east down to the A614 where it is most visible. Elsewhere in the area the former No.2 colliery tip site is a large visible feature to the west towards the A1.
6. The site overlays a principal aquifer and falls within Source Protection Zone 3. The River Ryton meanders around Serlby Hall Park and is 440m at its closest point to the site.
7. A significant area of farmland to the south as well as including the field immediately to the west of the quarry has outline planning permission for a commercial/industrial development known as 'Harworth South' (Ref 15/00971/OUT). Steer Bank Farm, which is 260m to the south of the quarry, falls within this development area. Other commercial developments and regeneration are taking place further to the west along Snape Lane and at the former colliery which is being developed for housing.
8. The quarry itself covers approximately 13 hectares and is uniquely characterised by a copse of mature trees known as the Coronation Clump which survive at an elevated position in the centre of the partially backfilled quarry void. The clump is readily visible from the A614. Mature hedgerows generally form the boundaries of the quarry site, particularly screening the front of the site at Snape Lane. The site has also recently been secured with new steel palisade fencing.
9. The original quarry area was to the south of the Coronation Clump and was later extended to the north after a successful planning appeal by the then operator, leaving the Clump somewhat stranded at its centre. The quarry has been worked to a depth of circa 15m below ground levels. Backfilling of the quarry void was undertaken in previous years, primarily in the south of the site and partly around the southern flank of the Clump. This leaves a significant valley/void along the eastern side of the quarry and a sheer cliff face of exposed sandstone of up to 15m in height. The area to the north of the Clump was only partially excavated before the quarry was mothballed resulting in a sloping area.

Much of the void has started to revegetate naturally with emerging ground covering species and some developing birch scrub. The result of this regeneration is that the site is now categorised as a candidate Local Wildlife Site for its emergent botanical interest. A Geological SINC previously on the site has been covered as a result of previous backfilling/restoration. There are no buildings or structures present although a concreted access and circulation area remains in place.

Planning history

10. Sand extraction has been carried out at Serlby Quarry since planning permission was first granted in 1948 and was subsequently extended in 1966 with extraction continuing at a relatively slow pace until a change in ownership in 1990. Parts of the site had already been backfilled with construction industry wastes under planning permissions granted in 1975 (Ref 1/66/75/6/D- 'Filling of Sand Quarry Workings with Builders Waste to Height of the Adjoining Land') and in 1986 (Ref 1/66/86/10D -'Extension of Planning for Extraction of Sand and Landfill for Reclamation').
11. An application to extend the quarry north of the Coronation Clump (Ref 1/66/92/001) was refused in 1992 and a subsequent revised application (Ref1/66/92/34 - 'Revised Application for an Extension to Sand Quarry with Restoration to Agriculture by Backfilling with Inert Waste') was refused but granted on appeal in December 1993. An agreement under Section 111 of the Local Government Act governing HGV routeing was signed on 25th April 1994.
12. The original planning permissions were superseded by the Environment Act 1995 Notice of Determination of Conditions (Ref 1/66/97/23) in 1998.
13. Due to the reduction in the demand for tipping since the introduction of the landfill tax regime, an application was made for the 'Variation of conditions 2 and 3 to extend quarrying operations until August 2014 and tipping until August 2017' (Ref 1/66/04/00004) and which was granted on 11th May 2005. This is the most recent planning permission. The last known mineral working took place in 2000 with the last sale from the site being at the end of March 2006.
14. The site was purchased by the current owners (registered at Scrooby Top Quarries- Rotherham Sand and Gravel) in 2007 and operations have been limited to raising the level of the quarry floor back to the 13.5m AOD required by condition 9 of the planning permission. A quantity of clays for restoration lining or capping were also imported and placed in stockpiles in 2007 and which remain in-situ.
15. Since neither sand extraction nor importation of restoration material did not recommence, the operator/owner(s) were asked to provide an alternative restoration scheme pursuant to condition 42 in June 2010. The Minerals Planning Authority (MPA) has, on a number of occasions, since agreed to extensions for the period to submit the revised restoration scheme to allow the operator to pursue options to source the required material with various parties. However, owing to a lack of progress, a Planning Contravention Notice (PCN) was issued in May 2013. In reply the operator confirmed the various estimates

of remaining reserves and void space and the MPA again agreed to defer further enforcement action so to allow discussions to take place. No revised scheme was submitted, but this led ultimately to the current application being submitted.

16. On 22nd August 2014 permission for sand extraction ceased under condition No.2. Permission expired for the importation of waste (under condition 3) on 22nd August 2017 after the present application had been submitted to extend this period. Condition 4 required final restoration works to be completed within 12 months of the cessation of waste importation i.e. by August 2018.

Proposed Development

17. This is a Section 73 (variation of conditions) application seeking a further 10 years (until August 2027) in which to undertake the infilling of the quarry void with inert wastes and complete the site's restoration thereafter with an enhanced after-use for nature conservation purposes.
18. The application accordingly proposes to vary condition 3 to state that all importation of waste shall cease on or before the 22 August 2027. The requirement to complete restoration works within 12 months of that extended date under condition 4 would be carried forward.
19. It is proposed to import circa 100,000-150,000 tonnes per annum of inert wastes over the course of the additional 10 years. The application states that circa 100,000 tonnes would be sourced from an inert waste stream generated from a waste management company at Rossington to the north, which would replace this disposal and haulage to a landfill site at Roxby, Scunthorpe. (Officers believe that this source of waste is no longer available). The balance would generally be sourced from the local area. Only inert wastes would be imported in accordance with the now expired planning permission and the site's Environmental Permit. The operations would utilise typical mobile plant such as a loading shovel, excavator, dumptruck and dozer.
20. On average this could generate 56 HGV movements per day (28 in 28 out) with fewer on Saturdays which is below the maximum permitted under condition 23 (120 in /120 out per day). The applicant does not see it as necessary to introduce vehicle routeing for the level of traffic generated. It does not seek to alter the current permitted hours of operation which are 07.00 to 19.00hrs Mondays to Fridays and 07.00 to 16.00hrs on Saturdays.
21. The applicant claims that the quarry is well located to serve the inert waste disposal needs of the north Nottinghamshire area and that there are very few other sites locally accepting inert wastes. They point towards a number of large-scale development and regeneration projects happening in the Doncaster and Harworth areas which will generate additional waste materials needing local disposal.
22. There is no proposal to extract any further sand, with this element of the planning permission having lapsed. However, in-situ sands would be used as part of the restoration works. A range of heathland conditions and micro-

topography would be created. In addition to natural regeneration from the sand substrate, habitat translocation would be employed to establish dry acid grassland and ephemeral/bare ground habitats. Natural regeneration would be expected to take place and no long-term management is proposed. The application states that nature-based after use would be appropriate given the site's wildlife value. They state that the enhanced restoration would ensure that the nature conservation value of the site is not lost, but retained on an accepted reclaimed landfill in perpetuity. The proposed restoration landform is shown on plan 3.

Consultations

23. **Bassetlaw District Council** - *Raises no objection.*
24. **Harworth and Bircotes Town Council**- *Raises no objection.*
25. **Environment Agency**- *No objection to extend the timescale for inert waste disposal.*

With regard to the lining system, for a landfill wishing to accept inert waste only, the Landfill Directive requires the site to have "Geological Barrier" which will provide adequate attenuation and have a thickness of 1m with a permeability of $1 \times 10^{-7} \text{m/s}$, or equivalent. If a Geological Barrier does not exist naturally, an artificial barrier has to be installed which must be at least 0.5m thick and provide the equivalent permeability and attenuation to the standard detailed above. However, the Landfill Directive does allow for a reduction based on a sound Risk Assessment. The Geological Barrier is required both on the base and up the sidewalls of any landfill.

A change to the restoration scheme may need an Environmental Permit variation.

26. **Natural England** – *No comment, but advises that standing advice on protected species should be applied.*
27. **NCC (Nature Conservation)** - *Objection raised/ further information requested.*

The site is a candidate Local Wildlife Site (Coronation Clump Sandpit LWS), the identification of which appears to have occurred since the cessation of activity at the site, and as a result of natural regeneration of habitat and colonisation by a number of rare plant species.

It is proposed to restore the site to a nature conservation end-use, which is welcomed in principle. However, the site is currently undergoing natural regeneration, will continue to do so, and already supports a number of notable species. The proposals under consideration will set this back by at least 10 years (and more like 15 or 20), but then does not offer any longer-term benefits.

Impacts on Schedule 1 birds also need further consideration, as this presents a serious concern; it is unclear how the infilling works will take place in a

practical sense, without causing disturbance to Schedule 1 species which are using the site and may be 'breeding' for 6 months of the year. Furthermore, no provision is made for retaining significant areas of cliff used by breeding raven and sand martin (the only concession to the latter being retention of a short 6 metre section of cliff face).

An Extended Phase 1 Habitat Survey of the site indicates the presence of a range of early-successional habitats, with exposed cliff, bare ground, ephemeral and short-perennial vegetation, tall ruderal, semi-improved acid grassland, and scattered trees and scrub, as well as mixed plantation woodland (Coronation Clump and recent landscaping). The nature of these habitats means that they are of value to a range of botanical and faunal species.

Surveys confirm the site supports a probable breeding pair of woodlarks (a Schedule 1 species); a pair of breeding ravens (a rare breeding bird in the county) and two large sand martin colonies. This is likely to be in large part due to the undisturbed nature of the site and lack of public access.

The site is of potential importance for its invertebrate communities, but detailed surveys have not been provided. Three notable plant species as well as three species of orchids are present. The site also provides suitable habitat for foraging bats, but detailed surveys have not been provided.

The extent to which the quarry void will be filled is queried as there appears to have been no attempt made to retain existing areas of acid grassland habitat including where this lies at surrounding/original ground levels- the approach being instead to translocate habitats and species. With a modified design, these areas could be readily retained, but given that this would presumably require a reduction in the amount of infill material to be brought to the site, it is essential that this is given further consideration.

It is also stated that there are no proposals for management of the site, post-restoration. This begs the question as to exactly what the ecological benefit of the scheme is. As an absolute minimum, a 15-year aftercare period is required, to ensure that habitats are establishing as planned and to control the extent of invading trees and scrub.

28. Nottinghamshire Wildlife Trust - Objection raised/ further information requested.

NWT has substantial concerns that the full range of potential impacts has not been fully assessed and that insufficient mitigation and compensation is proposed.

The site is a LWS and also contains 3 species of plant that are on the Rare Plant Register for Notts, and also the national register. The site can be considered to be of at least County botanical importance.

The site has substantive value for birds, including two Schedule 1 species (woodlark and peregrine falcon) and also raven, which is a very scarce breeder in Notts. There were 16 species that are Birds of Conservation

Concern recorded and there is a substantial sand martin colony. It was not confirmed that the schedule 1 species were definitely breeding and it is critical that this is established through further survey, or the assumption must be made that they are breeding there and a precautionary approach must be adopted.

Given the presence of highly sensitive species of breeding birds, it is essential that a full impact assessment is undertaken that considers the effects of noise and human disturbance on these species in addition to the likely impacts of the proposed loss of crucial habitat used for feeding and breeding.

The site was assessed as having high potential for diverse invertebrate assemblages and/or rare species. The survey conditions were sub-optimal. Further surveys in the summer are required. An assessment of the value of the site for amphibians should also be made.

No bat foraging survey has been undertaken. In the absence of this information it is not possible to assess how important the site may be for foraging bats and thus what the impacts of the proposed loss of habitat would be on this group of European Protected Species.

There appears to be no robust impact assessment of the potential effects of dust, noise and emissions (such as NO_x) on the habitats and species present on site and in the vicinity.

Habitats of high value would be lost as a result of this scheme. The applicant has proposed translocation of plant material, which is a risky strategy with no guarantee of success, and would require careful aftercare, management and monitoring. Phasing of working and restoration would help to reduce the impacts of the losses if some habitat could be created before it is lost, but it is not clear from the application if this would be possible. If more than 50% of the habitats were effectively to be lost for more than a year, this would constitute a major adverse impact.

The applicant was required under Condition 43 of the previous permission to submit a revised restoration scheme that would increase the biodiversity of the site. This scheme should therefore have been submitted in 2010. The application is incorrect therefore to claim a benefit that the current proposed scheme is to replace one for agricultural afteruse, as it was already agreed that the scheme should be of high ecological value and not agricultural afteruse.

NWT believes that the proposed restoration is insufficient to reflect the current value of the site and the habitats that would be lost, and does not show betterment over what was already required under the current permission, which was granted when the site did not have such a rich assemblage of scarce fauna and flora. There is also no certainty provided over how the habitats would be maintained in the long term.

29. **NCC Highways-** *Further information requested.*

Notes that since the quarry became dormant there have been a number of significant committed developments in and around Harworth including:

- *An Employment park comprising up to 235,000sqm of B1(c), B2 and B8 uses and ancillary development on land at Sunny Nook Farm, Blyth Road, Harworth.*
- *Erection of three manufacturing buildings with ancillary storage areas at the former Glass Bulbs Ltd, Snape Lane, Harworth.*
- *The redevelopment of Harworth Colliery and the surrounding land for the erection of up to 996 residential units, 2,044sq.m convenience retail unit (A1) and 76,645 sq.m of employment uses (B1, B2 AND B8) on land forming part of Harworth Colliery, Scrooby Road, Harworth*
- *Commercial development/wellbeing centre on land west of Blyth Road, Blyth.*

The employment park will abut the site to the west and would also lie directly opposite the site to the south accessible from Snape Lane; the manufacturing facility is to the west of the site accessed from Snape Lane; Harworth Colliery is to the north; and the commercial development is to the south accessed from Blyth Road close to the junction with the A614 Bawtry Road and the A1(M).

There is therefore likely to be substantial traffic growth in the area and changes to highway infrastructure. None of these developments would have been likely to have considered the traffic associated with the quarry [it] being non-operational at the time. In light of the likely changes around Harworth, it will be necessary for the development to be supported by a Transport Statement. This should consider the traffic implications at key junctions, sustainable measures to connect the quarry to proposed highway infrastructure, and lorry routeing. The Highways Authority is likely to seek HGV routeing arrangements via Blyth Road.

30. **Via (Noise Engineer) –** *Further information requested*

There should be an assessment of noise impacts to a committed new housing development 150m to the north (former Harworth Colliery) as the proposed timeframes for waste disposal/restoration activities will coincide with the new housing and these potentially sensitive receptors would not have been considered by any previous assessment.

Details of any plant to be used on site including whether there would be any crushing and screening operations are also sought.

Via (Reclamation) – *No objection*

Serlby Quarry may operate subject to environmental controls which have been previously imposed through planning conditions attached to planning permissions for the site. The grant of planning permission (on appeal) in 1995 addressed several matters; in respect to traffic movement, protection of the

aquifer, noise and dust control and impacts upon the landscape. The site will continue to operate in accordance with those controls.

The site is permitted to accept inert wastes which have no toxic, biodegradable combustible or hazardous component. This control is reinforced by the extant Pollution Prevention Control (PPC) permit for the operation issued by the Environment Agency (EA). The site is subject to reportable groundwater monitoring requirements enforced by the EA which limits the presence of trace elements and compounds within groundwater. All wastes which are disposed at Serlby Quarry must meet the strict tests set by the planning permission as well as PPC permit.

Notes the consultation response from the EA with respect to the need to provide a geological barrier. Although a barrier system is referred to in the application documentation, no details of the type and/or extent of the geological barrier have been included within the application. It is assumed this will be provided to the satisfaction of the EA.

Therefore no significant objections are raised as the application is for an extension of an existing permitted operation within an area which has already been subject to similar infilling works, subject to the strict provision that the agreed mitigation measures are implemented, site management practices and pollution prevention controls are adhered to and that an approved liner/geological barrier is constructed in agreement with the EA specifications.

An observation is made that the disposal of approximately 100,000 to 150,000 tonnes per annum of inert waste at the site, may be better employed in restoring the nearby Harworth No.2 tip site rather than causing significant ecological disruption to a site which has already begun to regenerate itself over the last decade, since operations were suspended.

31. **Via (Landscape)** – No objection subject to the proposed restoration plans being amended to refer to species listed as suitable for the Idle Lowlands landscape character area.

32. **NCC (Planning Policy) - Comments**

Notes the stated concerns of NCC Nature Conservation and the site's candidate Local Wildlife Site status may potentially impact on its suitability as a landfill site with regards to Waste Core Strategy policies WCS7 and WCS13 and Waste Local Plan Policy W3.22. The proposals in their current form do not appear to be acceptable until there is assurance that harm and impacts to ecology can be mitigated to the satisfaction of the county ecologist. Until solutions are agreed to the adverse ecological impacts, the development may not be environmentally sustainable.

Notes that a proportion of the waste may come from the Rossington/Doncaster area, therefore Policy WCS12- managing non-local waste is relevant. In order to satisfy this policy it should be demonstrated that there are no facilities/sites in more sustainable locations in relation to the anticipated source of waste or that there would be wider social, economic or environmentally sustainable benefits that support the proposal.

Whilst there is a shortfall in inert waste disposal capacity (as identified through the annual monitoring report for waste 2015/16) and there could well be a need for the facility, this is not currently displayed in the application. Further information is sought about the suitability/availability of a facility at Holme Hall, Stainton (within Rotherham MBC), which is a similar distance from the inert waste stream from Rossington. A further assessment of alternative sites and statement of need should be submitted in order to clearly identify whether there is the need for the facility and whether it can be practically completed within the proposed extension period. Economic or social benefits are not clearly indicated.

33. **NCC (Built Heritage) - No objection.**

The site is close to the setting of Serlby Hall and various designated built heritage assets associated with the hall and parkland. Having considered the proposals NCC Built Heritage is content that they will not cause any harm to the setting of these, or any other, built heritage assets.

34. **Styrrup with Oldcotes Parish Council; Blyth Parish Council, NCC Flood Risk and Northern Power grid** have not responded. Any response received will be orally reported.

Publicity

35. The application has been publicised by means of a site notice, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement Review. A notification letter has also been sent to the agent acting for the planned neighbouring commercial development. No representations have been received.

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

Observations

Planning policy assessment

37. As an application under Section 73, the decision maker is required to concern themselves with the matter of the conditions which are proposed to be varied and not to revisit the overall acceptability of the development which already benefits from planning permission. However, as a planning application in its own right it is correct and lawful to consider the proposal against relevant Development Plan policies and material considerations, including in particular any change in circumstances or change in planning policy since the last permission was granted.

38. The now expired planning permission dates from May 2005 and was determined against the policies of the Nottinghamshire and Nottingham Waste Local Plan (WLP) (now partly superseded by the Nottinghamshire and Nottingham Waste Core Strategy (WCS)), policies of the 1997 Nottinghamshire

Minerals Local Plan (MLP) and the then draft policies of the Replacement MLP which was subsequently adopted as the current 2005 MLP. The application was also considered against now defunct regional and structure plans. There has therefore been a notable change to planning policy in the intervening time.

39. As will be explored later in the report, the former quarry has also now been identified as a candidate Local Wildlife Site in the time since the last grant of planning permission and there have been whole-scale structural changes to the waste and recycling sector.
40. For the purposes of this decision the Development Plan policies which will apply are those contained within the Nottinghamshire and Nottingham Waste Core Strategy (WCS), the remaining saved policies of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and the Nottinghamshire Minerals Local Plan (MLP). The Bassetlaw Core Strategy also forms a part of the Development Plan for the area. The National Planning Policy Framework and associated practice guidance are material considerations.

Need for inert waste disposal

41. The principle of inert waste disposal in order to restore this quarry was previously accepted in 2005, although it is clear from the file that there were real concerns over the then operator's ability to attract sufficient waste materials over the 12 years of the permission. The permission was therefore conditioned with certain point reviews and provisions for alternative forms of restoration should it be needed. The site was later sold on with no further notable restoration activity, resulting in the wholly unsatisfactory situation today.
42. The starting point is Waste Core Strategy Policy WCS5 – disposal sites for hazardous, non-hazardous and inert waste. Whilst the site lies outside of the main shortfall area (Nottingham and Mansfield/Ashfield) there continues to be policy support for inert waste disposal in order to restore former minerals workings under Policy WCS5, subject to where *this would have associated environmental benefits* (emphasis added). The policy also requires assessment of any reasonable, alternative sites closer to the source of waste. What primarily is in question in this instance is whether the type of full infill and site restoration as sought is realistically achievable or environmentally acceptable/beneficial and whether an alternative solution should be pursued in order to finally restore this site. As will be explored later in the report, concerns are raised about these matters in relation to ecology impacts.
43. WLP Policy W3.1 requires applicants to provide a sufficient level of supporting information to enable a balanced assessment of all relevant matters including the need for the facility and the estimated life of operations and rates of importation. WLP Policy W4.2 requires proposals for waste disposal to provide satisfactory evidence that there is sufficient waste material likely to be available to achieve the restoration of a site within an acceptable timescale. MLP Policy M4.5 states that mineral extraction proposals which rely on the long-term importation of waste for reclamation, must include satisfactory evidence that the waste will be available in the categories and quantities assumed, and that it is not practical to re-use or recycle the waste.

44. With a slight exception in order to retain part of the cliff face used by sand martins, this application seeks to fully infill the quarry void to the previously permitted final levels. The void area is believed to be circa 1.35 million m³ in volume based against the current restoration contour requirements. However, this void figure could be larger still as a figure of 1.67million m³ is also stated in the application as well as the 1.35 million m³ figure.
45. The application proposes to import 100,000 to 150,000 tonnes per annum (tpa) over 10 years (note that 2 of those years have now elapsed during the consideration of this application) totalling 1 million to 1.5 million tonnes. In making an allowance for bulking (applying an average conversion factor of 1.3) a total of 1.75 million tonnes of suitably inert materials would be required to fill the void space of 1.35 million m³, therefore leaving a shortfall of 250,000 tonnes. A total of 2.2 million tonnes of materials would be needed if the void is at the greater 1.67 million m³ figure. The application also itself admits that this “will not result in the complete infilling of the site but will enable the Council to again review the position towards the conclusion of the permitted term.” The starting position is therefore that there is a significant discrepancy in the figures and that the applicant’s case for sourcing waste would not complete the quarry restoration in accordance with the additional timescales sought. Given the extensive and unsatisfactory planning history at this site, a restoration project which stands not to achieve its stated objectives in the time sought is not acceptable against WLP policies W3.1 and W4.2, and MLP Policy M4.5.
46. Officers further have doubts about the availability of the volumes of inert waste materials required. It is now understood that the 100,000 tpa of materials from a local recycling company is no longer available to the applicant, thereby removing the core waste stream and leaving a total reliance from other unknown sources. Secondly, at least some of the significant local construction projects cited in the application as likely to create demand for such a disposal facility have been completed or partly developed- such as the Great Yorkshire Way and the Doncaster iPort. It is acknowledged however that other developments have now come forward at Harworth Colliery (being developed for housing as ‘Simpson Park’) and there remains planning permissions for large scale commercial development to the south. It is not known what waste disposal requirements these developments will require but it is common practice to recycle materials for re-use on site, reducing the need for off-site disposal.
47. Furthermore, there are a number of alternative disposal sites which appear to be available in the area. In a letter to the applicant in September 2017 planning officers requested further information about several other sites including those at Maltby Colliery and Thurcroft Colliery (both within Rotherham MBC) which have planning permissions for the disposal and reclamation of those sites requiring 1.32 million tonnes and 1.8million m³ of inert waste respectively. Within Nottinghamshire both Welbeck colliery and Vale Road Quarry have permissions for significant volumes of inert waste. Styrrup Quarry, which is also a former sandstone quarry in the locality, has a resolution from committee to continue to accept inert restoration materials until 2023. An application is currently being considered by this Authority seeking to import 6.2 million m³ of inert and non-hazardous waste over 15 years as part of the restoration of Harworth colliery tip No. 2.

48. The concern therefore is that the application site, in competition with others, may find it difficult to attract sufficient materials in order to complete a timely restoration. The loss of the core 100,000 tpa has been fatal to the applicant's case. This situation, coupled with discussions relating to ecology (below) led to the applicant exploring a lesser, low-level restoration, requiring minimal importation of waste materials in order to complete a revised final restoration. This Authority has been keen to work with the applicant to bring this restoration solution forward and meetings have taken place with both this Authority and the Environment Agency who also have requirements outstanding. Despite requests for this revised restoration scheme, no further information or plans have been forthcoming, leaving the application to be determined as submitted.
49. The application plainly does not demonstrate that the proposed restoration is viable or achievable and is contrary to WLP policies W3.1 and W4.2 and MLP policy M4.5.

Ecological Impact

50. WLP Policy W3.1 requires applicants to provide a sufficient level of supporting information to enable a balanced assessment of all relevant matters including impacts on ecology.
51. WLP Policy W3.22 states that planning permission for waste management proposals which could harm or destroy a species or habitat of county importance will only be granted where the need for the development clearly outweighs the local conservation interest of the site, where in such circumstances mitigation and off-site compensation measures would be secured. Similarly, WLP Policy W3.23 states that proposals which are likely to significantly adversely affect sites of local importance will only be permitted where the importance of the development outweighs the ecological value.
52. WCS Policy WCS13 provides that new or extended waste disposal facilities will be supported unless it has been demonstrated that there would be no unacceptable impacts to any environmental elements.
53. As noted above since the last grant of planning permission the site has naturally regenerated and become recognised as a candidate Local Wildlife Site (LWS), meaning that its ecological interest has been identified by the County records office (Nottinghamshire Biological and Geological Record Centre), although full and complete surveys and analysis may not be complete to confirm its full designation. New ecology surveys of the site undertaken in support of this application have also identified a number of breeding birds and plants within the quarry which are rare to the County.
54. Strong concerns have been raised by both the County Council's ecologist and the Nottinghamshire Wildlife Trust against the proposed means of achieving the end restoration. Further consideration is deemed necessary on the reliance on the proposed translocation of habitats as opposed to preserving areas of value which would be lost through the tipping operations. Questions have been raised about how such a large-scale tipping operation could feasibly avoid disturbance to the schedule 1 breeding birds recorded as using the site and why only 6

metres of cliff face are identified to be retained for the nesting sand martins. Overall the benefits put forward by the applicant in terms of the creation of the end heathland habitat are in doubt when one looks at the value of the site now and how it is naturally regenerating.

55. These matters were set out in a formal letter to the applicant in September 2017 and which followed meetings with them and their appointed consultants to re-consider the extent of the tipping scheme. This revised scheme has not been submitted despite numerous requests.
56. Consequently, it can only be concluded that the benefits of the proposed tipping and restoration does not clearly outweigh the identified ecological value of the site pursuant to policies W3.22 and W3.23 and further, that the proposed works are likely to adversely impact on the recorded schedule 1 breeding birds and notable flora, contrary to Policy WCS13.

Highways and Traffic

57. Policy W3.14 of the Waste Local Plan states that planning permission will not be granted where the vehicle movements associated with a waste management facility cannot be accommodated on the highway network or where it would cause unacceptable disturbance to local communities. Policy W3.15 enables the WPA to impose lorry routeing restrictions. Policy W3.1 states that planning permission will not be granted unless sufficient information has been provided to enable a balanced assessment of all relevant factors including transport and traffic matters. Paragraph 109 of the NPPF states that development should only be refused on highway grounds if there would be an unacceptable highway safety impact or where the residual, cumulative impacts on the network would be severe.
58. Whilst previously planning permission has been extended to enable the infill and restoration of the quarry, taking into account highway and transport matters, the present application must be determined on the basis of current planning policy and taking into account the current circumstances.
59. The County Highways Authority has requested further information in the form of a Transport Statement. In particular the reason this is required is owing to the scale of a number of large commercial and housing developments which now have planning permission or are in the process of being developed in Harworth. These include the redevelopment of the colliery land to the north of the site as a new community to be known as Simpson Park (two housebuilders are now on site and the latest masterplan is appended as plan 4). Also notable is the new business and distribution development 'Symmetry Park' next to the A1 Blyth services of which the first unit is now complete as well as new manufacturing units on Snape Lane to the west of the quarry site. There is also a very large business and distribution led development known as 'Harworth South' which has outline planning permission immediately to the south of Snape Lane and also including land adjacent to the west of the quarry. An indicative masterplan is shown on plan 5. All of these developments have new implications for the local highway network (such as at junctions) which need to be considered as part of the application to import inert wastes to Serlby Quarry. All previous

highway assessments in connection with the quarry are therefore considered out of date in light of the change in circumstances.

60. As noted above the WPA was expecting a revised scheme for the restoration of this quarry site to be formally submitted which would entail significantly less materials needing importing and consequently fewer HGV deliveries. The applicant has had reasonable opportunity to make this submission and to assess any revised, lower transport impacts, but has not done so. Therefore, the application remains as originally submitted and it must be concluded that the applicant has failed to properly assess the transport and haulage impacts which would arise from infilling the quarry void and in particular it has failed to assess cumulative highway impacts with the up to date local context. The application does not satisfy the requirements of policies W3.1 and W3.14 and it is not possible to positively determine whether paragraph 109 of the NPPF is satisfied.

Noise and amenity

61. WLP Policy W3.1 requires sufficient information to accompany planning proposals including operational details and measures to minimise disturbance. Policy WCS 13 sets out that waste management planning proposals need to demonstrate there would be no unacceptable impacts (including cumulative) to the quality and quality of life of those working and living nearby. WLP Policy W3.9 enables planning conditions to limit potential noise impact including through the use of operational measures and the setting of maximum noise levels at sensitive receptors.
62. The County Council's noise consultant has sought further information regarding operational details and has requested an assessment of likely noise impact to the new Simpson Park housing development on the former colliery land to the north (plan 4). The first phases are now being developed and depending on further detailed phases gaining planning approval and the subsequent rate of delivery, new housing is likely to come closer to the quarry within the proposed timescales for importation/restoration. Details of the mobile plant needed to restore the quarry are also sought. This information is outstanding owing to the applicant considering a revised project which itself has not been forthcoming.
63. Consequently, the application currently does not satisfy the policy requirements to assess in any reasonable manner the potential noise impacts to the new and developing community to the north and fails against policies W3.1 and WCS13.

Landscape and Visual Impact

64. MLP Policy M4.4 states that restoration proposals should include details of the final landform which should harmonise with the existing landscape character and aim to promote strategic landscape features.
65. WLP Policy W3.4 seeks to ensure that waste management proposals retain, enhance, protect and manage existing landscape features of interest as part of their contribution to the reclamation of the site, as well as details for any new planting and site preparation.

66. Policy DM9 of the Bassetlaw Core Strategy (BCS) sets out that proposals in the countryside should be expected to be sensitive to their landscape setting and should enhance the distinctive qualities of the local landscape as informed by the local recommendations within the Bassetlaw Landscape Character Assessment.
67. Paragraph 205 of the NPPF seeks to ensure minerals sites are restored at the earliest opportunity and to high environmental standards. Paragraph 170 states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value in a manner commensurate with their status or identified quality.
68. The site is situated within policy zone 11 of the Bassetlaw Landscape Character Assessment (LCA) as part of the Idle Lowlands area. The condition of the zone is stated as being very poor with many detracting industrial features including former colliery spoil heaps and low levels of tree cover. There is an overall policy action of 'create'. Specific landscape actions include; the creation of hedgerows and restoration of historic field boundaries, creation of small woodlands and the conservation of the ecological diversity, biodiversity and setting of Styrrup Quarry (a similar nearby former quarry now in part designated as a SSSI) and other designated Local Wildlife Sites.
69. The proposed infill restoration raises ecological concerns as noted above, notwithstanding the proposed creation of a dry lowland acid grassland/heathland at surface level. The works would assist in the long-term health of the Coronation Clump, along with retaining peripheral hedgerows. The heathland, whilst not creating or restoring historic field patterns, is considered to be an appropriate landscape treatment if, and only if, the ecological concerns are satisfied and if there is a viable source of suitable infill materials. Former extraction sites such as this present a rare opportunity to create priority heathland habitat which justifies a change in approach. However, it would be perfectly feasible to create this as part of a low-level restoration option which respects the identified wildlife value of the site and retains geological features of interest such as the exposed cliff faces which themselves are also used by a large number of nesting sand martins.
70. Therefore, whilst the creation of a heathland landscape should be secured for this site, which would depart to a certain extent from the approach of MLP Policy M4.4, and BCS Policy DM9, the overall acceptability of the proposed full infill restoration is dependent on the ecological considerations as noted above. The objectives of paragraphs 170 and 205 of the NPPF could be best met by an alternative low-level solution.

Contamination and Ground and Surface Water issues

71. WLP Policy W3.5 sets out that permission will not be granted for waste management proposals where there is an unacceptable risk of pollution to groundwater or surface waters unless the harm can be mitigated by engineering or operational measures. Policy W3.6 then enables the imposition of planning

conditions to safeguard ground and surface waters, including placing restrictions on acceptable waste types.

72. WCS Policy WCS13 provides that waste management facilities will only be supported where it can be demonstrated that there will be no unacceptable impacts to any element of the environment.
73. The site overlays the aquifer and as such the disposal of waste needs to ensure the long-term protection of this ground water resource. The application seeks only to import inert wastes which would not pose risks of ground contamination. A condition of the now expired permission (no.6) states that only strictly inert waste shall be imported and which shall not contain any materials of a toxic, biodegradable, combustible or hazardous nature.
74. The Environment Agency do not object, but highlight that even as an inert waste operation, environmental law requires a geological barrier or lining to be created on both the floor and side walls of the void. It is separately understood that the applicant has met with the Agency to discuss their requirements further which fall within the remit of the site's Environmental Permit and which may need to be varied. Via (Reclamation) also note the requirements of the Agency under the permitting system.
75. In these circumstances the Environmental Permitting system takes precedent over the planning regime and the permit, as may be varied, will set out precisely what types of waste are permissible to the site and the specifications for any lining or containment. However, planning condition no.6 could be carried forward to define the scope of the permitted waste.

Alternative Restoration Options

76. WLP Policy W4.7 states that where planning permission is granted for waste disposal, conditions will be imposed to require submission and implementation of an alternative restoration scheme in the event of the premature cessation of waste importation, or where the original restoration becomes impracticable to implement.
77. WLP Policy W4.8 states that alternative site restoration proposals will be granted where this would result in the satisfactory restoration and after use of a waste disposal site where the current appearance is unsatisfactory and the existing restoration provisions are unsatisfactory, inappropriate or absent.
78. WLP Policy W4.10 seeks to ensure restoration schemes include after-uses which maximise opportunities to enhance the environment.
79. Conditions 42 to 47 of the planning permission deal with an alternative restoration scenario in the event that the approved full infill scheme was not delivered.
80. Condition 42 states that if, in the MPAs considered opinion of the situation, the fill rates and approved final restoration levels will not be achieved within the timescales under condition 3, a revised restoration scheme, showing reduced

contours for restoration achievable by the Condition 3 end date shall be submitted for approval. Clearly it is the case that the tipping has not been completed within the Condition 3 timeframes, hence why the applicant is seeking more time in this application.

81. Condition 43 states that notwithstanding Condition 42 a revised restoration scheme shall in any case be submitted to provide measures to increase biodiversity and ecological interest along with measures to ensure the long-term health of the Coronation Clump and to recreate or substitute the recorded feature of geological interest. The applicant's submitted restoration scheme is in response to this condition, but still assumes a full infill.
82. Condition 44 states that an alternative restoration scheme for the site shall be submitted within three months of a written request from the MPA, in the event that the deposit of waste cases for a period in excess of six months. Coupled with this, conditions 45 and 46 require ecological assessments to be undertaken to inform such an alternative restoration and any mitigation measures which may be required.
83. The above suite of conditions, particularly condition 44, therefore provides the ability to secure an alternative low-level restoration of this site which responds to the up to date ecology surveys which have been submitted. If the current application is refused, officers would seek Committee's endorsement to pursue this alternative, including through any enforcement action against the applicant/owners which may be reasonable and necessary.

Other Options Considered

84. As noted above the applicant has been considering a revised restoration scheme to overcome the ecological objections which have been raised. The submission has been expected for some time and the applicant and their agents have been given sufficient opportunity to formally submit these plans, along with the further information requested. It has not been received and the current application has not been withdrawn therefore the County Council is under a duty to consider the planning application as submitted.

Statutory and Policy Implications

85. 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.

Data Protection and Information Governance

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

Human Rights Implications

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

Public Sector Equality Duty Implications

88. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty and there are no identified impacts to persons/service users with a protected characteristic.

Crime and Disorder Implications

89. The quarry site has in the past been subjected to trespass and anti-social behaviour. The owner/operator is legally bound by the requirements of the Quarries Regulations 1999 to leave the site in a safe condition. They have invested in new secure fencing to address this but considers that the current extent and form of the quarry void is still a danger to anyone attempting unauthorised access. The application proposals would largely fill this void and leave the site in a safe form. If planning permission is refused, the MPA would enforce the requirement on the now expired planning permission to secure an alternative form of final restoration, which is likely to entail a low-level option with some modest land-shaping works to leave the site safe.

Implications for Sustainability and the Environment

90. In reaching the recommendation the report considers the effects on the ecology now present in the quarry site and the objections raised by the ecological consultees. A refusal of planning permission, as recommended, would enable the natural regeneration to continue which to a degree would preserve its environmental value. Ultimately some form of management would be needed to restrict the growth of scrub as well as certain works to leave the site safe.
91. As a result of the recommendation there are no implications arising with respect to human resources; finance; and children/adults at risk safeguarding. There are no implications for County Council service users.

Conclusion

92. The former Serlby Quarry has proved difficult to restore as originally envisaged and it has developed its ecological interest over the time it has been left dormant. There has been a notable change in circumstances since the last grant of permission to allow additional time for infill and restoration, such that it is now considered that a restoration by means of a full infill may now not be realistically achievable and is likely to be detrimental to the ecology interests. The information presented with the application does not demonstrate this solution would be environmentally acceptable or beneficial as required by planning policy and a number of other outstanding matters remain unresolved, notably a request for a transport statement and more information on likely noise impact so to take into account new and planned developments in the locality. This is despite allowing the applicant generous opportunity to submit a revised scheme and address such issues. Taking all matters together, it is considered that an acceptable site restoration could be achieved through an alternative low-level scheme. Officers therefore consider that the application should now be refused in order to pursue an alternative approach.

Statement of Positive and Proactive Engagement

93. In determining this application, the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion, assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received; identifying issues of concern and entering into discussion with the applicant to explore the possibility of suitably resolving such matters. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal. The Waste Planning Authority has, however, set out within this report how it expects that the site could be satisfactorily restored and the means of securing such a revised scheme. The Waste Planning Authority is willing to offer further advice in respect of any revised proposal.

RECOMMENDATIONS

94. It is RECOMMENDED that planning permission be refused for the reasons set out within the report and at appendix 1 below. Members need to consider the issues set out in the report and resolve accordingly.
95. It is further RECOMMENDED that, if planning permission is refused, that endorsement be given to Officers to seek an alternative form of site restoration pursuant to the terms of the now expired planning permission and should this not come forward in a reasonable timeframe to take any enforcement action as may be reasonable and proportionate in order to secure this.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [SG 22/05/2019]

The recommendation falls within the remit of the Planning and Licensing Committee by virtue of its terms of reference. Responsibility for the regulatory functions of the Council in relation to planning, monitoring, enforcement and licensing.

Finance Comments [RWK 13/05/2019]

The report proposes that planning permission be refused, that officers seek an alternative form of site restoration, and to take any enforcement action as may be reasonable and proportionate should this not come forward. The costs of these actions will be met from within existing council budgets.

Background Papers Available for Inspection

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

Electoral Division and Member Affected

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